

# Public Document Pack

**Date of meeting** Tuesday, 4th August, 2020  
**Time** 7.00 pm  
**Venue** via Video - Conference  
**Contact** Geoff Durham 742222



**NEWCASTLE  
UNDER LYME**  
**BOROUGH COUNCIL**

Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

## Licensing & Public Protection Committee

### AGENDA

#### PART 1 – OPEN AGENDA

##### PART 1 - PUBLIC PROTECTION (CLOSED)

#### 1 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.

#### 2 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 5 - 16)

To consider the minutes of the Public Protection Sub-Committees which have met since the previous Licensing and Public Protection Committee.

##### PART 2 - LICENSING

#### 3 APOLOGIES

#### 4 DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS

To receive declarations of interest from Members on items contained within the agenda

#### 5 MINUTES OF PREVIOUS MEETING (Pages 17 - 20)

#### 6 DRAFT STATEMENT OF LICENSING POLICY 2020/25 (Pages 21 - 82)

#### 7 BUSINESS AND PLANNING ACT 2020 (Pages 83 - 90)

##### FIVE MINUTE BREAK

### **PART 3 - PUBLIC PROTECTION (OPEN)**

**8 DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS**

To receive declarations of interest from Members on items contained within the agenda

**9 DOG CONTROLS, PUBLIC SPACES PROTECTION ORDER (Pages 91 - 94) REVIEW**

**10 SCHEME UPDATES: (a) TOWN CENTRE HACKNEY CARRIAGE MARSHALLING & (b) USE OF THE BUS STATION FOR PRIVATE HIRE VEHICLES (Pages 95 - 98)**

**11 ENVIRONMENTAL ACT 1995 - PART (IV) LOCAL AIR QUALITY MANAGEMENT - ANNUAL STATUS REPORT 2020 (Pages 99 - 112)**

**12 URGENT BUSINESS**

To consider any business which is urgent within the meaning of Section 100B (4) of the Local Government Act 1972

**Members:** Councillors Mark Olszewski (Chair), Graham Hutton (Vice-Chair), John Cooper, Ms Sylvia Dymond, Tony Kearon, Andrew Parker, Kyle Robinson, Stephen Sweeney, Miss June Walklate, Mrs Jill Waring, Gary White, Mrs Gillian Williams, John Williams, Mrs Ruth Wright and Mrs Gill Heesom

**Note: only the following Members from the full membership who have been nominated to attend this Zoom meeting are required:  
Councillors Mark Olszewski (Chair), Graham Hutton (Vice-Chair), Tony Kearon, Stephen Sweeney, Mrs Jill Waring, Gary White, Mrs Gill Williams and Mrs Gill Heesom**

#### **SUBSTITUTE MEMBER SCHEME** (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:	Miss Julie Cooper	Miss Marion Reddish
	Trevor Johnson	John Tagg
	Paul Northcott	Mrs Sue Moffat
	Bert Proctor	Mrs Silvia Burgess

*If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need to:*

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

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

## **ONLINE COMMITTEE MEETING JOINING INSTRUCTIONS**

This meeting will be held virtually using Zoom.

### **Watching the Meeting**

You can attend the meeting in the following ways:

Web: <https://us02web.zoom.us/j/89618267117>

Using the Zoom App

Telephone: 0330 088 5830 or 0131 460 1196

The Conference ID for telephone and Zoom App users is: 896-1826-7117

You do not require a password or pre-registration to access this committee meeting. Please note, as an attendee you will only be able to watch the meeting. You will not be able to vote, ask questions or discuss the materials presented to the committee.



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

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## LICENSING & PUBLIC PROTECTION COMMITTEE

Monday, 27th April, 2020  
Time of Commencement: 6.00 pm

**Present:** Councillor Mark Olszewski (Chair)

**Councillors:** G. Hutton                      J Waring                      G. Heesom  
T. Kearon                      G White  
S. Sweeney                      G Williams

**Officers:** Geoff Durham                      Mayor's Secretary / Member  
Support Officer  
Nesta Barker                      Head of Environmental Health  
Services  
Anne-Marie Pollard                      Solicitor  
Daniel Dickinson                      Head of Legal /Monitoring  
Officer  
Claire Ryles                      Technical Assistant

Also in attendance:

1. **APOLOGIES**

There were no apologies.

2. **DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETING**

**Resolved:** That the Minutes of the meeting held on 8 January, 2020 be agreed as a correct record.

4. **VE AND VJ DAY ANNIVERSARY - LICENSING ACT 2003 ORDERS**

Consideration was given to a report informing Members of two Licensing Hours Orders to allow certain licensed premises to open later on VE Day and VJ Day.

The Council's Head of Environmental Health Services, Nesta Barker advised that the VE day late opening may not go ahead due to Covid-19 restrictions currently in place.

**Resolved:** That the report be noted.

5. **DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS**

There were no declarations of interest stated.

6. **PRIVATE HIRE AND HACKNEY CARRIAGE FEES AND CHARGES 2020/2021**

Consideration was given to a report asking Members to consider proposed taxi and private hire fees following consultation.

Members' attention was drawn to paragraph 3.1 of the report which showed the proposed fees and charges which were all set at cost recovery. Members were advised that as the fees should have been agreed at the previous meeting which had been cancelled due to the Coronavirus outbreak, a date of implementation needed to be agreed as the 1<sup>st</sup> April had passed.

Councillor Graham Hutton proposed that the implementation date be 4 May which would allow time for the new fees and charges to be commenced. Members agreed this date.

Councillor Jill Waring enquired about the Freedom of Information Request referred to in paragraph 2.7 of the report. Mrs Barker advised that a response had been sent and the information would be sent to Councillor Waring.

**Resolved:** That the proposed fees be approved for 2020/21 and implemented from 4 May, 2020

**7. PUBLIC PROTECTION SUB-COMMITTEE PROGRAMME**

Consideration was given to a report seeking approval of the Public Protection Sub-Committee arrangements.

Members' attention was drawn to the revised table at paragraph 2.4 which set out the rota to 5 May, 2021.

**Resolved:** (i) That the report be received and the dates and times of Members' required attendance at Sub-Committees, be noted.  
(ii) That, should Members be unable to attend a sub-Committee meeting, they notify Democratic Services of a substitute.

**8. REVIEW OF SCHEME OF DELEGATION FOR LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847**

Consideration was given to a report seeking Members' support for a proposed amendment to the scheme of delegation allowing officers to deal with certain types of applications.

Members' attention was drawn to paragraphs 2.4 to 2.7 of the report which set out the current detail and the proposed changes.

**Resolved:** That it be recommended to Council that the proposed amendments to the scheme of delegation be approved.

**9. 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 contained within Part 1 of Schedule 12A of the Local Government Act, 1972

10. **MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS**

**Resolved:** That the Minutes of the meetings held on 22 January, 5 February, 26 February, 11 March, 25 March and 15 April, 2020 be received.

11. **APPEAL OUTCOMES**

**Resolved:** That the appeal outcomes be received.

12. **URGENT BUSINESS**

**Chair**

Meeting concluded at 6.32 pm

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 04 August 2020

**Report Title:** Draft Statement of Licensing Policy 2020-25

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** All

#### **Purpose of the Report**

To advise members of a draft Statement of Licensing Policy for the Council and to seek approval for public consultation.

#### **Recommendation**

**That** Members make any comments on the draft Statement of Licensing Policy prior to it being issued for public consultation.

#### **Reasons**

Under Section 5 of the Licensing Act 2003 the Council is required to revise its Statement of Licensing Policy by January 2021 and thereafter every 5 years. If a Council reviews their Policy within the 5 year period then a new 5 year period begins from the date it is implemented. The policy therefore requires review and implementation by 25<sup>th</sup> November 2020.

### 1. **Background**

1.1 Under Section 5 of the Licensing Act 2003 the Council is required to revise its Statement of Licensing Policy by January 2021 and the revision published by 6th January 2021 and thereafter every 5 years. If a Council reviews their Policy within the 5 year period then a new 5 year period begins from the date it is implemented.

1.2 The existing Statement of Licensing Policy was approved at Council on 25<sup>th</sup> November 2015 and therefore requires review and to be readopted prior to this date.

### 2. **Issues**

2.1 The statement of policy must set out the Councils "policy with respect to the exercise of its licensing functions". This includes ensuring that the Policy meets the four Licensing Objectives:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm.

2.2 Attached to this is the revised Statement of Licensing Policy to be published for consultation for 6 weeks.

2.3 Members of Licensing and Public Protection Committee are invited to make any comments on the Policy prior to it going to public consultation. The revised Policy is contained in Appendix 1.

### 3. **Proposal**

3.1 The responsibility for adoption of the statement of Licensing Policy is reserved, by law, to Council.

3.2 The Council is required prior to adoption of the policy to consult with:

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire and rescue authority for that area,
- (c) each Local Health Board for an area any part of which is in the licensing authority's area,
- (d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- (e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- (g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- (h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

3.3 Appendix 1 provides a draft Statement of Licensing Policy, these amendments include:

- Updates to reflect changes to Licensing Guidance and best practice, including;
  - Amended timescales,
  - Changes to cumulative impact assessments,
  - Changes to temporary event notices
  - Updated standard conditions
  - Updated to reflect corporate enforcement policy
  - Updated ages for challenge 21 to 25
  - Updated contact details
- Typographical amends.

3.4 The timescale for the revision of the Statement of Licensing Policy is as follows:

- Draft considered by Licensing and Public Protection Committee 4<sup>th</sup> August 2020.
- Consultation formally starts 7<sup>th</sup> August 2020 for 6 weeks.
- Consultation ends 17<sup>th</sup> September 2020.
- Report to Licensing and Public Protection Committee on proposed Statement and comments from consultation – at October meeting.
- Report to Council on adoption of revised Statement – 18th November 2020

### 4. **Reasons for Proposed Solution**

4.1 The proposed amendments are required to ensure compliance with the Licensing Act 2003 and to also ensure that the Statement of Licensing Policy is up to date to ensure best practice.

