

- 12 Environmental Health Annual Performance and Enforcement Report (Pages 37 - 44)**
- 13 Clean Neighbourhoods and Environment Act 2005 - Fixed Penalty Notices (Pages 45 - 48)**
- 14 URGENT BUSINESS**

To consider any business which is urgent within the meaning of Section 100(B)4 of the Local Government Act.

Members: Councillors Bailey, Braithwaite, Eastwood, Hailstones, Mrs Hailstones, Matthews, Naylor, Miss Olszewski, Proctor (Vice-Chair), Robinson (Chair), Miss Walklate, Williams and Mrs Williams

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. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

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 white 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).

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PUBLIC PROTECTION COMMITTEE

Monday, 28th April, 2014

Present:- Councillor Mark Olszewski – in the Chair

Councillors Mrs Cornes, Matthews, Miss Olszewski, Williams, Mrs Williams and Mrs Winfield

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors' Bailey, Mrs Hailstones, Hailstones and Wemyss.

2. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

3. MINUTES OF PREVIOUS MEETING

Resolved:- That the minutes of the meeting held on 31 March, 2014 be agreed as a correct record.

4. DISCLOSURE OF EXEMPT INFORMATION

Resolved:- That the public be excluded from the meeting during consideration if the following matter 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.

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - MR SB

The Committee considered the disclosure made by Mr SB, a private hire driver, in relation to his recent conviction for assault.

Resolved:- (a) That a warning letter be sent to Mr SB regarding his future conduct.

COUNCILLOR MARK OLSZEWSKI
Chair

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

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

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

Date 24th June 2014

1. **HEADING** Environmental Health annual performance and enforcement report
- Submitted by:** Nesta Henshaw
Head of Environmental Health Services
- Portfolio:** Environment & Recycling
- Ward(s) affected:** All

Purpose of the Report

To inform Members of the key issues and activities undertaken by the Environmental Health Service in 2013/2014.

Recommendations

That Committee receives the report and supports the priorities for 2014/2015 work plan.

Reasons

To enable Committee to be informed of the nature and extent of routine and enforcement work undertaken by environmental health services and endorse the priorities for 2014-2015.

1. **Background**

- 1.1 The Environmental Health Service makes a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our national priorities are to:
- Protect the public, businesses and the environment from harm
 - Support the local economy to grow and prosper

We determine our activities each year by assessing the needs of local people and our local business community, and considering the risks that require addressing, in light of local needs and of national priorities.

- 1.2 The Environmental Health Service is divided into four teams which include; Food & Safety, Environmental Protection, Licensing & Enforcement and Dog & Pest Control. The service also delivers the Corporate Health & Safety function however; this is not included within this report, as this is reported separately to Audit & Risk Committee.
- 1.3 Each Team undertake statutory enforcement activities and provides a range of regulatory and advisory services to the council, local businesses, members of the public, residents and visitors to the Borough.
- 1.4 The work of the teams comprises both programmed planned activities and reactive work in response to service requests or complaints. The activities are diverse and wide ranging and therefore some activities are undertaken only a reactive or infrequent basis. This report

details the principal activities and associated enforcement activities undertaken by the teams over the past year.

1.5 As this is the first year that a report has been provided for Committee in this format, data for the previous year has been provided as a comparison. All activities or service requests that are reactive are marked with a *.

2. **Report**

2.1 **Food and Safety:**

The team undertakes the following activities: Inspection of food premises, Sampling of foodstuffs, Investigation of complaints regarding foodstuffs and food premises, Registration/licensing of food premises, Organising and participating in Food Safety campaigns and giving advice. Improvement of private water supplies, monitoring of private and public water supplies. Investigation of infectious disease cases and outbreaks. Inspection and registration of tattooing, acupuncture, ear piercing and electrolysis premises. Sampling of swimming baths, spa, and Water. Inspection of health and safety premises, investigation of serious accidents and complaints, health and safety advice and campaigns. Sunday trading, public health advice and advising on, and enforcement of smoke free legislation.

The team fulfils the Councils statutory role as a 'Food Authority' for the enforcement of food law. This work is carried out in partnership with the Governments Food Standard Agency (FSA) The team comprises 7.25fte.

