

Public Document Pack

Date of meeting Monday, 3rd February, 2014
Time 7.00 pm
Venue Civic Offices, Merrial Street, Newcastle Under
Lyme, Staffordshire ST5 2AG
Contact Geoff Durham

Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

- 1** Guidance Notes (for information) (Pages 1 - 16)
- 2** Apologies for absence
- 3** DECLARATIONS OF INTEREST
To receive declarations of interest from Members on items included in this agenda.
- 4** MINUTES OF PREVIOUS MEETING (Pages 17 - 20)
To consider the minutes of the previous meeting held on 2 December, 2013
- 5** DISCLOSURE OF EXEMPT INFORMATION
To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.
- 6** CONFIDENTIAL REPORT(S)
To consider the confidential report(s) of your officers
- 7** LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 21 - 24)
1976 - MR NY
Private Hire Driver – Mr NY
- 8** LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 25 - 32)
1976 - MR VU
Private Hire Driver – Mr VU
- 9** LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 33 - 40)
1976 - MR AH
Hackney Carriage Driver – Mr AH

- 10 **Clean Neighbourhoods and Environment Act 2005 - Fixed Penalty Notices. - Littering Offences** (Pages 41 - 44)
- 11 **OPEN REPORTS FROM OFFICERS**
To consider the open reports of your officers.
- 12 **Consultation on Hackney Carriage Age Policy** (Pages 45 - 64)
- 13 **Clean Neighbourhoods and Environment Act 2005 - Fixed Penalty Notices - Dog Control Orders** (Pages 65 - 66)
- 14 **Pigeon Control - Newcastle Town Centre** (Pages 67 - 70)
- 15 **Private Hire and Hackney Carriage Driver Training** (Pages 71 - 84)
- 16 **Clean Neighbourhoods and Environment Act 2005 - Fixed Penalty Notices - Littering Offences** (Pages 85 - 86)
- 17 **URGENT BUSINESS**
To consider any business which is urgent within the meaning of Section 100(B)4 of the Local Government Act.

Members: Councillors Allport, Bailey, Hailstones, Mrs Hailstones, Kearon, Matthews, Olszewski (Chair), Miss Olszewski (Vice-Chair), Snell, Welsh, White, Mrs Williams and Mrs Winfield

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms upon request.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

These are the principles used in the determination of just or fair processes and stem from the common law legal system.

According to Roman law, certain basic legal principles were so obvious that they should be applied universally without the need to be enacted into the law.

The rules of natural justice are now regularly applied by courts in both common law and civil law jurisdictions.

Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed and one should treat others as they would like to be treated.

Natural justice includes the notion of procedural fairness and may incorporate the following guidelines:-

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges);
- A person making a decision should declare any personal interest they may have in the proceedings;
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, or have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in causa sua*: “no man is permitted to be judge in his own cause”;
- Proceedings should be conducted so they are fair to all the parties – expressed in the Latin maxim, *audi alteram*: “let the other side be heard”;
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party;
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations;
- Justice should be seen to be done. If the community is satisfied that justice has been done they will continue to place their faith in the courts.

Where a person’s legal rights are concerned, the principles of natural justice are bolstered by Article 6 of the European Convention on Human Rights which is now incorporated into domestic law.

THE RULE AGAINST BIAS

It is elementary to the rules of natural justice that the deciding body is to be free from bias.

The rule is that the body must be and be seen to be impartial, independent and disinterested.

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;
- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person ("reasonably informed bystander") would consider that the interest might have an influence on the exercise of the decision-maker's duties.

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

In addition to the Rules of Natural Justice, you must also have regard to the provisions of the Human Rights Act 1998.

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means, to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10: FREEDOM OF EXPRESSION

1. Everyone has the right to freedom of expression. This rights shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 14: PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set fourth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This is not a substantive right, but comes into play if other rights are likely to have been infringed. The prohibition is wide, but not exhaustive

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

NOTE Possessions, in this context, includes the right to apply for a licence, the right to hold and retain a licence, the goodwill of a business and liquor licences.



GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR APPLICANTS FOR THE GRANT AND RENEWAL OF LICENCES TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

GENERAL POLICY

1. Each case will be decided on its own merits
2. The Council will, as far as is possible, ensure that all persons holding a licence to drive Hackney Carriages or private hire vehicles are fit and proper persons. In doing so, the Council will take into account previous convictions including, where relevant, 'spent' convictions.
3. The Council will always put the protection of the public first when considering the relevance of convictions recorded against an applicant for a licence.
4. A person with a conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for an appropriate period, before an application is considered. However, remaining free of conviction for a specified period may not be sufficient to show that a person is fit and proper and additional evidence may be required.
5. There may be occasions where it is appropriate to depart from the guidelines when making a decision on an application. For example, where the offence is a one-off and there are mitigating circumstances or alternately, where there are many or continuous offences which may show a pattern of offending and unfitness.
6. The following examples give a general guide as to the action that might be taken where convictions are recorded against an applicant.

(a) Dishonesty

Members of the public using Hackney Carriages and private hire vehicles expect the driver to be honest and trustworthy. It would be easy for a dishonest driver to take advantage of the public.

For these reasons, a serious view will be taken of any conviction involving dishonesty. In general, if an application is made within the first 3 to 5 years from the date of a conviction or from the date of release from jail where a custodial sentence has been imposed, it is likely that it will be refused.

Where an application is made within the first three years since the conviction or the date of release from jail, where a custodial sentence has been

imposed, for any of the following offences, the application will normally be refused:-

- Theft
- Burglary
- Fraud
- Benefit fraud (including offences under ss11A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Or similar offences to those above which may replace any of the above offences

When a period of three years from conviction or the date of release from jail, where a custodial sentence has been imposed has passed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

(b) Violence

As Hackney Carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violence. Where the commission of an offence involves loss of life, a licence will normally be refused. In other cases, a period of three to ten years free of conviction from the date of conviction or the date of release from jail, where a custodial sentence has been imposed will generally be required before an application is likely to be considered favourably. The nature and seriousness of the offence(s) will be taken into consideration.

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Or similar offence or offences which replace the above offences

- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
 - Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Assault occasioning actual bodily harm which is racially aggravated

- Assault with intent to cause grievous bodily harm
- Assaulting a police officer in the execution of his duties
- Malicious wounding
- Robbery
- Racially aggravated criminal damage
- Racially aggravated fear or provocation of violence
- Racially aggravated intentional harassment, alarm or distress
- Racially aggravated harassment
- Racially aggravated putting people in fear of violence
- Riot
- Possession of an offensive weapon
- Possession of a firearm
- Violent disorder
- Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of five years or where the penalty is fixed by law)

(iii) An application will normally be refused for a period of three years from the date of conviction or the date of release from jail, where a custodial sentence has been imposed, where the applicant has a conviction for:-

- Common assault
- Racially aggravated common assault
- Assault occasioning actual bodily harm
- Affray
- Racially aggravated harassment, alarm or distress
- Resisting arrest
- Obstructing a police officer in the execution of his duty
- Criminal damage
- Any similar offence or offences which replace the above offences

(c) Drugs

An application will normally be refused if an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five to ten years before the date of the application. However, after five years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

An application will normally be refused where the application is made within three to five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed for an offence relating to the possession of drugs. However, after a period of three years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances

of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least five years after successfully completing a drug treatment programme.