### 5. **Options Considered**

5.1 There are many options relating to the content of the draft Statement of Licensing Policy, the proposed amendments are to update for current best practice and guidance.

6. **Legal and Statutory Implications**

6.1 Under Section 5 of the Licensing Act 2003 the Council is required to revise its Statement of Licensing Policy by 25<sup>th</sup> November 2020 and thereafter every 5 years.

7. **Equality Impact Assessment**

7.1 There are no impacts identified arising from this report.

8. **Financial and Resource Implications**

8.1 There are no impacts identified arising from this report.

9. **Major Risks**

9.1 There are risks associated with the Council not having an approved Statement of Licensing Policy as required by the Licensing Act.

10. **Sustainability and Climate Change Implications**

10.1 There are no impacts identified arising from this report.

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 The existing statement of licensing policy was approved at Council on 25<sup>th</sup> November 2015.

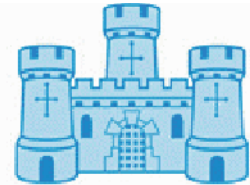
13. **List of Appendices**

13.1 Appendix 1 – Draft Statement of Licensing Policy.

14. **Background Papers**

14.1 None.

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# DRAFT STATEMENT OF LICENSING POLICY 2020-2025

**Adopted by Full Council on: 18<sup>th</sup>  
November 2020**

**Operational start date: 25<sup>th</sup>  
November 2020**

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## **STATEMENT OF LICENSING POLICY –2020-2025**

### **1. INTRODUCTION**

#### **1.1 Introduction**

Under the provisions of the Licensing Act 2003, the Borough Council of Newcastle-under-Lyme (the Licensing Authority) is the licensing authority for the administration and enforcement of the above Act and associated orders and regulations within its area. The legislation regulates the operation of:

- The sale of alcohol by retail;
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club;
- The provision of regulated entertainment;
- The provision of late night refreshment.

#### **1.2 Statement of Licensing Policy**

Section 5 of the Act requires that the Licensing Authority prepares and publishes a Statement of its Licensing Policy every five years. The Statement of Licensing Policy must be published before the Licensing Authority carries out any function in respect of individual applications made under the terms of the Act.

#### **1.3 Statutory Consultees**

Before determining its Policy for any five year period, the Licensing Authority is required to consult with the persons specified in Section 5(3) of the Act. These are:

- The Chief Officer of Police for the area
- The Fire and Rescue Authority
- The Local Health Board
- The Local Authority with Public Health Functions
- Representatives representing local holders of premises licences and club premises certificates
- Representatives representing local holders of personal licences
- Representatives representing business and residents in its area.

#### 1.4 Consultation with Representatives of Existing Licensees

This Statement of Licensing Policy is the fifth such statement adopted under the provisions of the Licensing Act 2003 and the Licensing Authority will consult with organisations representative of current licence holders.

#### 1.5 Other Consultees

The Licensing Authority is empowered to consult with other bodies as it deems appropriate and this policy has been prepared after consultation with the following additional bodies:

- Borough Council Environmental Health Department
- Borough Council Partnerships Team
- Home Office Immigration Department
- Newcastle BID
- Town and Parish Councils
- Staffordshire Parish Councils Association
- North Staffs. Chamber of Trade
- Newcastle Civic Society
- Stoke City Council
- Staffordshire Moorlands District Council
- Local businesses including Pubs, Takeaways etc
- British Beer and Pub Association
- Association of Licensed Multiple Retailers
- Staffordshire Trading Standards
- Staffordshire Social Services
- Vulnerable Children Division, Lifelong Learning Directorate, Staffordshire County Council
- Solicitors acting for various licensed multiple retailers
- Solicitors acting for various brewery companies.
- Partnership against business crime in Staffordshire (PABCIS)

## 1.6 Regard to Guidance

The Licensing Authority must have regard to the guidance issued by the Home Office in discharging its functions under the Act and this Statement of Licensing Policy has been prepared taking into account that guidance. The views of all consultees have been given proper weight in the preparation of this policy document.

## 1.7 Period of Licensing Policy

The Statement of Licensing Policy will be used by the Licensing Authority in the administration and enforcement of its duties under the Act. It will remain in force for a period of five years and will be reviewed and subject to further consultation before the end of the five year period. A new Statement of Licensing Policy will be adopted to come into operation at the expiry of the current Licensing Policy.

## 1.8 Review of Licensing Policy

During the currency of any Statement of Licensing Policy, the Licensing Authority will keep the operation of the Policy under review and make appropriate revisions to ensure the effectiveness of the Policy, subject to appropriate consultation.

Minor changes would be made without consultation where:

- they are to correct an administrative error
- they are a change needed because something is no longer possible or legal
- there is no foreseeable detrimental effect to licensee's interests.

## 2. AIMS AND OBJECTIVES

### 2.1 Exercise of Responsibilities

In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Licensing Authority will have regard to this Statement of Licensing Policy and to the guidance issued by the Secretary of State. Subject to this, all applications will be treated on their merits and judged accordingly.

### 2.2 The Licensing Objectives

The Licensing Authority will exercise its duties in such a way as to promote the licensing objectives set out below:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

The Licensing Authority confirms that each objective has equal importance and that the licensing objectives will be the only considerations to be taken into account in determining applications.

### 2.3 Other Local Strategies

The administration and enforcement of the Act will also take into account other appropriate local strategies. The Licensing Authority has formulated its policies and procedures detailed in this Statement of Licensing Policy, taking into account the current policies incorporated into the locally adopted strategies on the following matters:

- Community Safety
- Planning
- Economic Regeneration
- Transportation
- Tourism and culture.

### 2.4 Facilitation of Well Run Premises

The legislative powers provide for the carrying on of retail sales of alcohol, the supply of alcohol by qualifying clubs, the provision of

regulated entertainment and late night refreshment in a way which ensures public safety, the prevention of crime and disorder, the protection of children from harm and the prevention of public nuisance which is neither detrimental to members of the public nor gives rise to loss of amenity. It is the Licensing Authority's intention to ensure well run and managed premises and that licence holders take positive action with regard to their responsibility to promote the licensing objectives.

## 2.5 Contribution to Local Economy

The Licensing Committee will be informed of the local employment situation and the need for new investment and employment where appropriate. Additionally, they will also receive from time to time reports on the needs of the local tourist economy and the cultural strategy for the area and will take such information into account in determining the overall policies. The Licensing Authority recognises that the entertainment industry is a major contributor to the local economy. There are currently some 430 premises licensed under the Act and these premises provide valuable employment opportunities as well as supporting other sectors of the economy such as shops, cultural activities and tourist attractions. The industry attracts visitors from outside the area as well as local residents and helps to create vibrant towns and communities within the Borough.

However, when considering the promotion of vibrant localities, the Licensing Authority must take account of its duty to safeguard all of the community. This duty will be a major consideration in the granting or reviewing of all licenses as judged against the four licensing objectives.

## 2.6 Promotion of Cultural Activities

In relation to the promotion of cultural activities, the Licensing Authority recognises the need to encourage and promote live music, dancing and theatre, circus and street arts for the wider cultural benefit of the local community generally.

## 2.7 Local Transport Policy

In relation to local transport policy, there will be appropriate liaison between the licensing, Police and transport authorities on all matters in relation to dispersal of people from areas where there is a concentration of entertainment premises. Such liaison is intended to ensure that the local transport plan is informed of the current needs of such areas so that the local transport strategy can be contemporaneously adapted to ensure that people are moved from such areas swiftly and safely to avoid concentrations of people which produce disorder and disturbance.

## 2.8 Protection of Residential Amenity

The Borough has a substantial residential population, whose amenity the Licensing Authority has a duty to protect. In some areas, local residents are adversely affected by entertainment activities. Commercial occupiers of premises also have an expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority also has wider considerations in relation to the amenity of the area including littering and the fouling of public places. The Licensing Authority will determine its policies and conditions in such a way as to ensure that the Licensing objectives are actively promoted.

## 2.9 Trading Hours

Licensed premises will be expected to conduct their business in such a manner as not to cause nuisance or disturbance to those living or working in the locality. Trading hours will not be regulated by geographical areas or zones, but due regard will be given to the potential for any nuisance or disturbance to be caused to those living or working nearby. In particular, where appropriate, and following relevant representation, conditions may be attached to address issues of noise, litter and light pollution, or to restrict trading hours where the premises being licensed are in the vicinity of residential accommodation.

## 2.10 Protection of Children from Harm

Applicants will demonstrate through their operating schedules the measures they intend to take to keep children from harm. In particular, premises where the principal licensed activity is the sale or supply of alcohol will demonstrate how they will ensure that unaccompanied children are excluded from the premises (e.g. by the requirement of proof of age cards as a condition of entry).

## 2.11 Illegal Sales of Age Restricted Goods

The Licensing Authority takes a very serious view of the illegal sale of alcohol and other age-restricted goods to minors and will continue to work with Staffordshire Trading Standards and Staffordshire Police to advise both the off-licence and on-licence trade on how to set up systems to avoid such sales taking place.

The Licensing Authority will expect applicants for licenses to demonstrate how they will ensure that all their frontline staff have received adequate training on the law with regard to age restricted sales. They will also be expected to demonstrate in their operating schedules the measures they will take to ensure that illegal sales to children under 18 do not take place such as the checking of identification for proof of age through a secure system. (Ideally, identification should be a photo driving licence or passport, or a PASS approved 'proof of age' card. Other cards must be

treated with caution because some have been shown to be insecure).

Additionally, the Licensing Authority encourages premises to include a Challenge 25 policy in their operating schedule, to ensure anyone who appears to be under the age of 25 provides a proof of age card (as above).