The objectives of the service are:

- Ensure food produced and sold in Borough is fit for human consumption
- Reduce the incidence of food borne infectious disease
- Help consumers make informed choices about where they eat & shop

The team also fulfils the Council's role as a Health & Safety Enforcement Authority. This work is carried out in partnership with the Health & Safety Executive (HSE). While the Health & Safety team is the enforcing authority for retail, wholesale, warehousing, caterers, entertainment and leisure premises within the Borough, The HSE is the enforcing authority in higher risk workplaces such as construction, manufacturing and chemical industries. The objective of the service is to ensure business owners fulfil their duties to protect the health, safety & welfare of their employees and members of the public who may be affected by their activities.

Where advice and guidance has not been effective other enforcement options include statutory notices, seizure of food, closure of premises, prohibition of activities and/or prosecution.

Activity	2012-2013	2013-2014
Food Safety		
Inspections Food premises	515	524
% high risk food premises inspected	100%	100%
% broadly compliant with law	91%	95%
Supplementary Visits	234	235
Complaints about food / premises*	432	344
Total number of Service Requests/advice*	637	925
Samples taken		
• Food	63	142

<ul style="list-style-type: none"> • Private water • Swimming pool 	9 87	2 128
Written warnings	502	518
Improvement notices	1	3
Prohibition / closure	0	3
Prosecution	0	0
Infectious disease notifications	168	185
Health & Safety		
RIDDOR accident notifications*	73	88
Complaints investigated*	76	102
Improvement notices	3	1
Prohibition notices	0	1

Some of the main projects or investigations undertaken in the previous year include:

- Participation and promotion of National Food Hygiene Rating Scheme.
- Execution of 2 warrants to enter premises in relation to allegations of illegal slaughtering of animals.
- Participated in multi-agency food fraud investigation across the region.
- Investigation of several major accidents in workplaces across the Borough.
- 100 Health and Safety regulation visits.
- Event safety inspections with a number of event organisers.
- Organised a Safety Awareness day for local Tattooists.

2.2 Environmental Protection:

The team undertakes the following activities; Monitoring smoke control areas, issuing, monitoring and regulating environmental permitted processes. Assessment and monitoring of local air quality, investigating atmospheric pollution complaints. Monitoring, investigating noise complaints, investigating other statutory nuisance complaints including premises, accumulations, smoke, fumes and gases, odour, noise, light, dust, fumes, animals or insects. Dealing with asbestos removal notifications and answering queries, or dealing with complaints of damaged asbestos in both commercial and residential premises. Consultee to planning department for applications and enforcement including environmental impact assessments. Investigation and remediation of contaminated land.

The team fulfils pollution control activities for maintaining and improving air quality and contaminated land. This work is carried out in partnership with DEFRA and Environment Agency (EA). The team comprises 6.75fte.

The objectives of the service are:

- Protection of the air and land within the Borough
- Maintain the health and wellbeing of residents within the Borough
- Monitor, Maintain and where needed reduce pollution and any adverse health affects
- Proactively prevent detriment to the amenity of the area of proposed new developments

Activity	2012-2013	2013-2014
Risk based inspections of permitted processes	50	42
Notices to permitted processes	0	25
Complaints about noise*	805	789

Number of occasions sound monitoring equipment deployed	60	50
Complaints about dust*	7	18
Complaints about smoke*	28	72
Complaints about artificial light*	11	12
Number of abatement notices served for noise	7	10
Number of deferred action notices for noise	1	0
Number of abatement and other notices served	14	15
Prosecution	1 (with a CRASBO on conviction)	0
Planning consultations*	375	431
Environmental Information Requests (fee paying)	30	43
Air Quality monitoring samples	480	480
Contaminated land - the amount of land that has been remediated and is now in use	n/a	79 Ha

Some of the main projects or investigations undertaken in the previous year include:

- Completion of the Air Quality progress report for 2012, which was accepted by DEFRA
- Completion of a detailed assessment and further assessment of air quality in 4 areas of the Borough
- Completed revision of Contaminated Land Inspection Strategy for 2014 to 2019 (due for adoption in Summer 2014)
- Completion of 9 Phase 1 contaminated land site investigations and commenced 1 intrusive investigation of a closed landfill site identified as a potential risk to a neighbouring dwelling
- Junction 16 Festival – representatives attended Safety Advisory Group meetings and were present on site across the three days of the festival
- Provided comments and advice to Staffordshire County Council on the matters to be included in an Environmental Impact Assessment for a proposed open cast coal mine at Bignall End
- Provided comments and advice to the Borough Council's planning service on the potential impacts on health and residential amenity for a proposed residential development adjacent to an active landfill site at Keele Road and a site adjacent to a burning spoil heap in Keele.
- HS2 Phase 2 – continued working with neighbouring authorities in the county affected by the proposed route and also met with HS2 Ltd and their consultants to identify environmental health issues and to learn from the issues identified in connection with HS2 Phase 1 consultation in advance of the formal route announcement expected in late 2014.

2.3 Licensing & Enforcement:

The team undertakes the following activities; Enforcement of the Licensing Act 2003, enforcement activities in relation to hackney carriage and private hire. Monitoring and regulation of Private Hire Marshalling Scheme. Use of covert surveillance systems and investigation of fly tipping, fly posting, littering, public nuisance and noise from licensed premises. Planning (Town and Country Planning Act) and building control enforcement including high hedges and untidy land complaints. Issuing fixed penalty notices and enforcement of clean neighbourhood legislation. Operation of the litter enforcement scheme.

The team fulfils licensing enforcement and acts as the responsible body to the licensing authority. A corporate enforcement role is undertaken providing investigations, advice and support to other Council teams along side their own environmental enforcement activities. The team comprises 5.5fte.

The objectives of the service are:

- Prevention of public nuisance through licensable activities
- Protection of the public using taxis
- Ensure that anti-social activities and littering is deterred.

Activity	2012-2013	2013-2014
Inspection licensed premises	123	115
Licensed premises complaints*	58	125
Temporary event notice consultations*	152	237
Taxi Inspections	165	165
Taxi/Driver Complaints*	60	75
Complaints about fly tipping*	200	170
Complaints about condition of land or property*	112	89
Complaints of illegal eviction*	7	7
Other complaints*	215	134
Prosecutions	130	171
Fixed Penalty notices	680	625

Some of the main projects or investigations undertaken in the previous year include:

- Investigation of taxi drivers to ensure protection of public
- Safety Advisory Group to Control conditions concerning Outdoor events
- Operation of the litter enforcement scheme
- Multi-agency operation in relation to scrap metal dealers
- Public health awareness campaign in relation to smoking & littering.

2.4 Dog & Pest Control:

The team undertakes the following activities; Delivers the Borough Council's Dog Warden and Pest Control Services. The collection of stray dogs, enforcing dog fouling controls and other dog control orders, and promoting responsible dog ownership. Officers also attempt to resolve dog related nuisance complaints such a barking, and licence animal related businesses including Riding Establishments, Pet Shops, Animal Boarding and Breeding Establishments. The team has a growing animal welfare related workload.

Pest Control Officers deliver a variety of insect and rodent treatments to homes and businesses across the Borough. They also monitor and treat sewers to manage rodent populations. The team can offer both advice or treatment services.

The objectives of the service are:

- Protection of the public from public health pests
- Delivery of a high quality commercial and domestic pest control service
- Control of dogs throughout the Borough

Seasonal working arrangements increase the available staffing resource during times of peak demand. The activities are delivered by 5.0 fte winter, 6.6 fte summer.

Activity	2012-2013	2013-2014
Pest Control clients served *		
• Rats & Mice (Treatments)	1270	1189
• Insects treatments inc Wasps, ants, cockroaches, bedbugs, fleas	417	541
• Advice requests	127	218
• Other including 'agreements'	221	144
TOTAL	2035	2092
Pest Control commercial client retention	95.1% ¹	92.9% ²
Dog warden complaints*	1,410	1,412
Stray dogs seized*	190	202
Dog Control orders enforcement	Nil	6
• Fixed penalty notice	<i>(Orders in force from 1/4/13)</i>	
Pet Shop licensing	5	5
Riding establishment licensing	5	4
Dog breeding licenses	1	2
Kennels & Cattery licenses	16	17
Dangerous wild animal licence	0	0

Some of the main projects or investigations undertaken in the previous year include:

- Implementation of dog control order throughout the borough for Dog fouling; dogs on leads; dog control on direction and dog prohibitions. Work included public consultation, refreshing signage and public awareness campaigns
- Updating of Model Licence Conditions for pet shops and initial consultation with catteries to explore adopting revised conditions
- Review of pest control charges and the introduction of charges for controlling rats. Development of charging exemptions in accordance with Members wishes for families on low incomes

2.5 Customer Satisfaction & Corporate Complaints

The Council operates a Corporate Complaints, Comments and Compliments policy. In 2013/14 a total of 21 stage 1 (investigated by Service) complaints were received, of which 3 progressed to stage 2 (investigated by Customer relations officer). One of these made a complaint to the Local Government Ombudsman, but this was not formally investigated by the ombudsman as they considered reasonable actions had been demonstrated by the Local Authority.

The service plan performance indicator for customer satisfaction is the Percentage of businesses/customers satisfied with the service, of the returned surveys 100% satisfaction was achieved.

3. Priorities for 2014-2015

- 3.1 The service plan has been created for the new financial year, the planned pre-programmed activities and reactive duties as detailed within this report are to continue. However in addition to the activities, the service is directed by a number of government department as to priorities and work to be undertaken. In addition, some of the work, projects or enforcement action commenced in 2013-14 will continue in 2014-15.

¹ 78 of 82 retained

² 78 of 84 retained

3.2 The additional projects or priorities are listed below:

- Business perception survey of environmental health service delivery,
- Progress mobile and agile working,
- Participate in the regulatory services review with the Staffordshire & Stoke on Trent Local Enterprise Partnership, including signing up to a regulatory charter,
- Review the Councils enforcement policy in accordance with the regulatory charter,
- Publish service standards in relation to environmental health,
- Participate in public health agenda and undertake specific projects.

4. **Proposal**

4.1 That Committee receives the report and supports the priorities for 2014/2015 work plan.

5. **Reasons for Preferred Solution**

5.1 The service plan and priorities for 2014-15 supports both statutory requirements and also the national and local priorities for Environmental Health Services.

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

6.1 The proposals relate to the delivery of environmental health services which would contribute to the following:

A clean, safe and sustainable borough

- The negative impacts that the Council, residents and local businesses have on the environment will have reduced.

A borough of opportunity

- Fair, proportionate and consistent regulation and enforcement creates an equal opportunity for business to thrive.

A healthy and active community

- Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and well being.

A co-operative Council delivering high quality, community driven, services.

- High performing services will be delivered for all residents, businesses and customers.

7. **Legal and Statutory Implications**

7.1 All activities are in line with the statutory duty of the Council and in accordance with the advice and guidance of the relevant Government bodies.

8. **Equality Impact Assessment**

8.1 No issues have been identified

9. **Financial and Resource Implications**

9.1 There is an income derived from Pest Control activities, environmental information requests and some licensing and sampling activities. There are also statutory fees set in relation to fixed penalty notices and permits for prescribed processes.

9.2 All the services fees and charges are published annual in the Councils fees and charges register.

10. **Major Risks**

10.1 Environmental Health services undertake statutory duties, failure to deliver these duties adequately, competently or thoroughly would be a risk to the Authority.

11. **Background Papers**

Environmental Health Service Plan 2013-2014
Environmental Health Service Plan 2014-2015

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 :

D022518	Tom Daley	£200 Fine £130 Costs £20 Victim surcharge
D022520	Zoe Corbet	£200 Fine £130 costs £20 Victim surcharge
D022526	Nathan Hamnett	£35 Fine £130 costs £20 Victim surcharge
D022529	Robert Brown	£55 Fine £130 costs £20 Victim surcharge
D022534	Steph Gordon	£135 Fine £130 costs £20 Victim surcharge
D022537	Zoe Moores	£200 Fine £130 costs £20 Victim surcharge
D022538	Dona Green	£200 Fine £130 costs £20 Victim surcharge
D022539	Paul Smith	£70 Fine £130 costs £20 Victim surcharge