(d) Sexual and Indecency Offences

As the driver of Hackney Carriages and private hire vehicles often carry passengers who are alone, or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

Where an applicant has a conviction for a sexual offence such as indecent exposure, they will normally be refused a licence until they can show a substantial period usually between five and ten years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed before an application is made.

After a period of five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

(e) Motoring Convictions

(i) Disqualification

Where an applicant had been disqualified from driving by the Courts for a serious traffic offence under Category 'A' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence.

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category 'B' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence unless the offence was an isolated one, in which case, a period of not less than 2 years shall have passed.

Where a disqualification is imposed by a court in a 'totting-up' case, i.e. where an applicant has been disqualified because of several

driving offences, an application will generally be refused unless a period of one year free of conviction has elapsed since the return of the DVLA driver licence.

In 'totting-up' cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the courts, an application will generally be refused unless an applicant can show a period of 1 year free of conviction from the date of the last court appearance.

(ii) Serious Traffic Offences

Where an applicant has a conviction for a serious traffic offence in Category 'A' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction.

Where an applicant has a conviction for a serious traffic offence in Category 'B' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction unless the offence was an isolated one.

Where an applicant has had more than one conviction for a serious traffic offence in either Category 'A' or 'B' of Annex (i) and the courts have not imposed a period of disqualification, an application will normally be refused where an application is made in five years following the date of the last conviction.

(iii) Other Traffic Offences

Normally, isolated convictions for other traffic offences should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the six months before an application is made.

A list of relevant offences is shown at Annex (ii). However, this is not an exhaustive list and there may be other offences which may be relevant.

(f) **Offences Under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (The Acts)**

One of the main purposes of the licensing regime set out in 'The Acts' is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.

In particular, an application will normally be refused where an applicant has more than one conviction for an offence under 'The Acts' in the two years preceding the date of the application.

(g) Drunkenness

(i) In a Motor Vehicle

The manner in which drunkenness in a motor vehicle will be dealt with is outlined in Motoring Offences at paragraph 'e' of these guidelines.

(ii) Not in a Motor Vehicle

Where an applicant has an isolated conviction for drunkenness, this need not stop an applicant from getting a licence. In some cases, a warning may be appropriate. However, where an applicant has a number of convictions for drunkenness, it could indicate a medical problem, which would require further investigation including a medical examination and the possible refusal of a licence.

(h) Spent Convictions

The Council will only take 'Spent Convictions' into consideration if it is considered they are relevant to the application.

(i) Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

SERIOUS TRAFFIC OFFENCES

CATEGORY 'A'	
Offence Code	Offence
Careless Driving	
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for analysis
Reckless/Dangerous Driving	
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
Miscellaneous Offences	
MS50	Motor racing on a highway
Theft and Unauthorised Taking	
UT50	Aggravated taking of a vehicle

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

CATEGORY 'B'	
Offence Code	Offence
Accident Offences	
AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of the court
BA30	Attempting to drive whilst disqualified by order of the court
Careless Driving	
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
Construction and Use Offences	
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
Drink or Drugs	
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive when unfit through drugs
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
Insurance Offences	
IN10	Using a vehicle uninsured against third party risks
Licence Offences	
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
Miscellaneous Offences	
MS70	Driving with uncorrected defective eyesight

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'A'** offence.

OTHER TRAFFIC OFFENCES

Offence Code	Offence
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationery vehicle
SP10	Exceeding goods vehicle speed limits
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with 'stop' sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double while lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'B'** offence under Annex (ii).

This page is intentionally left blank

PUBLIC PROTECTION COMMITTEE

Monday, 2nd December, 2013

Present:- Councillor Mark Olszewski – in the Chair

Councillors Allport, Bailey, Hailstones, Mrs Hailstones, Kearon, Matthews,
Miss Olszewski, Williams, Mrs Williams and Mrs Winfield

5. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

6. **MINUTES OF PREVIOUS MEETING**

Resolved: That the minutes of the previous meeting held on 12th November 2013 be agreed as a correct record.

7. **AMENDMENT TO TOWN CENTRE STREET TRADING**

A report was submitted to request changes to the street trading terms and conditions in Newcastle town centre. To include:

- i) Use of the Consent Streets on a Thursday
- ii) Use of the Consent Streets from 8.00am
- iii) More flexible use of the Consent Streets outside of the designated street trading pitches.

Implementation of the final element of the public realm works and market refurbishment project was due to start in January 2014. Due to the scale of the works required, it would not be possible to contain market operations within the current market area and accommodate all of the existing market traders. Accordingly, the Borough Council needed to temporarily re-locate a number of market stalls away from their normal trading position on Newcastle market.

Members expressed some concerns regarding the number of A boards that were already present in the Town Centre and requested that a comprehensive risk assessment be carried out.

Resolved: That the changes be authorised and the published Street Trading Terms and Conditions be amended accordingly.

8. **LOCAL AIR QUALITY REPORT**

A report was submitted to advise the Committee of the findings of a Detailed and Further Assessment Report in respect of exceedances of nitrogen dioxide and as a result of previous findings of poor air quality in areas of the Borough.

Members considered the report and commended the Head of Environmental Health on the work carried out by her and her team.

Resolved:

1. That the report be received in respect of its findings of exceedances of the annual mean nitrogen dioxide objective in the following locations:
 - Newcastle under Lyme Town Centre including the ring road, London Road and King Street, Etruria Road
 - A single residential property adjacent to the M6 at Collingwood Madeley
 - The A527 - High Street Maybank, High Street Wolstanton through to the junction with the A500 at Porthill Bank
 - Kidsgrove Town Centre – A50 Liverpool Road Liverpool Road and Hardingswood Road from the junction with Heathcote Street and Gloucester Road.
2. That the Committee receive a future report concerning the development of Air Quality Management Area's (AQMA) in the geographic exceedance locations, detailing the adopted consultation methodology, the findings of the consultation exercises and recommended orders detailing the boundary of the AQMA in the affected areas for formal declaration of the AQMAs.

9. **ENVIRONMENTAL PROTECTION ACT 1990 PART II & WASTE (ENGLAND AND WALES) REGULATIONS 2011 FAILURE TO FURNISH WASTE TRANSFER NOTES ON REQUEST**

A report was submitted to seek authority from the Committee to instigate prosecution proceedings for the breach of the Waste England and Wales Regulations 2011 in respect of the failure to produce evidence of waste transfer notes on demand to the Waste Collection Authority within 7 days.