The Licensing Authority considers it good management practice that licensees keep registers of refused sales (refusals books) where sales of alcohol and any other age-restricted goods have been refused for any reason. Keeping such records helps to demonstrate that the responsibilities for checking the ages of purchasers are being taken seriously. Refusals books should be kept on the licensed premises and be made available for inspection by the Licensing Officer, Trading Standards or the Police.

In premises where alcohol is not the main product sold – for example, in food retailers and corner shops – the Licensing Authority will actively encourage the use of warning messages where an electronic point of sale system (EPOS) is in use. Such a warning system can help employees as it prompts them to check the age of purchasers of alcohol or other age restricted products when they are presented at the check-out.

#### 2.12 The Prevention of Crime and Disorder

The Licensing Authority expects licensed premises to be managed in a manner so as not to contribute to problems of crime, disorder or anti-social behaviour in the locality. Licensees will be expected to actively co-operate with initiatives to enhance community safety particularly those promoted by the Newcastle Safer Communities Partnership.

#### 2.13 Irresponsible Drinks Promotions

The Licensing Authority commends the Portman Group's Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are purchased and promoted in a socially responsible manner and only to those who are aged 18 or over.

#### 2.14 Drugs Policies

The Licensing Authority has adopted the strategies set out in the Government's 'Safer Clubbing' initiative and considers it good practice for all applicants for premises licenses and club certificates to demonstrate through their operating schedules the measures they will take to address the incidence of illegal substances on their premises and to keep customers from harm.

The Licensing Authority considers it good practice for all applications for premises licences or club premises certificates for premises where alcohol will be consumed on the premises to be

accompanied by a Drugs Policy which should address all the factors set out in Appendix A of this Policy and include provisions in relation to:

- Addressing the incidents, supply and consumption of drugs on the premises
- Arrangements, facilities and procedures to minimise the harmful effects of drugs
- Search procedures and procedures for detecting drugs on the premises
- Procedures for dealing with drugs found on the premises
- Procedures for dealing with those suspected of being in possession of illegal substances.

#### 2.15 Public Safety

The Licensing Authority is concerned to protect the physical safety of people using licensed premises and will expect applicants to demonstrate in their operating schedules the measures they will take to promote the public safety licensing objective.

#### 2.16 Duty to Promote Good Race Relations

The Licensing Authority is mindful of its duties under the Equality Act 2010 and will exercise its functions under the Licensing Act 2003 in such a way as to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

#### 2.17 Duty Towards People with a Disability

The Licensing Authority reminds those operating regulated businesses of their obligations under the Equality Act 2010 and the need to ensure that their services are made fully accessible to people with a disability.

#### 2.18 Application Procedure

The Licensing Authority points out that if no representations are received, the application will be granted in the terms sought and no additional conditions imposed other than those which are consistent with the operating schedule.



### 3. THE APPLICATION PROCESS

#### 3.1 Applications to be made in Prescribed Form

The Licensing Authority requires that all applications for the grant, variation or transfer of any premises licence, the grant of a club certificate or a personal licence detailed in the Act, are made in accordance with the statutory requirements and any guidance issued from time to time by the Licensing Authority.

All such applications must be made in the prescribed form and accompanied by the appropriate fee, where applicable, to be accepted as valid. Where such applications are statutorily required to be advertised or notified to other specified persons, the application must confirm that such advertisement or notification has been properly made and be accompanied by supporting evidence.

#### 3.2 Delegations

Upon receipt of a valid application, the Licensing Authority will consider the matter and determine it in accordance with this Licensing Policy, the statutory requirements and the guidance from the Secretary of State. To assist in the speed, efficiency and cost effectiveness of the administration of the licensing process, the application will be determined in accordance with the following delegation criteria:

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

### 3.3 Operating Schedules

All applications for premises licences and club premises certificates must be accompanied by an operating schedule. This should be drawn up following a full risk assessment of the activities to be undertaken and contain the information requested in the application form to include a floor plan, details of the licensable activities proposed, opening hours and operating arrangements. This could include for example:

- Drinks promotion proposals
- Seating arrangements
- Drugs policy
- Security arrangements
- Safety arrangements
- Maximum occupancy figure (based on risk assessment)
- CCTV arrangements inside and outside
- Staffing arrangements
- Staff training plan
- A fire risk assessment.

### 3.4 Use of Conditions

Where an application is received by the Licensing Authority it will be granted subject to any such conditions as are consistent with the operating schedule submitted by the applicant. This does not mean that the Authority will automatically reproduce the contents of the applicant's operating schedule. Certain conditions may be amended, if deemed appropriate by the Licensing Authority, following consultation with the applicant if required, so as to make the conditions meaningful and enforceable whilst at the same time ensuring the conditions are consistent with the operating schedule.

As an example the following condition, taken from an applicant's operating schedule, "CCTV at premises" may be amended to read:

- i) CCTV shall be installed at the premises;
- ii) The CCTV system shall be maintained and fully operational during the hours of licensable activity;
- iii) All recordings shall be available for inspection by an authorised officer.

In order to avoid such problems of interpretation it is expected that applicants will consult with Responsible Authorities prior to application or during the application process. This would also have the effect of minimising the necessity for hearings and allow for proper liaison.

An example of best practice is contained within the conditions regarding CCTV provision at the Premises.

A list of model conditions are attached as Appendix A governing the four licensing objectives and specific situations. Applicants are encouraged to study these conditions and enter into consultation with Responsible Authorities with a view to reaching agreement on appropriate and proportionate conditions.

### 3.5 Indoor Fireworks, Hypnotism and Laser Shows

There shall be no indoor fireworks, hypnotism or laser shows without prior notification to the local authority.

In granting the consent to such activity the consent may itself be subject to conditions regulating the entertainment provided under separate legislation.

### 3.6 Limitation on Conditions

Conditions will only be imposed to regulate matters which can be controlled by the licence holder. Such measures may be used to control the impact of the licensed activity on members of the public living, working or engaged in normal activities in the locality of the licensed premises. General anti-social behaviour of patrons in the vicinity of the licensed premises may not be able to be controlled by the licence holder.

However, there is an expectation that the licence holder will do all within their power and work with other agencies to address anti-social behaviour or other problems within the locality of the premises.

### 3.7 Cumulative Impact Assessment

Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. 'Cumulative impact assessments' were introduced in the 2003 Act by the Policing and Crime Act 2017 and replaced what was known as Cumulative Impact Policies (CIP). The Council has previously resolved to have a CIP that covers an area of the Newcastle's town centre which was incorporated into earlier Statement of Licensing Policy documents. The Council intends to replace the current CIP with a Cumulative Impact Assessment (CIA) which will be a standalone 'live' document capable of being amended when required. For information a plan of the current CIP can be found at Appendix B.

### 3.8 Other Control Mechanisms

In considering whether or not to adopt a cumulative impact assessment, the Licensing Authority will take into account its responsibilities and duties under the Licensing Act 2003. However, the Licensing Authority recognises that there are other mechanisms available for addressing problems of disorder associated with customers in the vicinity of licensed premises. Such matters would include:

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
- The provision of CCTV surveillance in the town centre, taxi ranks, street cleaning and litter patrols
- Powers available to the Licensing Authority to designate parts of the area as places where alcohol may not be consumed publicly
- Police enforcement of general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of personal licence holders or members of staff at such premises who sell alcohol to people who are drunk
- The confiscation of alcohol from adults and children in designated areas
- The use of Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question

These matters may be supplemented by other local initiatives that similarly address these problems.

### 3.9 Planning /Building Control

The use of any licensed premises or places (including outside areas) are subject to planning controls. This would equally affect licensable activities held under a premises licence or temporary event notice. There are several key differences between licensing and planning control. The most significant is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected.

It is recommended that issues concerning planning permission be resolved before a licence application is made. The Planning Authority may make representations in respect of licensing applications particularly where the activity to be authorised would amount to a contravention of the existing planning permissions and/or conditions imposed on planning permissions for the premises or the hours being sought exceed those authorised by any relevant planning permission.

Planning, Building Control and Licensing applications and conditions are separate. Licensing applications should not be a re-run of a planning application. Internal and external alterations to licensed premises must have building regulation approval where such approval is required under the Building Acts etc.

Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for licensable activities, an application may be made to the Licensing Authority for a Provisional Statement or a new grant of a licence. The Licensing Authority will determine the application in the same way as any other application for a premises licence.

### 3.10 Operating Hours Conditions

Where relevant representations are received, the Licensing Authority will consider restricting the hours of the licensable activity on the individual merits of the application. The Licensing Authority will take into account the overall impact the licensed premises has on the local amenity and any proposals the applicant might submit to mitigate such impact. Uniform or standardised hours of operation for premises, areas or classes of activity will not be set so that the orderly departure of customers can be aided. However, the Licensing Authority would consider the imposition of appropriate conditions to require the holders of premises licences and club premises certificates to ensure the orderly departure of their customers, particularly in noise sensitive areas. Where it is likely that significant nuisance will be caused to local residents by late night activity, a restriction on operating hours must be considered.

### 3.11 Sales from General Retail Premises

In relation to premises selling alcohol for consumption off the premises as part of general retail sales, there will be a presumption that that activity will be licensed to operate at all the times that the premises are open for their normal business. However, where relevant representations are received, the Licensing Authority will consider the imposition of more restrictive hours for the sale of alcohol at those premises where, for example, that activity creates a focus for disorder and disturbance.

### 3.12 Film Exhibitions

Where premises are licensed for the giving of film exhibitions, the Licensing Authority will impose conditions requiring that children only be admitted to such exhibitions in accordance with the film classification as recommended by the British Board of Film Classification (BBFC). The conditions will include the requirement that the licence holder complies with the requirements of the BBFC in relation to the giving of information to the public and advertising that information. Where the Licensing Authority

specifically determine that a specific film shall be granted a film classification different to that determined by the BBFC, the licence holder will be required to comply with any additional conditions imposed by the Licensing Authority for the exhibition of that film.