D022542	Tim Harnett	£200 Fine £130 costs £20 Victim surcharge
D022547	Ron Binks	£200 Fine £130 costs £20 Victim surcharge
D022553	Katrina Challenger	£200 Fine £130 costs £20 Victim surcharge
D022555	Stacey Perren	£35 Fine £130 costs £20 Victim surcharge
D022567	Andrew Lockley	£35 Fine £130 costs £20 Victim surcharge
D022577	Jasmine Rajabian	£100 Fine £130costs £20 Victim surcharge
D022579	Tony Hall	£35 Fine £130 costs £20 Victim surcharge
D022580	Gulma Rana	£200 Fine £130cost £20 Victim surcharge
D022582	Bernadette Pritchard	£35 Fine £50 costs £20 Victim surcharge
D022585	Andrew Cadman	£200 Fine £130 costs £20 Victim surcharge
D022600	David Allison	£200 Fine £130 costs £20 Victim surcharge
D022602	Damian Mills	£200 Fine £130 costs £20 Victim surcharge
D022608	Gill brown	£200 Fine £130 costs £20 Victim surcharge
D022609	Nick Hughes	£200 Fine £130 costs £20 Victim surcharge
D022610	Stacey Robinson	£200 Fine £130 costs £20 Victim surcharge
D022619	Carrie Taplin	£55 Fine £10 costs £20 Victim surcharge
D020636	Rachael Bate	£200 Fine £130 costs £20 Victim surcharge
D022641	Joshua Taylor	£200 Fine £130 costs £20 Victim surcharge
D022643	Clare Lawton	£200 Fine £130 costs £20 Victim surcharge
D022649	Kelly Lambie	£200 Fine £130 costs £20 Victim surcharge
D022651	Neil Brooks	£200 Fine £130 costs £20 Victim surcharge
D022656	Daniel Devereux	£200 Fine £130 costs £20 Victim surcharge
D022659	Derek Zhang	£200 Fine £130 costs £20 Victim surcharge
D022691	Lee Birch	£200 Fine £130 costs £20 Victim surcharge
D022695	Nathan Howell	£200 Fine £130 costs £20 Victim surcharge
D022697	Katie Harrison	£200 Fine £130 costs £20 Victim surcharge
D022699	Nathan Foster	£200 Fine £130 costs £20 Victim surcharge
D022705	Sarah Salt	£200 Fine £130 costs £20 Victim surcharge
D022712	Ashley Wise	£200 Fine £130 costs £20 Victim surcharge
D022716	Daniel Sweeting	£200 Fine £130 costs £20 Victim surcharge
D023201	Jane Worthington	£200 Fine £130 costs £20 Victim surcharge
D022758	Nicole Mclean	£200 Fine £130 costs £20 Victim surcharge
D022762	Stephen Aspley	£200 Fine £130 costs £20 Victim surcharge
D022765	Jessica Byrne	£200 Fine £130 costs £20 Victim surcharge
D022766	Marianne Carty	£200 Fine £130 costs £20 Victim surcharge
D022772	Daniel Dibble	£200 Fine £130 costs £20 Victim surcharge
D022775	Rebecca Vickers	£200 Fine £130 costs £20 Victim surcharge
D022786	Aaron Pritchard	£200 Fine £130 costs £20 Victim surcharge
D022794	Hayley Fernyhough	£200 Fine £130 costs £20 Victim surcharge
D022795	Martin Gilpin	£200 Fine £130 costs £20 Victim surcharge
D022799	Joel Gill	£200 Fine £130 costs £20 Victim surcharge
D022805	Victoria Pointon	£200 Fine £130 costs £20 Victim surcharge
D022806	Gareth Cooper	£200 Fine £130 costs £20 Victim surcharge
D022821	Helen Tyson	£200 Fine £130 costs £20 Victim surcharge
D022822	Crystal Walklate	£200 Fine £130 costs £20 Victim surcharge
D022826	Carle Poole	£55 Fine £130 costs £20 Victim surcharge
D022847	Adam Lee	£200 Fine £130 costs £20 Victim surcharge
D022904	Jodie James	£200 Fine £130 costs £20 Victim surcharge
D022917	Adam Shallcross	£200 Fine £130 costs £20 Victim surcharge
D022921	Michelle Potts	£200 Fine £130 costs £20 Victim surcharge
D022947	Gary Edwards	£200 Fine £130 costs £20 Victim surcharge
D022948	Matthew Moors	£200 Fine £130 costs £20 Victim surcharge
D022949	Janet Anderson	£200 Fine £130 costs £20 Victim surcharge

2. **Issues**

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.

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.

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