Resolved:

1. That subject to Legal Services being satisfied with the evidence to instigate prosecution proceedings against Mr M.P for the offences outlined in this report
2. To receive a further report detailing the outcome of proceedings

10. **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES**

A report was submitted to advise the Committee of the action taken in respect of Littering offences within the borough.

Resolved: That the report be received.

11. **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES AUTHORITY TO ACT**

A report was submitted to advise the Committee of action taken in respect of littering offences within the borough and to seek authorisation to institute legal proceedings against the Fixed Penalty Notice holders listed in the appendix.

Resolved: That legal proceedings be instituted in the relation to the cases detailed in the appendix.

COUNCILLOR MARK OLSZEWSKI
Chair

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

PUBLIC PROTECTION COMMITTEE
3RD FEBRUARY 2014

Submitted by: **Head of Business Improvement and Partnerships**

Hackney Carriage Age Policy-Consultation

Recommendation

That the the proposal in connection with the amendment relating to the Councils current age police in connection with Hackney Carriages be adopted and that the dates for commencement be as follows:-

(a) firstly that from April 1st 2014 in relation to applications to licence Hackney carriage vehicles that are purpose built and wheelchair accessible, the vehicles shall be less than 5 years of age when first tested. These vehicles will continue to be relicensed on passing consecutive annual tests

(b) Secondly that as from the 1st January 2015 all hackney Carriage vehicles that are saloon cars will cease to be relicensed when they are 8 years of age.

1. **Background**

1.1 The Committee will recall the resolution at their meeting on the 5th September 2013 to consult the Hackney Carriage Trade about the proposal to amend the Council's current age policy regarding Hackney Carriage Vehicles.

1.2 A copy of the report is attached at page 49

All Hackney Carriage proprietors were written to asking their views on the proposal. The proposal is that:-

Saloon type vehicles will be less than 5 years of age when tested **but** will cease to be relicensed when they are **8 years** of age.

As for those vehicles purpose-built for Hackney Carriage purposes the proposal is that these types of vehicle must be less than 5 years of age when first tested **but can remain licensed for as long as they continue to pass consecutive annual tests**".

2. **Issues**

2.1 All Council's have a duty to periodically review the policies and procedures for licensing Hackney Carriage and Private Hire Vehicles.

2.2 The responses from the Consultation are :-

Firstly, a petition with 87 signatures .The petition disagrees with the proposal and outlines the reason for disagreeing. It also proposes that other types of vehicles be considered for licensing as Hackney Carriages.

A copy of the petition can be seen at page 55

Secondly, 25 individual replies have been received, these fall into 3 categories:

- | | |
|--|----|
| a) Responses rejecting the proposal | 16 |
| b) Responses agreeing with the proposal | 3 |
| c) Letters returned with no indication of any view on the proposal | 6 |

The majority of responses disagree with the proposal, the objection to the proposal is mainly based on the financial implication the change in the age policy would have for Hackney Carriage owners.

Other reasons given for objecting to the proposal are that modern cars are more reliable and have a greater longevity.

It is also the view of some of the objectors that the Council should maintain the current policy for licensing Hackney Carriages.

Button in his book on Taxis – Licensing Law and Practice states that “Whilst it is accepted that older vehicles can be used successfully as hackney carriages.....the purpose of any age limit is to try and ensure that the licensed vehicles are safe, reliable and comfortable as possible. Any age policy would not in itself be arbitrary, because it must be a policy and the local authority must then consider any application that falls outside the age policy on its own individual merits.”

Members will recall that the over-riding purpose behind the proposal is to assist the Council ensure the safety, reliability, and overall standards of the vehicles it licences.

3. Proposal

That the committee resolve to adopt the proposal, and that the dates for commencement be as follows:- firstly that from April 1st 2014 applications to licence Hackney carriage vehicles that are purpose built and wheelchair accessible, the vehicles shall be less than 5 years of age when first tested. These vehicles will continue to be relicensed on passing consecutive annual tests

.Secondly that as from the 1st January 2015 all hackney Carriage vehicles that are saloon cars will cease to be relicensed when they are 8 years of age.

The Committee can resolve to:

- (i) Adopt the proposal
- (ii) Amend the proposal
- (iii) Reject the proposal (and by so doing continue with the inequality between Hackney Carriage and Private Hire).
- (iv) Defer making any decision to explore any alternative method of achieving parity in terms of the age policy for both types of vehicles.

4. Recommendation

That the Committee adopt the proposal.

5. Equality Impact Assessment

The issues of inequality have been highlighted in the report.

6. Financial Implications

Failure to address the inequality may lead to an implication of a financial nature.

7. Reasons for the Preferred Solution

To continue to review the Council's policy relating to Hackney Carriage Vehicles.

8. Legal and Statutory Implications

Under section 47(1) Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider to be reasonably necessary. A high Court case in 1992 held that it was possible under Section 47(1) to impose age limits to improve the reliability, safety and overall standards of the vehicles licensed by the Council.

9. Background Papers

The original Committee report from 5th September 2013.

This page is intentionally left blank

PUBLIC PROTECTION COMMITTEE
Thursday 5th SEPTEMBER 2013

HACKNEY CARRIAGE AGE POLICY

Submitted by: **Head of Business Improvement and Partnerships**

Purpose

For the Committee to consider whether to amend the permitted age limit for licensed vehicles and to recommend that the Hackney Carriage Trade be consulted as part of the ongoing review of the Council's Taxi Licensing Policy.

Recommendation

That Hackney Carriage Proprietors be consulted on the proposals contained in this report and a further report on the outcome be submitted to a future meeting of this Committee.

1. **Background**

1.1 Currently Private Hire Vehicles must be less than 5 years old when they are presented for 1st registration with the Council and are licensed until they are a maximum of 8 years old. Hackney Carriage Saloon Vehicles must be less than 5 years old on 1st registration and may remain licensed so long as they continue to pass the vehicle test. Purpose built Hackney Carriages may be up to 10 years old on 1st registration and may remain licensed for so long as they pass the vehicle test.

1.2 The following resolutions reveal how the present conditions have been arrived at:-

9th February 1993 – Resolution 1322/93 Environmental Health Committee relating to Private Hire Vehicles - Private Hire Vehicles Licences – Conditions.

A detailed report on the Council's present policy in respect of the licensing of Private Hire Vehicles and in particular on the age of vehicles currently licensed was submitted for consideration.

Members were advised of a trend for applicants to attempt to licence vehicles which are in excess of 5 years old at first registration and did not fall into the category of being in the condition of a 5-year old vehicle.

It was recommended that, in order to avoid future problems of this nature and to upgrade the condition of the Private Hire Vehicles, the condition be amended so as to exclude the licensing of all vehicles over 5 years at first registration and that no vehicles over 8 years old, except mini buses, will be considered for renewal.