### 3.13 Adult Entertainment

Adult entertainment is licensed under a separate licensing regime but may also require an authorisation under Licensing Act 2003 for the sale of alcohol. Normally adult entertainment will not be granted in proximity to residential accommodation, schools, places of worship or community facilities/public buildings.

The licensing authority will have regard to any cumulative effect of the number of such premises in proximity to each other and in the vicinity.

Where applications are granted they will normally be subject to appropriate conditions which promote the licensing objectives including:

- Control of access for children. There is no reason for proof of identity to be confined to those who appear to be under age 18. The Authority may require proof of identity, if appropriate, for anyone appearing under 25
- Exterior advertising/visibility
- Contact, including a 'one metre' rule
- Performances confined to stage or other means of segregation
- Performances in place giving direct access to dressing room without passing through audience
- Style of dancing, e.g. no audience participation, physical contact between performers, simulated sex acts etc.
- Management standards, including CCTV inside and out, levels of door and floor supervision, waitress service only
- Rules of club conveyed to performers and audience
- Applicants should state clearly whether their application involves nudity, striptease, sex related or adult entertainment.

### 3.14 Personal Licences

Personal licences will be granted in accordance the Act for current licence holders and new applicants. All applications must be made in the prescribed form and be accompanied by:

- (a) two photographs duly endorsed as a true likeness by a solicitor, notary, teacher, lecturer or other professional person
- (b) a Basic Disclosure DBS Certificate
- (c) copies of the relevant licensing qualification; and
- (d) the prescribed fee.

## **4. MEASURES TO PROMOTE THE LICENSING OBJECTIVES**

### **4.1 Public Safety**

Conditions will be imposed in accordance with operating schedules and any relevant representations to protect public safety including, where justified measures to address the following:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Considering the use of CCTV in and around the premises (this may also assist with promoting the crime and disorder objective).

### **4.2 Prevention of Public Nuisance**

In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises, or by reason of smell, vibration or light pollution.

Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

### **4.3 The Protection of Children from Harm**

Premises licences are granted to a wide variety of establishments for a wide variety of activities regulated under the Act. For the majority of these activities, the presence of children either on their own or accompanied by a responsible adult is not unlawful. The Licensing Authority will not therefore impose a condition requiring that children not be admitted to licensed premises. Such a matter will generally be



at the discretion of the licence holder. However, in some instances the licence holder will need to restrict the access of children to the premises or parts of the premises at certain times when specific activities are taking place. The applicant is required to detail in the operating schedule the measures they intend to take to meet the licensing objective of 'protecting children from harm'.

Where relevant representations are received, the conditions that may be attached to a licence to protect children from harm include the following:

- Limitations on the hours when children may be present
- Limitations on or the exclusion of the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children may be given access
- Age restrictions (below 18)
- Requirements for children to be accompanied by an adult (including, for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

#### Activities Giving Rise to Concern

The activities which would give rise to concern by the Licensing Authority in relation to potential harm for children include:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

#### Role of the Director of Children and Lifelong Learning

The Licensing Authority recognises that the Director of Children and Lifelong Learning for the County Council is the responsible authority for advising the licensing authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are

specifically required to forward copies of their operating schedule to Staffordshire Trading Standards so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant's proposals to meet the licensing objective of 'protecting children from harm'.

#### 4.4 Prevention of Crime and Disorder

Conditions will be imposed in accordance with operating schedules and any relevant representations to address the following:

- Radio links Door supervision
- The provision of CCTV
- Maximum permitted numbers
- Bottle bans and use of plastic containers/toughened glass
- Restriction of drinking areas/removal of open containers
- Proof of age cards
- Drugs policies
- Signage
- Adoption of a dispersal policy
- Search on entry
- Overcrowding
- Chill-out facilities
- Pub Watch/Off Licence Watch where such a scheme exist

## **5. OBJECTIONS AND REVIEWS**

### **5.1 Determination of Objections**

Where an objection is received in relation to the grant or renewal of a licence for any purpose regulated by the Act, the matter will be determined in accordance with the terms of this Statement of Licensing Policy. The objection be considered in accordance with the delegation criteria.

### **5.2 Irrelevant, Frivolous, or Vexatious or Repetitious Objections**

Where the complaint or objection has been judged to be irrelevant, frivolous, or vexatious or repetitious, the matter will not proceed any further and the complainant will be advised in writing of this fact.

### **5.3 Procedure to be Followed**

Where there is a prima facie case for an objection to the grant of a licence to be progressed, the application will be referred to a Licensing Sub-Committee.

### **5.4 Application for Review**

Where an application is made for the review of a premises licence or club premises certificate, the matter will be determined in accordance with the terms of this Statement of Licensing Policy. The application for review will normally be considered in accordance with the delegation criteria.

### **5.5 Review of Applications which are Irrelevant, Frivolous, or Vexatious or Repetitious**

Where an application for review has been judged to be irrelevant, frivolous, or vexatious or repetitious, the matter will not proceed any further and the complainant will be advised in writing of this fact.

### **5.6 Determination following Objection**

When an objection to the grant of a licence or club premises certificate has been determined in accordance with the procedures mentioned above, the licence or certificate will be refused or granted with or without conditions and the applicant and objector advised accordingly. In relation to a refusal to grant a licence or club premises certificate, the notification will detail the grounds for the refusal and specify the process for the applicant to appeal against the Licensing Authority's decision.

### 5.7 Determination following Review

When an application to review a premises licence or club premises certificate has been determined in accordance with the procedures mentioned above, the licence or certificate will either continue in operation unaltered, be modified and the terms and conditions changed in accordance with the Licensing Authority's decision, or be cancelled. The Licensing Authority will determine the date upon which the decision will take effect and the licence holder and applicant for review will be advised accordingly. The notification will set out the reasons for the decision and specify the process for an appeal.

### 5.8 Variation or Cancellation

In relation to a variation or the cancellation of a premises licence or club premises certificate, the notification will detail the grounds for the variation or cancellation and specify the process for the applicant to appeal against the Licensing Authority's decision.

### 5.9 Right of Appeal

There is a statutory right of appeal within 21 days to the Magistrates' Court from any decision of the Licensing Authority:

- (a) to impose conditions
- (b) to refuse a premises licence, club premises certificate or personal licence
- (c) to refuse to vary a licence
- (d) to refuse the transfer of a licence
- (e) to suspend or revoke a licence following a review.

A person who has made a relevant representation or objection has a statutory right of appeal within 21 days to the Magistrates' Court against a decision of the Licensing Authority to:

- (a) grant a licence or certificate
- (b) not impose requested conditions
- (c) not to suspend or revoke a licence following a review.

## **6. ENFORCEMENT**

### **6.1 Enforcement Policy**

The Licensing Authority recognises that efficient and effective enforcement is of paramount importance in ensuring that the objectives of the Act are met. The Licensing Authority will follow the principles outlined in the Council's Enforcement Policy.

### **6.2 Protocols with other Agencies**

The Licensing Authority also recognises that there are other enforcement and regulatory agencies who have a direct involvement with the matters detailed in the Act. Protocols and understandings have been agreed with those agencies and they will be reviewed in the light of experience to ensure that transparent and effective enforcement procedures are operated in relation to the legislative requirements.

### **6.3 Duty to Promote the Licensing Objectives**

Where anti-social behaviour or other public disturbance occurs in connection with or in the vicinity of licensed premises, the Licensing Authority will work with other enforcement agencies and other bodies to identify the causes of such events and identify any possible remedies. It is recognised that it is the Licensing Authority's duty to promote the licensing objectives in the interests of the wider community, and to work with the Police and other law enforcement agencies to deter criminal activities and to take appropriate enforcement action. There will therefore be a sharp and proactive focus on premises failing in terms of the licensing objectives.

## **7. PERMITTED TEMPORARY ACTIVITIES**

### **7.1 Temporary Event Notices**

Anyone wishing to hold an event at which any licensable activity will take place may give notice of the event (a temporary event notice) to the Licensing Authority not less than 10 working days before the holding of the event, or 9-5 working days if submitting a Late Temporary Event Notice. A copy of the notice must also be given to the Police and Council Environmental Health Department at the same time.

A “working day” is any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday.

### **7.2 Limitations**

The following limitations apply:

- An individual (other than a personal licence holder) may give a temporary event notice 5 times a year
- A personal licence holder may give a temporary event notice 50 times a year
- A notice may be given 15 times per year in relation to any premises
- A temporary event may last up to 168 hours
- There must be a minimum of 24 hours between events
- The maximum duration of all temporary events at any individual premises in one year is 21 days
- The maximum number of people attending a temporary event at any one time is 499.

In any other circumstances, premises licence or club premises certificate will be required.

Where a temporary event notice has been given, no authorisation is required for the temporary carrying on of the sale or supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at premises where there is no premises licence or club premises certificate.

The Police and Council Environmental Health Department have the right to object to a temporary event notice within 3 working days of receiving the notice. Where the premises user gives a counter notice the Licensing Authority will hold a hearing to consider the Police or Environmental Health Department objection and decide whether or not to issue a counter notice setting out conditions which must be met if the event is to be held, at least 24 hours before the beginning of the event.

### 7.3 Public Safety

Those holding permitted temporary activities are reminded of the need to have proper regard for the safety of those attending the event, to have respect for the concerns of local residents and the need to prevent crime and disorder and anti-social behaviour by those attending.

## **8. CONTACT DETAILS**

Further details for applicants about the licensing and application process, including application forms, can be found by contacting Licensing Administration, Castle House, Barracks Road, Newcastle, Staffordshire, ST5 1BL.

Telephone: 01782 717717

Email: [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)

Advice and guidance to applicants may also be sought from the Responsible Authorities at:

<https://www.newcastle-staffs.gov.uk/all-services/business/licensing/responsible-authorities>

### **Licence Conditions**

The Licensing Authority notes that where "relevant representation" is made by responsible authorities or interested parties, the Act makes provision for the attachment of conditions to licences granted under its scope. Conditions may include limitations or restrictions to be applied to the use of the licence, or licensed premises.

It is not, however, intended that conditions should be used to restrict licences unnecessarily and conditions will only therefore be imposed where it is considered appropriate in the public interest to promote the licensing objectives.

Conditions will be tailored to fit the individual application having regard to any representations received. To this end, the Licensing Authority will work closely with other agencies to focus licence conditions to ensure that expected standards are met and that risks to amenity and public order are kept to a minimum.

This will ensure that those voluntarily exercising the highest levels of management over licensable activities will be afforded sufficient flexibility to maximise business interest and provide a lead on standards of excellence within the industry with the prospect of increasing public access to well regulated entertainment.

A pool of conditions and the circumstances in which these may be used are listed below. Specific conditions may be drawn from these and tailored to the circumstances of a licence. This is not an exhaustive list and the Licensing Authority may apply other conditions not included in this pool if it is considered that these would be more appropriate in the granting of a licence.



## **POOL OF CONDITIONS FOR LICENCES**

### **Conditions Relating to the Prevention of Crime and Disorder:**

It should be noted in particular that it is unlawful under the 2003 Act:

- to sell or supply alcohol to a person who is drunk
- to knowingly allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

#### General:

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if appropriate, would promote the prevention of crime and disorder.

Whether or not conditions are appropriate in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that

club premises are expected to operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

#### Radio Links:

Radio links connecting premises licence holders, designated premises supervisors and managers of premises/clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers and staff on the premises.

Such systems can provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. These systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

An example of conditions that may be applied include:

Designated premises will install and use appropriate radio links and shall ensure:

- that systems are fully operational and switched on
- that two way radios are monitored by a responsible member of staff
- that all instances of crime and disorder are reported without delay via the 999 system if applicable and the nite-net radio system and Police instructions acted upon

- that text pagers and radio links are maintained between premises and to the Police or other agencies as appropriate.

Where appropriate, conditions requiring the use of radio links may be applied.

#### Door Supervisors:

Conditions relating to the provision of door supervisors and security teams are valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role to play in ensuring public safety.

Examples of the type of conditions that may be applied include:

The Licensee must ensure that a written log is kept that:

- details persons working as door supervisors
- details dates, times when supervisors are on/off duty
- records the full name and SIA registration of the supervisor

- records the address and telephone number of the supervisors working at the premises
- covers a period of a minimum of two years and is available for inspection by the Police or relevant enforcement agency.

In respect of commercial premises with a capacity of 200 or more:

- there must be at least two door staff at each point of entry into the premises and one on each exit point (except emergency exits)
- staff must be in place by 8pm at the latest
- all door supervisors must display their SIA ID card
- all door staff must have ready access to details of local hackney carriage/private hire companies, including telephone numbers, on a leaflet/card or similar that is available to customers on request
- consideration be given whether at least one female door supervisor should be available (for example if female customers are to be the subject of body searches).

Where appropriate, conditions relating to the use of door supervisors may be applied.

Any person employed as a door supervisor or engaged as a door supervisor must be registered and licensed by the Security Industry Authority.

Bottle bans:

Bottles may be used as weapons inflicting serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, many women consider drinking from bottles to be safer as it is easier for them to prevent the spiking of drinks with drugs in bottles, the openings of which may be readily covered. It should also be noted that it is perfectly legitimate for couples, etc. to order a bottle of wine as their drink of choice without food being ordered with this. These issues therefore need to be carefully balanced, and will be considered in assessment of whether and what conditions relating to bottles should be applied.

Examples of conditions that may be applied include:

- No person carrying open bottles or other drinking vessels will be allowed admission to the premises
- No persons carrying closed bottles will be allowed access to the premises where there is a realistic likelihood of the contents being consumed on the premises
- To utilise glass collectors within the premises on a timed rota, e.g. glasses and bottles to be collected routinely at 30 minute intervals
- No drink will be supplied in a glass bottle for consumption on the premises
- No person shall be allowed to leave the licensed area of the premises with open containers of alcohol.

Separate conditions may be applied to differing parts of premises e.g. where food is served.

In particular areas during specific events, for example live sporting events being broadcast from a premises, or where intelligence exists with regard to the likelihood of crime and

disorder within an area, then bottle bans will be imposed and the use of plastic or toughened glass containers required.

Where appropriate, conditions relating to the use of bottle bans may be applied.

Plastic containers and toughened glass:

Glasses containing drinks may be used as weapons during incidents of disorder and in normal form can cause very serious injuries. Consideration will therefore be given to conditions requiring either the use of plastic containers or toughened glass that inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is appropriate. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be an appropriate condition.

An example of such a condition would be:

- For the period a premises is open to the public on a day that a live sporting event is broadcast in the premises, all drinking vessels supplied for use must be plastic or of toughened glass composition

In particular areas during specific events, for example live sporting events being broadcast from a premises, or where intelligence exists with regard to the likelihood of crime and disorder within an area, then bottle bans will be imposed and the use of plastic or toughened glass containers required.

It should be noted that the use of plastic or paper drinks containers and toughened glass might also be relevant as measures to promote public safety.

Where appropriate, conditions relating to plastic containers and toughened glass may be applied.

CCTV:

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The Police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Where CCTV is required as a necessity on one of the four licensing objectives, following a relevant representation made by a relevant body, then an example of the protocol conditions that may be applied include:

- There shall be CCTV installed at the premises
- The CCTV system shall be maintained and fully operational during the hours of licensable activity and when premises are open to the public
- There shall be at least one camera situated internally at the premises and at least one camera situated externally showing the main entrance/exit of the premises.
- The premises licence holder shall liaise with Staffordshire Police Service's Architectural Liaison Officer concerning any changes to the siting and viewable areas of the CCTV cameras
- Where this premises licence authorises the sale of alcohol after 00.00 hours, the external camera shall be in operation during the hours of licensable activity and for the period when the premises are open to the public
- The CCTV system shall be capable of producing and storing recordings for a minimum period of 28 days on a rolling basis
- The recordings produced shall be made available in a removable format for inspection/retention by any police constable and Authorised Officers of the local authority
- Upon written request for such recordings, the licensee and Licensing Authority shall keep a copy of the recording for a period of 6 months
- The premises licence holder shall ensure that any CCTV system installed at the premises meets the required standards as advised by Staffordshire Police's Architectural Liaison Officer ("the Officer"). Such standards shall include:
  - a. That colour images are produced
  - b. That stills can be taken from the footage and stored for inspection by authorised officers
  - c. That the resolution of the images record/produced meets the minimum standard as set by the Officer from time to time.

Home Office approved CCTV systems to be installed and registered in accordance with guidelines laid down by the Information Commissioner.

**Open containers not to be taken from the premises:**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises then this is entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be appropriate to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Where appropriate, conditions relating to these matters may be applied.

**Restrictions on drinking areas:**

It may be appropriate to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the Police consider it appropriate to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

Where appropriate, conditions relating to these matters may be applied.

**Capacity limits:**

It is expected that, if relevant, a safe capacity limit for each licensed premises will be submitted by the applicant as part of their operating schedule and licence application. It will be the responsibility of the applicant to state how they have arrived at this number, and how they will satisfy the licensing objectives at this limit. This is usually done by carrying out a Fire Risk Assessment.

In determining the extent to which capacity limits are appropriate to a premises the Licensing Authority will have reference to the Fire Service.

**A suggested condition is:** The maximum number of persons permitted within the premises shall be determined by reference to the lower figure of surface area of the premises, CCTV provision and size of escape routes as notified by the Fire Safety Officer.

The surface area of the premises shall be taken to exclude the following areas:

- i. Escape routes
- ii. Circulation spaces not used for general entertainment (eg stairs, foyers and exits)
- iii. Staff areas including the area behind the bar, any staff rooms or staff sanitary accommodation.

In determining the maximum number of persons allowed at a premises, the premises shall use the following table taken from the District Surveyors' Association Model "Technical Standards for Places of Public Entertainment"

<b>Type of Accommodation</b>	<b>Area allowed per person</b>
Individual Seating	Where the layout is known, count the number of seats
Bench Seating	Divide the total length of the bench by 450mm
Standing Area for Spectators	0.3m <sup>2</sup>
Dance Area	0.5m <sup>2</sup>
Restaurant Table and Chair Seating	1.0 – 1.5m <sup>2</sup>
Bar Area 1m distance from Frontage	0.3m <sup>2</sup>

Where there is no CCTV provision there shall be a capacity of no more than 200 persons.

To facilitate the monitoring of compliance with this and linked requirements e.g. conditions relating to door supervisors, premises will be expected to display clearly its capacity limit, and where this is not observed conditions requiring this may be applied.

**Proof of age cards:**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, there is a mandatory condition attached to every premises licence detailing that there must be a policy on verifying an individual is over the age of 18. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences or passports.

To assist in ensuring that only persons over the age of 18 are able to purchase alcohol, then the Challenge 25 Scheme may be applied.



An example of such conditions would be:

- Where any person appears to be under 25 they must be asked to prove they are 18 or over
- The premises will make available leaflets/application forms explaining how appropriate proof of age ID may be obtained.

Where appropriate, conditions relating to proof of age may be applied.

**Crime prevention notices:**

It may be appropriate at some premises for notices to be displayed which warn customers of the prevalence of crime, which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate may require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be appropriate for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns. Similarly, notices requesting that customers leave quietly and in an orderly manner may be appropriate.

Where appropriate, conditions relating to these matters may be applied.