Resolved:

That the amended licence conditions for Private Hire Vehicles as detailed in the report be approved with effect from 1st January 1994.

February 1995 – Resolution 1374/95, Hackney Carriage – Conditions.

A detailed report on the Council's present policy in respect of the licensing of Hackney Carriage Vehicles and in particular on the age of vehicles currently licensed was submitted for consideration. It was proposed that no vehicles over 5 years old at first registration should be licensed and that no vehicles over 8 years old, except purpose-built vehicles should be considered at renewal.

Resolved:

That there be no change to the present policy.

No record can be found of any earlier resolution allowing Hackney Carriage Saloon Vehicles to be re-licensed regardless of its age. However it is implicit that it existed by the wording of the Resolution of 1374/95.

Members will recall that on the 30th November 2009 an item concerning the age of hackney carriages was considered and a resolution was made to defer the matter to a future date. A copy of the original item can be seen at Appendix 1 (page 53).

2. **Issues**

- 2.1 There needs to be parity between Private Hire Vehicles and Hackney Carriage Vehicles otherwise the Council may be at risk of a challenge in the Courts. It is difficult to rationalise why for example an 8-year-old Ford Mondeo is not suitable to continue as a Private Hire Vehicle, yet the same vehicle could continue to be licensed if it were a Hackney Carriage. The only difference between the two types of vehicles is the method by which they are booked by the passenger.
- 2.2 Members of the Private Hire Trade are understandably swapping to Hackney Carriage to take advantage of the unlimited access to Hackney Carriage Licences, and, because of the favourable age policy. Should this trend continue it is feasible that in the future the Council will be licensing an ever increasing fleet of ageing Hackney Carriage saloon vehicles.
- 2.3 The Court Case Newcastle City Council-v-Berwick-upon-Tweed Borough Council has served to educate the Taxi trade as a whole that Hackney Carriages can take Private Hire bookings from outside its controlling district, and as a consequence, where an authority has no limit on the number of Hackney licences and has an age policy that allows vehicles to remain licensed regardless of its age, that authority will be licensing a disproportionate number of Hackney Carriage Vehicles purely to carry out pre-booked work (private hire) outside of its controlled district.
- 2.4 Vehicles which have been purpose-built for use as Hackney Carriages, which have better access for the disabled, should retain an age policy which provides an incentive that encourages applicants to provide this type of vehicle.

3. **Options Considered**

- 3.1 To consult Hackney Carriage Proprietors on the proposal to amend the age condition for Hackney Carriage Saloon Vehicles to bring it in line with that of Private Hire Vehicles;
- 3.2 To consult Hackney Carriage Proprietors on the proposal that purpose built Hackney Carriage Vehicles should be less than 5 years old on 1st registration but otherwise permit that the vehicle continue to remain licensed for so long as it passes the vehicle test.

3.3. To make no amendment to the Hackney Carriage Vehicle Policy.

4. **Proposal**

4.1 That a consultation with the Hackney Carriage Trade be undertaken commencing the 1st October 2013 for a period of 12 weeks on the proposal that the saloon vehicles policy for the licensing of Hackney Carriages be revised to reflect that of Private Hire Vehicles, which is, that vehicles must be less than 5 years of age when tested and will cease to be licensed when they are 8 years of age.

As for those vehicles purpose-built for Hackney Carriage purposes, the policy be amended so that these types of vehicles be less than 5 years of age when tested but can remain licensed for as long as they continue to pass consecutive annual tests. This would then preserve the incentive for operators to invest in these disabled access vehicles.

5. **Reasons for Preferred Solution**

5.1 To continue to review the Council's conditions relating to Hackney Carriage Vehicles.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

In line with the Council's objectives – Creating a Clean, Safe and Sustainable Borough.

7. **Legal and Statutory Implications**

Possible challenge from the Hackney Carriage Trade if the policy is amended

8. **Equality Impact Assessment**

9. **Financial and Resource Implications**

Cost of carrying out the consultation

10. **Key Decision Information**

11. **Earlier Committee Resolutions**

12. **Background Papers**

This page is intentionally left blank

APPENDIX 1

CONFIDENTIAL

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

REPORT OF THE EXECUTIVE MANAGEMENT TEAM TO THE
PUBLIC PROTECTION COMMITTEE

30 November 2009

1. HACKNEY CARRIAGE AGE LIMITS (RESOLUTION 365/10)

Purpose

To inform this Committee of the results of a consultation undertaken with Newcastle's Hackney Carriage owners about the Council's proposed change of Policy in relation to the age of Hackney Carriage Vehicles.

Recommendation

That, notwithstanding the replies and the consultation the proposed changes to the Policy be adopted.

1. Background

- 1.1 Committee may recall that at its meeting held on 21 September 2009 they considered an item, which proposed changes to the Council's policy on the licensing of Hackney Carriage Vehicles. Specifically the age at which vehicles can first be licensed and when they should cease to be licensed.

2. Issues

- 2.1 The holders of Hackney Carriage licences were consulted about the changes and of the 47 who were consulted 18 replied as individuals, 23 signed a petition, and a letter was received from the Newcastle and Kidsgrove Hackney Carriage Association (See Appendix A).

All the replies indicated no support for the proposed changes. However, there was some acceptance that there should be an age when vehicles should cease to be licensed.

- 2.2 The Council currently has 3 types of vehicles licensed as Hackney Carriages.

1. Those that are purpose-built, i.e. designed and built to a specification laid down by the Public Carriage office.
2. Those that are a conversion from another type of vehicle, usually a van or M.P.V. and have a certification or type approval known as M1, which is a standard laid down by V.O.S.A.
3. Finally, Saloon Cars.

- 2.3 Objections to the proposal were mainly one of cost; however the amounts of money quoted in the replies used the most expensive scenario, that of purchasing a new vehicle.

There is no requirement for a vehicle to be new when making an application for a Hackney Carriage licence. In the last 14 years of all the vehicles licensed as Hackney Carriage's only 2 have been new vehicles.

Research by your officers has shown that a saloon car suitable for licensing can be purchased for less than £5000 (examples provided at Appendix B have been sourced from the auto-trader web site).

Examples of purpose-built and M1 conversions sourced from Taximart web site are shown as follows:

V.W. Transporter M1 conversion 2006 model £16,995
Eurotaxi M1 conversion wheelchair access 2005 £7,495
Eurobus M1 conversion wheelchair access 2005 £6,395

Using these prices as a guideline and the fact that the proprietors will spend less on the upkeep and maintenance of a newer vehicle and the fact that it may have some residual value when it ceases to be licensed helps to show that the proposal is not as financially damaging as the replies indicate.

In your officers view implementing the changes would have the effect of upgrading and modernising the Council's Hackney Carriage fleet, and would go towards creating a greener and safer fleet.