**Signage:**

In order to assist in appropriate enforcement and regulation of the Act the Licensing Authority will expect the signage at all licensed premises to prominently display licence details, licensable activity, hours of licensable operation, the names of the licence holder and designated premises supervisor for the premises, capacity limits and other relevant matters such as the policy relating to the admission of children. Such signage should also be visible to the public before they enter the premises.

Conditions may be applied requiring observation of this expectation.

**Drinks promotions:**

Standardised conditions will not be attached to premises licences or club premises certificates that promote fixed prices for alcoholic drinks. Conditions tailored to the individual circumstances of particular premises that address irresponsible drinks promotions may be appropriate and appropriate for the promotion of the licensing objectives. Similarly it may be appropriate to require that adequate notice of the nature and duration of drinks promotions is made available to the Police in advance of the

promotions being run.

Such matters will be considered objectively in the context of the licensing objectives and with the benefit of expert legal advice.

Where appropriate, conditions relating to these matters may be applied.

**Drugs Policy:**

The control of the use of illegal drugs by persons attending licensed premises is an important factor in the prevention of crime and disorder. It would be desirable for applicants to demonstrate in their operating schedules how they will address the incidence of drugs on their premises by the inclusion of a drugs policy which should include:

- Search as a condition of entry
- Search on entry policy
- Arrangements for detecting drugs on the premises
- The provision of drugs awareness information
- The provision of free drinking water
- Measures to prevent overcrowding
- Measures to create a safe environment, e.g. chill-out facilities
- Drugs awareness training for staff
- First Aid training for staff in dealing with those suffering from the ill-effects of drug use
- Door supervision.

Drugs policies will be expected to be tailored to the nature of the premises and the types of activities undertaken.

## **Conditions Relating to Public Safety**

### **(including Fire Safety)**

It should be noted that conditions relating to public safety should be those which are appropriate, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures appropriate to avoid and control these risks.

Conditions enforcing those requirements will therefore be unnecessary.

#### **General:**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Licensing Authority is considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options will be considered as measures that, if appropriate, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be appropriate in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Those preparing operating schedules or club operating schedules, Licensing Authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)

- Small and Medium Places of Assembly ISBN 13-9781851128204
- Large Places of Assembly ISBN 1397818511282211
  - Theatres, Cinemas and Similar Premises ISBN 139781851128228
  - Open Air Events and Venues ISBN 1397818511282235
  - The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999)("The Purple Book") ISBN 0 7176 2453 6
  - Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
  - Five Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
  - The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 300095 2
  - Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, the Licensing Authority and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution. The following are examples of conditions that may be applied:

**Disabled people:**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration may be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- Disabled people on the premises are made aware of those arrangements.

**Safety checks:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a logbook.

**Accommodation limits:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

**First Aid:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Adequate and appropriate supply of First Aid equipment and materials is available on the premises
- If appropriate, at least one suitably trained First-Aider shall be on duty when the public are present, and if more than one suitably trained First-Aider that their respective duties are clearly defined.

**Lighting:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present
- Emergency lighting is not to be altered without the consent of the Licensing Authority
- Emergency lighting batteries are fully charged before the admission of the public, members or guests
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

**Temporary electrical installations:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Temporary electrical wiring and distribution systems are not provided without notification to the Licensing Authority at least ten days before commencement of

the work;

- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909;
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

**Ventilation:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- The premises are effectively ventilated
- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises
- Ventilation ducts are kept clean
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

**Indoor sports entertainments:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might be given to conditions that ensure:

- If appropriate, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature
- Where a ring is involved, it is constructed and supported to the satisfaction of the Licensing Authority and any material used to form the skirt around the ring is flame-retardant
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also 'Managing Health and Safety in Swimming Pools' issued jointly by the Health and Safety Commission and Sport England).

**Theatres and Cinemas (Promotion of Public Safety):**

In addition to the points made in Conditions relating to Public Safety there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that

conditions must be appropriate and should be established through risk assessment and standardised conditions should be avoided. The points that follow are for consideration and do not represent a mandatory list.

**Premises used for closely seated audiences attendants:**

(a) The number of attendants on each floor in a closely seated auditorium should be as set out on the tables below. Table 2 sets out the requirements where the audience is comprised mainly of children.

TABLE 1

<b>FLOOR</b>	<b>NUMBER OF PEOPLE</b>	<b>NUMBER OF ATTENDANTS</b>
Ground	Every 250 or part of 250	One
Any floor above or below ground level	Every 100 or part of 100	Two

TABLE 2

<b>FLOOR</b>	<b>NUMBER OF CHILDREN/ADULTS</b>	<b>NUMBER OF ATTENDANTS</b>
Ground	Every 100 or part of 100	One
PLUS:		
Any floor above or below ground level	Every 50 or part of 50	One

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty

(c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform)

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

(e) No article shall be attached to the back of any seat that would reduce the clear width of seatways or cause a tripping hazard or obstruction.

(f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

**Standing and sitting in gangways etc:**

(a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate

(b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate

(c) In no circumstances shall anyone be permitted to:

- i. sit in any gangway
- ii. stand or sit in front of any exit; or
- iii. stand or sit on any staircase including any landings.

**Drinks:**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

**Balcony Fronts:**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

**Special effects:**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.



Special effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of Lasers used for Display Purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- Explosives and highly flammable substances.

In certain circumstances, it may be appropriate to require that certain special effects are only used with the prior consent of the Licensing Authority.  
Any scenery should be maintained flame-retardant.

**Safety curtain:**

Where a safety curtain is appropriate, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retarded fabric.

**Ceilings:**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a certificate concerning the condition of the ceilings forwarded to the Licensing Authority.

**Seating:**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than eight persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

**Minimum lighting:**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film. The level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

**Flammable films:**

No flammable films should be allowed on the premises without the consent of the Licensing Authority.

**Smoking:**

Licensees should consider the risks from second-hand smoke to users of permitted smoking areas when drawing up operating schedules.

## **Conditions Relating to the Prevention of Public Nuisance**

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior Police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are appropriate for the prevention of public nuisance.

### **General:**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Licensing Authority are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options will be considered as measures that, if appropriate, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be appropriate in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

### **Hours:**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder that results from artificially early fixed closing times.

Restrictions could be appropriate on the times when certain licensable activities take place even though the premises may be open to the

public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be appropriate on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

Where appropriate, conditions relating to these matters may be applied.

#### **Noise and vibration:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted
- The placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

#### **Noxious smells:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

#### **Light pollution:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

### **External Areas**

Where areas are provided for external drinking or smoking, applicants need to consider how they will promote the public nuisance licensing objective in these areas. Mechanisms for achieving this could include:

- appropriate signage
- door supervisors (numbers as stated elsewhere in this policy)
- adequate facilities for disposal of smoking and other refuse.

Where appropriate, conditions relating to the above may be applied.

## **Conditions Relating to the Protection of Children from Harm**

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

### **Access for children to licensed premises - in general:**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on will be made where it is appropriate to protect children from harm.

Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it appropriate to protect children from harm.

While the application of conditions will depend on the specific circumstances of an application, the Licensing Authority will, (unless there are circumstances justifying the contrary), adhere to the following recommendations as put forward by the Secretary of State:

- for any premises having known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.

Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and

- outline in detail the steps that they intend to take to protect children from harm on such premises.

For any premises not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should explain their reasons and outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm.

Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm whilst on the premises.

#### **Age restrictions – specific:**

Under the 2003 Act, a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Licensing Authority, following relevant representations made by responsible authorities and interested parties, will consider a range of conditions that will be tailored to the particular premises and their activities where these are appropriate.

The Licensing Authority will consider the hours of the day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be appropriate to impose age restrictions for earlier parts of the day;

- types of event or activity in respect of which no age restrictions may be needed, for example family entertainment; or non-alcohol events for young age groups, such as under 18s dances.

Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example:

- during “Happy Hours” or on drinks promotion nights;
- during activities outlined above.

### **Age restrictions – cinemas:**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20 which requires the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the Licensing Authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the Licensing Authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the Licensing Authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the Licensing Authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the Licensing Authority, they should be classified in the following way:
  - > U Universal – suitable for audiences aged four years and over
  - > PG – Parental Guidance. Some scenes may be unsuitable for young children
  - > 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult
  - > 15 – Passed only for viewing by persons aged 15 years and over
  - > 18 – Passed only for viewing by persons aged 18 years and over
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both



inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]  
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction. This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

**Theatres:**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is appropriate to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment.

A condition restricting the admission of children in such circumstances may be appropriate. Entertainment may also be presented at theatres specifically for children (see below).

The Licensing Authority will consider whether a condition should be attached to a premises licence, which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of children present on the premises during any emergency.

**Performances especially for children:**

Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions are anticipated to be needed which require an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number

of attendants on duty should be one attendant per 50 children or part thereof.

Regard will be had to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### **Children in performances:**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18.

The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show.