3. **Links to Corporate Priorities**

In line with the Council objective, creating a greener & safer Borough.

4. **Financial Implications**

None.

5. **Implications for Crime and Disorder**

None.

6. **List of Appendices**

A – replies to consultation
B – saloon cars suitable for licences.

Newcastle Under Lyme Hackney Carriage Association

Dated; 25 December 2013

Re; Age restriction policy proposal response

Please note we the undersigned;


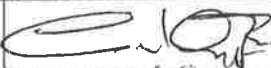

- Strongly disagree with the proposed introduction of Age restrictions to Hackney Carriage Vehicles
- The current policy on Age of Hackney Carriage Vehicles is appropriate and very sensible
- The current vehicles in operation are well maintained and of very good standard; and any change to current policy will have no significant benefit to the public
- Introduction of any new age restriction will result in higher cost burden to the drivers, which risks forcing some of derivers out of business under extremely difficult current financial clement.

Re; Type of Hackney Carriage Vehicles Policy

Please note we the undersigned;

- Propose updating of the current outdated Policy on Type of Hackney Carriage Vehicles, that restricts the fleet just to 'saloon type' vehicles
- There is a high demand for inclusion of MPV (Multi-Passenger Vehicles) and People Carriers to the current policy of Type of Hackney Carriage Vehicles (up to 9 seated capacity)
- Those licence holders with saloon Type vehicles should have option to introduce MPV's and People Carrier's or vice versa
- Incorporation of MPV's and People Carrier's will present a great opportunity to introduce a much better mixed of taxi fleet offer to the public; and meet the demand for larger families and groups of people especially at the weekends.

Many Thanks.

Name (print)	Signature	Badge Number	Plate Number
IKRAM ULHAQUE		009346	6439
CARL GARY PHILLIPS		009263	8454
ABD AZIZ		F10 7407	9731

25 December 2013

Name (print)	Signature	Badge Number	Plate Number
HASSAN KHADAR KHAIL		009899	10309
ASIF KHAN		010927	9397
AVSIJ AHMED		HD131	10425
WALI KHAN GHALZAI		009921	9585
TAHIR MEHMOOD	TAHIR MEHMOOD	HD0135	8788
TAIDUL ISLAM	Taidul Islam	HD0805 009587	9791
MUHAMMAD ZULFIQAR		009351	9412
TARIQ MEHMOOD	T. MEHMOOD	009743	10509
M. NAEEM KHAN	Naeem	HD0120	10595
TAHIR MAHMOOD		HD0158	9436
Khalid Malik	Khalid	HD008583	8453
Ismet SAYEILI		009819	8436
NIGEL HAYWARD		009538	9852
MOHAMMED ZABIR	M. Zabir	009452	10697
JAWID AKHTAR	J. AKHTAR	010103	10449
MOHAMMED IMRAN		009493	9920
RAZIQ HUSSAIN	Raziq Hussain	HD0137	9319
HASANU ZEAMAN CHY	H. Z. Chy	009221	9261
SAJJAD AKBER KHAN	Sajjad Akbar Khan	HD0159	6597
Steve WATKINS		010245	8435
SAJID HUSSAIN	S. HUSSAIN	HD0130	10675
M. Ullah	M. Ullah	10568	10831
S. HUSSAIN	S. HUSSAIN	10432	009758
M. A. QAYUM		009257	10307

25 December 2013

Name (print)	Signature	Badge Number	Plate Number
RAZI BUTT		010134	10529
MOHAMMED SAFFER	M. SAGIR	HD0146	8H26
RASHAD Hussain		HD10473	10417
R.M. Ali Zadi	R.M. Ali zadi	010893	9017
Mr D Malik		HD10390	10411
Mr F Shabir		009945	10055
Mr. Kashif Raja		HD10470	9350
ABDUL RAUF		010630	9876
SHAKEEL AHMAD		010050	10566
BILAL AMIN		008578	10015
M. SHABIR		009262	9266
MR. MUGHAL		010061	10136
MR AMJID ZADI		HD0097	9560
MR. Mahbubur Rahman		009783	9505
ASHIR Hussain	A Hussain	077077	23798
M. TAJ	M Taj	009433	8457
SYED ANWAR	Syed Anwar	HD0142	9455
ABDUL-HALIM	Anwar	HD0136	8430
Raja Zahir AHMED	Rahmed	009027	10687
ZEEZHAN MUNIR	Zeezhank	009818	9832
FARHAN MUNIR	F Munir	009816	9832
TERESA JONES	T Jones	009814	8423
ZARAR: SAIED		009368	9509
SYED. MOBASSHIR	(A) Munir	009248	10029

HOSSAIN

25 December 2013

Name (print)	Signature	Badge Number	Plate Number
SHEERAZ HUSSAIN		HD0155	9846
SAJID HUSSAIN		009540	9790
ILIAS AYNA AHMED		010041	89480
AITEEQ UR REHMAN		010108	10252
SHAHID MAJEED		010530	10388
ZULFIKAR HUSSAIN	Z. HUSSAIN	HD0160	10640
RAJA IZAR KHAN	I. Khan	009781	10742
ASIF M MALIK		010073	10385
MD. ABDUL AWAL		HD0165	9456
MUKBUL HUSSAIN		HD0148	9487
ZAFAR IQBAL		009813	9812
Wahed Ahmed		009254	9458
USMAN RIAZ SHAH		009536	9794
SASSAD HAIDER		010201	10364
Muhammed Faisal		010635	10676
MARSOOD ASOB		010601	9944
Syed, Aminul Hossain		HD0157	10215-
JAVED IQBAL	J. IQBAL	009431	10085
Mohammad Sheraz		009223	10282
TAWAB KHAN		009301	10208
ABID HUSSAIN	A. Hussain	009440	9475
MUHAMMAD RIAZ		HD10512	8422
MAHJIB HUSSAIN		HD0144	10329
Ashfaq Ahmed		010229	11111

CLASSIFICATION: NULBC UNCLASSIFIED
CLASSIFICATION: NULBC UNCLASSIFIED

1. **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005
FIXED PENALTY NOTICES**

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of the action taken in respect of Dog Control Orders within the borough.

Recommendations

That the report be received.

Reasons

Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

1. **Background**

The authority adopted a series of Dog Control Orders in April 2013. Since their introduction Dog Wardens have focussed on explaining these control to dog owners and ensuring that they understand their obligations and act responsibly.

In our initial actions we have attempted to deliver high profile patrols. We believe this has deterred dog walkers from committing offences. It is an offence under the Clean Neighbourhoods & Environment Act 2005 to breach a Dog Control Order, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty. Two offences have been witnessed and enforcement action taken by officers.

One case has been discharged through the acceptance of a fixed penalty notice. In the other case the offender did not accept the offer of a fixed penalty and the case was escalated to court proceedings.

In accordance with members wishes the details of this case are now being provided. The following offenders have been issued with fixed penalties but

failed to pay them, and at Staffordshire Magistrates Court they received the following fines and costs with a victim surcharge (vs):

Mr J P Shaw	Dog Fouling, Enderley Street, Newcastle. Offence: 19 th August 2013	£200 fine, £130 costs, £20 vs
-------------	--	-------------------------------

2. **Issues**

Consistent enforcement is needed to challenge people who choose to ignore the law and DEFRA guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

3. **Policy Considerations**

There are none arising from this report.

4. **Outcomes Linked to Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable borough.

- Streets and open spaces are clean and the community have pride in the borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 and Clean Neighbourhoods and Environment Act 2005 place duties on the Council and provide powers of enforcement.

6. **Equality Impact Assessment**

6.1 There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 **Non payment**

The non-payment of fines would need to be considered seriously. If a non-payment culture were allowed to develop the Authority would be in disrepute with the residents and members, undermining confidence in a service which aims to improve the quality of the environment.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
PUBLIC PROTECTION COMMITTEE**

Date 3rd February 2014

1. **HEADING** PIGEON CONTROL: NEWCASTLE TOWN CENTRE
Submitted by: David Beardmore, Environmental Health Team Manager
Dog & Pest Control
- Portfolio:** Environment & Recycling
- Ward(s) affected:** Town Centre

Purpose of the Report

To update Public Protection on action to reduce feral pigeon numbers in the town centre

Recommendations

That the report be received.

Reasons

Current controls are managing numbers at an acceptable level.

1. **Background**

- 1.1 The Committee has previously considered the action which the authority should take to manage the number of feral birds within the town centre and specifically around Castle Walk.
- 1.2 Members have previously agreed on 3rd December 2012 :
- (a) That the authority continues its current action to remove litter and discourage littering.
 - (b) That we aim to educate residents of the problems caused by encouraging pigeons, and to confirm that it may be necessary to issue fixed penalty notices for bird feeding in the future where there is a persistent offender.
 - (c) That designated feeding areas were not desirable.
 - (d) That through traders groups the Council will continue to encourage correct maintenance of buildings, and proofing works where appropriate.
 - (e) That the Council will attempt to identify trader support for lethal controls, establish those willing to provide treatment sites, and the likelihood that they will either commission works independently of the Council, or be willing to contribute to the Council's costs if it coordinated lethal controls
 - (f) That officers investigate signage to discourage people from feeding the pigeons.

(g) That the situation be monitored and a review report be brought back to the Committee in 6 months time.

1.3 Reviewing progress on 8th August 2013 Members resolved:

a) That Officers look into additional signage encouraging people not to feed the pigeons.

b) That if possible there be more rigorous enforcement of the pigeon problem.

c) That an update be brought back to the Committee in 6 months (Feb 2014)

2. **Issues**

2.1 There remains both support and opposition to pigeon control.

2.2 A reduction in the number of birds has been achieved, but there is little realistic prospect that numbers will now fall further without lethal controls.

2.3 The Pest Control team have only received 8 complaints about pigeons in the town centre between 1st January 2013 and 31st December 2013. This is lower than previously recorded.

2.4 Streetscene have continued to target Castle Walk and portions of High Street, regularly emptying litter bins, and ensure that litter does not accumulate. This has helped to reduce 'food on the go' waste which would otherwise encourage pigeons and potentially rats.

2.5 Signage is in place within Castle Walk (on litterbins) requesting residents' cooperation. Signage has not been placed elsewhere within the town due to lack of suitable locations, cost and maintenance issues.

2.6 The authority has attempted discourage residents from feeding birds in our shopping areas. Actions have included littering enforcement patrols, focussed on the Castle Walk and Guild Hall areas. As the control of pigeons can be such a sensitive matter, members of the public have been given advice in the first instance. A total of six warnings have been issued during November and December, however prior to these patrols at least three fixed penalties have been issued for feeding in the town centre.

2.7 A number of traders have now fitted proofing measures to projecting signs and shop fascias to discourage birds from perching. It may not be viable to net roofs.

3. **Options Considered** (if any)

3.1 Two options are now available: a) continue with current programme of advice to residents to discourage feeding, guidance to building owners to prevent perching / roosting and taking enforcement action against persistent pigeon feeders; and b) Approve lethal controls, subject to approval and funding.

4. **Proposal**

4.1 The authority proposes to continue its current action to remove litter and discourage littering. A further report will be presented to Public Protection if complaints significantly rise, or if traders wish to support lethal controls

4.2 Members are requested to receive the report

5. **Reasons for Preferred Solution**

- 5.1 Current complaint levels suggest that present pigeon numbers are acceptable to both traders and residents.
- 5.2 The lethal control of pigeons is not a cost effective, long term or sustainable solution for the control of pigeons within the town centre. The authority does not currently have the capacity to deliver lethal controls in-house with out an adverse impact on other pest control services to residents and businesses.
- 5.3 Businesses can act collectively to commission lethal controls independently of the authority if they so wish.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 Managing feral pigeon numbers aligns with the councils stated priority to maintain clean and safe public places.

7. **Legal and Statutory Implications**

- 7.1 A suitably qualified person can control pigeon numbers, provided criteria set by DEFRA are met.

8. **Equality Impact Assessment**

- 8.1 No issues have been identified

9. **Financial and Resource Implications**

- 9.1 There will continue to be an ongoing cost of street cleansing town centre areas, and to enforce litter controls.
- 9.2 The estimated cost of pigeon control work within the town centre, delivered by a specialist contractor, is £6,000 per annum. There is currently no budget for undertaking this work.

10. **Major Risks**

- 10.1 There is a reputation risk to the council both through action and inaction due to the emotive nature of this subject.
- 10.2 Any interventions delivered must represent value for money and be delivered professionally.
- 10.3 Controls have a number of associated safety risks, and person engaged delivering the controls may be injured (e.g. fall from height) or assaulted.

11. **Sustainability and Climate Change Implications**

- 11.1 Any controls delivered would have only a limited and local effect on pigeon populations.

11.2 There is no risk to non-target wildlife.

11.3 Whilst controls may require additional journeys to be made to the treatment site, the treatment itself is non-polluting.

12. **Key Decision Information**

12.1 Town centre pigeon control is not considered a key decision.

13. **Earlier Cabinet/Committee Resolutions**

13.1 As detailed in the background above.

14. **Background Papers**

None

PUBLIC PROTECTION COMMITTEE
3RD FEBRUARY 2014

Submitted by: **Head of Business Improvement and Partnerships**

Purpose

To inform the Committee of the responses to a Consultation with the members of the Hackney Carriage and Private Hire fraternity regarding driver training.