However, if it is appropriate to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the Licensing Authority will consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **Proof of age cards:**

Where appropriate and appropriate, a requirement for the production of PASS accredited proof of age cards before any sale of alcohol is made may be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised “proof of age” cards,

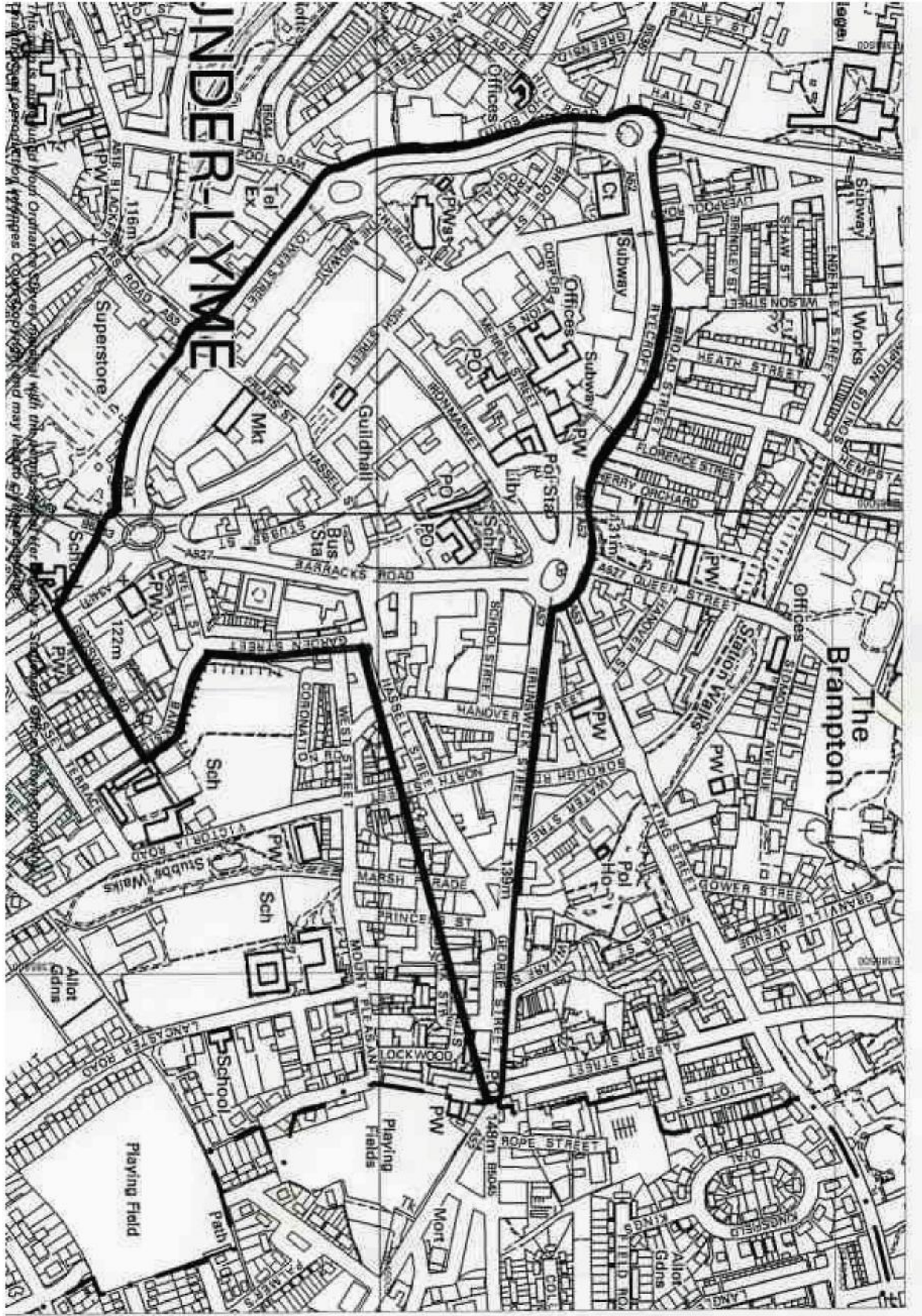
but allow for the production of other proof, such as photo-driving licences and passports. It should be noted that many adults in England and Wales do not currently carry any proof of age. To assist in ensuring that only persons over the age of 18 are able to purchase alcohol, then the Challenge 25 Scheme may be applied. This will ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

**Smoking areas:**

The risks to children from second-hand smoke should be considered when submitting operating schedules. Appropriate measures to protect children from exposure should be documented and put in place in those areas to which children are admitted or to which they have access.

Appendix B - Plan of current Cumulative Impact Area



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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 04 August 2020

**Report Title:** Business and Planning Act 2020

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** All

#### **Purpose of the Report**

To inform members of the new Business and Planning Act 2020 which places a responsibility for the processing and issuing of pavement licenses to the Council and make amendments regarding alcohol off-sales.

#### **Recommendation**

##### **That Members:**

1. **Agree the standard duration to be granted for pavement licenses to be for 1 year or to expire on 30<sup>th</sup> September 2021 or whichever is the soonest.**
2. **Agree to waive the fee for the granting of a Pavement Licence, in order to support local businesses**
3. **Agree that enforcement to be undertaken in accordance with the Corporate Enforcement Policy.**
4. **Confirm that all the licensing functions, powers and duties contained within the Business and Planning Act 2020 are delegated to the Executive Director - Operational Services.**
5. **Agree and approve to adopt the proposed conditions as standard conditions for Pavement Licences issued by the Borough Council. Approval to publish those conditions as guidance for applicants, consultees and members of the public.**

#### **Reasons**

The Business and Planning Act 2020 received Royal Assent on 22<sup>nd</sup> July 2020 for immediate implementation. Advice from the Monitoring Officer is that these functions fall within the existing delegations to the Licensing and Public Protection Committee. In order to discharge the powers effectively, the Licensing & Public Protection Committee is requested to approve the proposed standard conditions, waiver of fees and delegation to officers.

#### 1. **Background**

1.1 The new Business and Planning Act 2020, received royal assent on 22<sup>nd</sup> July 2020 and makes significant changes designed to help premises (including public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours) to survive and then bounce-back from the pandemic lockdown.

1.2 The provisions include:

- A new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- Alcohol licensing changes that will allow operators with existing alcohol on-sales licences to also serve alcohol for consumption off the premises and to make deliveries.

1.3 The Act includes temporary measures (up to 30<sup>th</sup> September 2021) to support businesses selling food and drink through economic recovery as lockdown restrictions are lifted but social distancing guidelines remain in place.

1.4 Cafes, pubs and restaurants are now permitted to open, and current social distancing guidelines are having considerable impact on the capacity to accommodate customers.

1.5 The measures in the Act are designed to support businesses selling food and drink such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, for the placement of furniture such as tables, chairs, umbrellas and patio heaters on the pavement outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current process for businesses to obtain these licences can be costly and time-consuming.

1.6 The Act includes temporary measures to place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and introduces a new 10 working day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding to their financial recovery.

## 2. Issues

2.1 The Business and Planning Act received Royal Assent on 22<sup>nd</sup> July 2020, for immediate implementation.

Pavement Licenses:

2.2 The Act introduces a new licence – a ‘pavement licence’. Operators businesses selling food and drink may apply to their local authority for authorisation to put furniture such as tables and chairs on the highway adjacent to their premises to sell food and drink from and/or for their customers to use.

2.3 As the country emerges from lockdown, pavement cafes have assumed a new importance given the scientific evidence of a lower risk of spreading coronavirus outdoors. With the re-opening of restaurants, cafes, bars and public houses from 4 July 2020, the pavement licensing regime set out in the Business and Planning Act, will offer the hospitality sector a simpler administrative route to providing an outdoor environment for customers. The Government hopes this will give a boost to the hospitality sector, which is particularly badly hit by coronavirus, allowing premises to trade to as full an extent as possible given the constraints placed on capacity by social distancing.

2.4 The new licensing regime in the Act provides a fast track procedure for the grant of a pavement licence which bypasses the existing regulatory regimes. Trading pursuant to a pavement licence does not need a Highways Act permit; is deemed to have planning permission; and is not street trading for the purposes of street trading legislation.



- 2.5 Pavement licences are a temporary measure. No licence will extend beyond 30 September 2021 or on such a later date as the Secretary of State may prescribe (but no earlier).
- 2.6 The pavement licensing regime is operated by District Councils in Staffordshire, with a requirement to consult with Staffordshire County Council as the Highways Authority.
- 2.7 The grant of a pavement licence will not alter the permitted operational hours of premises on an associated planning permission or premises licence.
- 2.8 There can be an application fee of up to £100 for a pavement licence to cover the administrative cost of issuing the application, and the ensuring compliance. The maximum fee will mean that the Council will make a loss on these applications, because the fee cap does mean that we are not able to operate on a full cost recovery basis. Officers understand that some, Staffordshire LAs are going to apply a £100 fee and other have determined no fee. It is considered that it is more suitable to waive the fee in order to support businesses for the length of time that the licence is granted to afford them security and certainty. For this reason, officers are recommending that the licences run for 12 months or until 30 September 2021, whichever is the shortest. This reduces the burden on businesses having to renew a licence and spreads out applications, should renewal of these in 2021 becomes an option.
- 2.9 The timescales for consultation and determination of a licence application are tight. The applicant must post a notice on the premises on the same day as the application is made. The notice must be in place for a consultation period of 5 working days beginning with the day after the day the application is submitted. The Council must publish the application on its website and allow people to comment during the 5 working days consultation period. The Council must consult with the highway authority and 'such other persons as the local authority considers appropriate' e.g. police, residential neighbours. The Council must determine the application within a period of 5 working days beginning with the first day after the consultation period. If the Council does not determine the application within this period, the pavement licence will be deemed as granted.
- 2.10 The Council can either grant the licence application, with or without conditions, or reject it. There is no right of appeal. The Council must act reasonably in determining pavement licence applications in accordance with normal public law principles e.g. it must have regard to relevant considerations and disregard irrelevant considerations.
- 2.11 It is noted that there is no formal route of appeal set out in the legislation. The Government guidance does suggest that where applications are refused Council's may wish to adopt an internal review process such as permitting an 'appeal' to the Licensing sub-committee. Officers would not encourage members to adopt this approach, due to the additional time and resource incurred. Advice received from the Monitoring Officer is that these powers fall within the existing scheme of delegation and can be determined by officers in the Environmental Health Service. Committee is asked to confirm that it is content with that approach.
- 2.12 In determining the application, the Council will need to evaluate whether the proposal is reasonably acceptable in the particular location, having regard to the temporary nature of the licence and the objectives of the Act. The Council must take into account any representations received and will have regard to Government guidance.
- 2.13 It is recommended that standard conditions are adopted in relation to pavement licenses. The local conditions which officers propose to apply in granting Pavement Licences, and to publish as guidance for applicants, consultees and members of the public, are set out below for approval.