Recommendation

That as from 1st October 2015 anyone who holds either a Private Hire or Hackney Carriage drivers licence shall have obtained a relevant qualification, the minimum qualification being either a BTec for private hire and hackney carriage drivers or alternatively the Driving Standards Agency taxi test which incorporates wheelchair training. As from the 1st March 2014 any licences renewed to those without such a qualification will expire on the 1st October 2015. These licences will then be extended to the full 3 years on production of a relevant qualification.

1. Background

- 1.1 Members will recall at their meeting on 5th September 2013 resolving to undertake a Consultation exercise with all Private Hire and Hackney Carriage Drivers concerning driver training, and how and when it should be phased into the Council's licensing policy and procedures. A copy of the report is appended at page 81, members attention is drawn to the reasons for the proposal as set out in paragraphs 1.3 to 1.6.

To enable the consultation everyone who holds a current Hackney Carriage or Private Hire drivers licence was written to. This was in excess of 600 letters. There have been 59 responses.

The proposals and responses are as follows:

- (a) By the 1st October 2015 to have obtained a relevant qualification being either a BTech for private hire and hackney carriage drivers or to have taken and passed the Driving Standards Agency taxi test, which incorporates wheelchair training – any renewed licences issues between 1st October 2013 and 1st October 2015 will be extended to the 3 year maximum on production of a relevant qualification.

This proposal had 42 positive responses.

- (b) Regardless of the expiry date of a licence that on renewal the applicant must hold a qualification.

This proposal had 15 positive responses.

One letter was received where both proposals had been selected and a further letter was returned which had no proposal selected. However, the sender had written his views about the matter on the reverse of the letter. The views expressed were that some people did not need any training.

All the responses that had the sender's views on the matter can be seen at Appendix 7.

2. **Issues**

2.1 At present only anecdotal evidence is available indicating how many current licence holders have any relevant qualification. It is estimated that at least 70% hold either an NVQ or B.Tech.

3. **Options**

The Committee can resolve to:

- (i) Choose Option (a)
- (ii) Choose option (b).
- (iii) Choose neither option.
- (iv) Defer making a decision until a future date.

4. **Proposal**

That the committee resolve to adopt option (a) whereby :- by the 1st October 2015 everyone who holds a Private Hire or Hackney Carriage drivers licence shall have obtained a relevant qualification, the minimum qualification being either a B.Tech for private hire and hackney carriage drivers or alternatively to have passed the Driving Standards agency taxi test which incorporates wheelchair training. Should the proposal be accepted, licences renewed to those without a qualification will expire on the 1st October 2015. These licences will then be extended to the full 3 years on production of a relevant qualification.

5. **Recommendation**

That the committee adopt the proposal.

6. **Decision Required**

What action do you wish to take?

7. **Human Rights**

Article 6(1) guarantees an applicant a fair hearing.
Article 14 guarantees no discrimination.

8. **Reasons for the Preferred Solution**

To ensure the Council continue to review its policies and procedures.

9. **Legal and Statutory Implications**

There are none

10. Background Papers

See appendices

This page is intentionally left blank

Dear Sir/Madam

I am unable to tick any of the options offered as I strongly disagree that Ladge holders like myself who have held a Ladge for some considerable years would now have to hold a qualification. I feel that this is just another unnecessary expense being put onto licence holders.

Having been granted licence by the authorities for some years it would now appear that I would not be granted another Ladge unless I held a qualification. I am more than capable of providing the service I am expected to without it having to be written down on a piece of paper. If the authority feels that qualifications are necessary then by all means make it a stipulation of anyone applying for the first time to hold a qualification but anyone who has held a Ladge before should be exempt.

I notice that you say the driving standard agency train you how to deal with people in wheel chairs. You cannot be trained for this because each disabled person knows exactly how they as individuals need to be assisted. There is no hard & fast way to assist these people.

One other thing I am a nation mechanic by trade with considerable qualification. These pieces of paper have never helped me in my whole working life. The ability practically is the thing that has been important to me. Yours faithfully

MACKENZIE > CARRIAGE DRIVEN,

THOSE ON THE RAIL ONLY >

NEED THE TRAINING,

AS WHEELCHAIRS, CANJECT

FIT INTO A PRIVATE

HINK CAN'S BOAT

Dear Sirs

I have been a taxi owner for the past 35 years with this authority, and think after this amount of time I know pretty much all there is to know about the trade, i.e. Passenger safety, comfort, wheelchair use. I have dealt with all types of wheelchair over the years, and never encountered any problems at all. All wheelchairs fold flat and easily fit in the back or boot of a saloon car or estate. Majority of disabled passengers love to sit in the front seat next to the driver to have a chat on the way home. I am the holder of a N.V.Q. certificate of which I completed in 2011 of which I enclose.

Yours

Faithful ~~public~~ public servant

A. W. Fitzgerald.

Sir. I would like to say As every
thing should go along same as before

There is no need to make any
changes with the badge and

Also vehicle creche policy -

As we all know time is hard
to earn and now in this
moment I would suggest leave

the policy as it is because

Everybody is fine and happy

with it -

Thanks for your
concern

FAMIR HUSSAIN

I just feel common sense is required with taxi driving e.g. last month upon having to pick up a wheel chair board passenger I found him on the toilet and he had messed his trousers.

Did I leave him No! Like any taxi driver I helped him change his trousers, got him to the taxi and got him to his appointment albeit 15 minutes late.

Is a paper qualification going to improve the above. No it is not!

P.S. 12 months ago a taxi driver helped a pregnant woman as her waters broke in the taxi on way to hospital.

This page is intentionally left blank

PUBLIC PROTECTION COMMITTEE

Thursday 5th September 2013

PRIVATE HIRE & HACKNEY CARRIAGE DRIVER TRAINING

Submitted by: Head of Business Improvement and Partnerships

Purpose

To inform the Committee of the need to consider whether applicants for Hackney Carriage and Private Hire drivers licences should hold a relevant qualification, and whether or not applications for renewals be required to hold the same qualification.

Recommendation

That the Committee consider the report.

Reasons

To improve the level of knowledge and standard of service provided by Licence Holders.

1. Background

1.1

1.3 In recent years there has been an increase in the number of Licensing Authorities, requiring applicants of Private Hire and Hackney Carriage drivers licences to hold various qualifications relating to the transportation of fare paying passengers, information provided by Private Hire monthly indicates that approximately one third of local authorities now require applicants to have some form of training or hold a relevant qualification prior to the grant of a licence, these include the Driving Standard Agency taxi tests, BTech awards and NVQ qualifications.

1.4 Members may recall the findings of a Taxi Survey undertaken by TPi in June 2005. The survey recommended that the Council should be:-

(17.4) 'Introducing a programme of specialist driver training in and an understanding of disability awareness'.

A similar survey undertaken by Mouchel in 2009 found that Hackney Carriage drivers with wheelchair accessible vehicles appeared to need training.

This was proven by test purchasing undertaken by a mystery shopper in a wheel chair. The findings of this are at page 38 of the Mouchel report.

1.5 The Institute of Licensing have recently provided Local Authorities with a recommendation of Best Practice for Private Hire and Hackney Carriage drivers. This recommendation highlights the need for drivers training.

- 1.6 In February 2010 the Department for Transport published its Best Practice and Guidance for Taxi and Private Hire Vehicle licenses and in the guidance, section 72 encourages Local Authorities to consider driver training and highlights in which areas training may be beneficial

The Law Commission following their recent consultation about changes to Private Hire legislation continue to recommend that all drivers undergo disability awareness training.

2. Issues

Private Hire and Hackney Carriage drivers are vocational drivers and are responsible for the safety and well being of fare paying passengers.

The Council are under an obligation to ensure that before granting a Hackney Carriage or Private Hire Drivers licence that the recipient is a 'fit and proper person'.

- 2.1 Private Hire and Hackney Carriage transport remains the last occupations where it is not mandatory to hold any qualification or to have received any training.

- 2.2 The Council grant Hackney Carriage and Private Hire Drivers Licences to applicants unaware if they are able to correctly assist wheelchair users into a vehicle and not knowing if they have any knowledge of the Disability Discrimination Act and how it affects them as drivers.

At present the Council do not have a Policy which mandates that drivers undergo any type of training before or after they are issued a licence.

- 2.3 Since the Council removed the restriction on Hackney Carriages there has been a significant increase in the number of applications for both Hackney Carriage and Private Hire drivers licences not only from those migrating from one type of licence to another but also from those who have no knowledge of the vocation they are attempting to enter. Whilst part of the application process involves taking a test to ensure the applicants are aware of the legislation governing Private Hire and Hackney Carriage, to have some knowledge of the conditions attached to licences, and to have some knowledge of the Borough of Newcastle, there is no way of ascertaining their proficiency in other critical factors such as transporting the disabled.

The two most recognised providers of training for public transport operatives are:-

Local colleges that provide BTech training and,

The Driving Standards Agency (DSA) who provide a test specifically designed for private hire and hackney carriage drivers.

At present Stoke on Trent College has funding available for BTech applicants, however the DSA have the following fee structure:-

- | | |
|--|--------|
| a) Hackney Carriage saloon vehicles and Private Hire saloon test | £79.76 |
| b) Hackney Carriage Wheelchair Accessible vehicle test | £92.94 |
| c) Taxi wheelchair exercise | £26.56 |

Should the Committee resolve that new applicants be required to hold a qualification are they minded to consider the same requirement for those already holding a licence whose licence

is to be renewed? Further where existing drivers are renewing a licence and evidence exists that they have received training that an amnesty be considered.

3. **Options Considered**

3.1 To consider the recommendations highlighted earlier in the report about driver training.

3.2 Do nothing.

4. **Proposals**

4.1 That from the 1st October 2013 all new applicants for private hire and hackney carriage drivers licences be required to have either a relevant BTEch qualification or to have passed the DSA taxi drivers exam which encompasses elements of dealing with wheelchairs and the disabled

Further to initiate a consultation commencing on the 1st October 2013 with existing drivers regarding the implementation of the requirement that they also should hold a qualification, or have received relevant training. The consultation will ask which of the following options would be preferable to the existing drivers and to seek their views as to any suitable alternative :-the options are

a) By the 1st October 2015 to have obtained a relevant qualification – any renewed licences issued between now and the 1st October 2015 will be extended to the 3 year maximum on production of the relevant qualification.

b) Regardless of the expiry date of a licence that on renewal the applicant must hold a qualification.

Finally to grant an amnesty to existing drivers on renewal of their licences who already hold a relevant NVQ.

5. **Reasons for Preferred Solution**

As highlighted earlier in the report

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

Directly linked to Creating Safer and Greener communities

7. **Legal and Statutory Implications**

The Council are obliged to ensure that Drivers are Fit and Proper persons

No decision can be considered until Consultation has taken place

8. **Equality Impact Assessment**

There are no equality issues

9. **Financial and Resource Implications**

Failure to obtain full funding for training may result in the Council being asked to consider contributing to a training programme.

10. **Major Risks**

The Council could be at risk of challenge from drivers who object to obtaining the qualifications

11. **Key Decision Information**

This is not a key decision

12. **Earlier Cabinet/Committee Resolution**

None

13. **List of Appendices**

14. **Background Papers**

15. **Management Sign Off**

1. **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005
FIXED PENALTY NOTICES**

Submitted by Head of Environmental Health Services

Portfolio Environment and Recycling

Ward(s) affected All

Purpose of the Report

To advise the Committee of the action taken in respect of Littering offences within the borough.

Recommendations

That the report be received.

Reasons

Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

1. **Background**

During recent patrols conducted through the town centre and borough of Newcastle-under-Lyme a number of individuals were witnessed Littering. The offenders were approached and advised with regard to the appropriate legislation and their details were then recorded by an enforcement officer. It is an offence under the Environmental Protection Act 1990 to discard litter, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty. The following offenders have been issued with fixed penalties but failed to pay them, and at Staffordshire Magistrates Court they received the following fines and costs with a victim surcharge (vs):

D022378	Mr Stephen Coleman	£200 Fine £130 Costs £20 Victim surcharge
D022383	Mr Steven Walters	£200 Fine £130 costs £20 Victim surcharge
D022385	Mr Jason Scott	£200 Fine £130 costs £20 Victim surcharge
D022390	Miss Amy Scanlon	£200 Fine £130 costs £20 Victim surcharge
D022396	Mr Robert Baillie	£200 Fine £130 costs £20 Victim surcharge
D022397	Mr Martin Crabtree	£200 Fine £130 costs £20 Victim surcharge
D022398	Mr Matthew Knibbs	£200 Fine £130 costs £20 Victim surcharge
D022403	Mr Norman Van	£200 Fine £130 costs £20 Victim surcharge

D022404	Mr Alan Chan	£200 Fine £130 costs £20 Victim surcharge
D022405	Mr Kevin Hardiman	£200 Fine £130 costs £20 Victim surcharge
D022409	Mr Radek Polhos	£200 Fine £130 costs £20 Victim surcharge
D022411	Miss V Wheatstone	£200 Fine £130 costs £20 Victim surcharge
D022438	Mr Ian Butcher	£55 Fine £ 20 Victim surcharge

2. **Issues**

Consistent enforcement is needed to challenge people who choose to ignore the law and guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

3. **Policy Considerations**

There are none arising from this report.

4. **Outcomes Linked to Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable borough.

- Streets and open spaces are clean and the community have pride in the borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 and Clean Neighbourhoods and Environment Act 2005 place duties on the Council and provide powers of enforcement.

6. **Equality Impact Assessment**

6.1 There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 **Non payment**

The non-payment of fines would need to be considered seriously. If a non-payment culture were allowed to develop the Authority would be in disrepute with the residents and members, undermining confidence in a service which aims to improve the quality of the environment.