- 2.14 In addition to the Councils' proposed conditions there are two conditions included in the Act that will apply to every licence granted. They are known as the 'no-obstruction' and 'smoke-free seating' conditions. The 'no-obstruction' condition provides that a licence holder may not prevent certain traffic from entering, passing along or having normal access to the Highway, prevent statutory undertakers having access to any of their apparatus in, on or over the Highway, or prevent to operator of telephone/internet cables etc that are in, on or over the Highway. The 'smoke-free seating' condition provides that where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.
- 2.15 In applying the focus directed by Members it has been necessary to consider Staffordshire County Council's existing policy for approving 'Street Cafes' due to their role as the highway authority and consultee in the licence grant process, our potential liabilities in permitting use of a highway for business purposes, the potential for ASB and nuisance behaviour from customers, and our statutory duties to consider the needs of all highway users under Equalities legislation.
- 2.16 Adopting the proposed conditions, which have been agreed with County Council officers and discussed with partners, will streamline the consultation and approval process, ensuring that each application receives appropriate consideration within the very short legal processing time limit rather than being automatically 'deemed' as approved.
- 2.17 In designing the conditions below (sec 3.6) consideration has been given to those being proposed by other Staffordshire Authorities, and ones already applied by Stoke Council under their existing Street Café licensing process, to promote consistency across the County.
- Off-Sales:**
- 2.18 The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It is designed to be a temporary measure to "boost the economy", with provisions lasting until the end of September 2021.
- 2.19 The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.
- 2.20 The provisions **remove the need for any application to be made**, therefore no fee will need to be paid. This is designed to deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from the premises affected by these measures. Premises should notify the licensing authority prior to them starting to benefit from the new off-sales provisions. They must also prominently display a statement confirming that they are benefiting from the off-sales provisions alongside the summary of their premises licence.
- 2.21 Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.

- 2.22 The default hours in which off-sales will be permitted will be 23.00 hours. However where a premises has a current closure time for an existing outside area that is earlier than that time will remain. Any licensee who wished to open for longer hours could apply for a licence variation.
- 2.23 The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales.
- 2.24 The conditions will set the hours of off-sales to match those for on-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.
- 2.25 If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

### 3. **Proposal**

- 3.1 There are a number of matters which committee need to decide these are:
- 3.2 **Agree the standard duration to be granted for pavement licenses to be for 1 year or to expire on 30<sup>th</sup> September 2021 or whichever is the soonest.**
- 3.3 **Agree to waive the fee for the granting of a Pavement Licence**
- 3.4 **Agree that enforcement to be undertaken in accordance with the Corporate Enforcement Policy.**
- 3.5 **Confirm that all the licensing functions, powers and duties contained within the Business and Planning Act 2020 are delegated to the Executive Director - Operational Services.**
- 3.6 **Agree and approve to adopt the proposed conditions (as below) as standard conditions for Pavement Licences issued by the Borough Council. Approval to publish those conditions as guidance for applicants, consultees and members of the public.**

#### **Proposed Conditions**

1. The grant of a pavement licence does not imply an exclusive right of use by the licence holder of an area of public highway since the Borough Council, the Highways Authority, the Emergency Services and other statutory undertakers may need access to the area for their functions. The Borough Council will not be liable, and will not compensate the Licensee, for any losses whatsoever arising from use of the licensed area by others. When requested to do so by an officer of the Borough Council or the Emergency Services the licensee must remove such furniture and fittings as the officer directs.

2. The grant of a pavement licence is for the period stated upon the licence, and only to enable the licence holder to place service counters or stalls, shelves, umbrellas, barriers, tables, chairs and benches within the licensed area for the stated period for the sole purpose of the service and consumption of food and/or drink in connection with the use of the licensee's business premises.
3. Where it is sited immediately in front of, or to the side of, the licence holders existing business, the licensed area must be within the width of the frontage or side elevation of the existing business premises.
4. The licensee must obtain and maintain public liability insurance in the amount of £5 million in respect of any one incident, and indemnify the Borough Council and Staffordshire County Council (the highway authority) against all actions, proceedings, claims, demands and liability arising from the licensee's use of the highway for the licensed purpose.
5. Any proposed change of detail in respect of the pavement licence must be notified in writing to the Borough Council 7days prior to the change occurring.
6. A copy of the licence and plan of the licensed area must be displayed in a prominent position on the business premises that is visible from the exterior of the premises.
7. Clear routes of access along the highway must be maintained taking into account the needs of permitted vehicular traffic and mobility impaired and visually impaired people, and to comply with government guidance regarding social distancing precautions to control the spread of Covid-19. In particular a 2-metre width of unobstructed pedestrian pathway with a minimum unobstructed height of 2.3 metres must be maintained during the permitted hours stated on the licence. Attention must be paid to any existing street furniture, trees etc. with regard to the required distances when planning the layout of permitted furniture and fittings.
8. The positioning of permitted furniture and barriers must not prevent access by pedestrians or vehicles to bus stops, taxi ranks and other premises frontages. It must not obscure any highway signs or markings, nor the visibility of pedestrians or vehicles on or near junctions. It must not obstruct pedestrian access to tactile paving or dropped kerbs, nor interfere with drainage of the highway.
9. All furniture and fittings must be regularly cleaned and sanitised in accordance with Covid-19 guidance and maintained in a good state of repair. By design they must be resistant to external forces such as wind. Fixing them to the surface or infrastructure of the highway, and excavations of any kind are not permitted.
10. Demarcation barriers must be a minimum of 800mm high and include solid surfaces or tapping rails at or near ground level to assist visually impaired people. They should be of a colour or design which is distinct from the surroundings to provide visual contrast.
11. Space heaters must be suitable guarded, and no barbecues, fire pits or naked flames are permitted in the licensed area.
12. The use of the permitted pavement area must cease by 23:00 or such earlier or later time as specified in the licence. All furniture and fittings must be removed where this is not done the Borough Council may remove and store these items, or remove and dispose of them, with the associated costs recharged to the licensee.

13. A sufficient number of litter bins must be provided to contain litter and other waste generated during trading. These must be emptied by the business into the premises main waste receptacles at the end of each trading period or whenever the litter bin becomes full.
14. No glass bottles or glass drinking vessels are permitted to be used in the pavement licensed area beyond 20:00hrs.
15. The licence holder is solely responsible for all furniture, fittings, and equipment and shall make no claim or charge against the Borough or County Council in the event of those items being lost, stolen or damaged.
16. The licensed area must be included in the businesses risk assessment of the potential for transmission of Covid-19 with necessary controls and relevant government guidance implemented to protect staff and customers.
17. A risk assessment is also required to consider any necessary controls to prevent anti-social behaviour, and also public nuisance if there are residential properties within close proximity to the licensed area.
18. No alcohol is to be consumed within the licensed area except in compliance with authorisation issued to the business premises under the Licensing Act 2003 for that purpose
19. All customers must be seated with no vertical drinking permitted.
20. No amplified music or sports commentary may be played in the licensed area.
21. The licensed area must be regularly checked for spills of food and drink and thoroughly cleaned at the end of the trading period to remove any residues, particularly grease and other staining.
22. The pavement license holder is responsible for actively managing any queues to their premises ensuring social distancing is observed and that no obstructions to the highway or other surrounding premises.

#### 4. **Reasons for Proposed Solution**

- 4.1 The Business and Planning Act has received royal assent on 22 July 2020. This Act will enable applications to be made to the Council for pavement licences. The Council needs a mechanism in place for determining pavement licensing applications.

#### 5. **Options Considered**

- 5.1 Members could decide not to delegate powers in relation to pavement licensing, or to delegate powers to a different Officer or to the Licensing Committee. This is not recommended given the tight timescales for the processing of licence applications and deemed approvals in the event of failure to determine on time. The Council's licensing team, within the remit of the Head of Environmental Health, supported by the Council's Legal Services has the expertise to process and determine these applications.

#### 6. **Legal and Statutory Implications**

- 6.1 The legal and statutory implications are fully addressed in the body of this report.

7. **Equality Impact Assessment**

7.1 There are no issues arising from this report.

8. **Financial and Resource Implications**

8.1 The Council can charge a fee of up to £100 per pavement licence application. This is unlikely to cover the full cost of administering the service.

9. **Major Risks**

9.1 The risk of not accepting the recommendation is that the Council will not have in place an appropriate mechanism of determining applications for pavement licences, which must be determined within strict timescales to avoid deemed licences being granted without the merits of the proposals being properly assessed.

10. **Sustainability and Climate Change Implications**

10.1 There are no issues arising from this report.

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 None

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 [The Business and Planning Bill & Act](#)

14.2 [The Business and Planning Act Guidance for Pavement Licences](#)



## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO LICENSING & PUBLIC PROTECTION

04 August 2020

**Report Title:** Dog Controls PSPO Review

**Submitted by:** Head of Environmental Health Services

**Portfolios:** Environment & Recycling

**Ward(s) affected:** ALL

#### **Purpose of the Report**

To request Members approval to seek public views on the planned extension current Dog Controls Public Spaces Protection Order for a period of a further three years, commencing 21<sup>st</sup> October 2020

#### **Recommendation**

To approve a six week consultation period, and agree to receive a future report summarising feedback and recommending whether orders should be extended, varied or discharged

#### **Reasons**

Public Spaces Protection Orders are limited to a maximum term of three years, after which they must be reviewed to confirm they remain fit for purpose.

## 1. **Background**

1.1 The council has previously adopted a Public Spaces Protection Order which came into force on 21<sup>st</sup> October 2017

1.2 The order covers

- Requirement to remove dog fouling
- Obligation to have a bag available for fouling removal when walking a dog
- Locations where dog are not permitted
- Sites where dogs must be on a lead
- Locations where one person may exercise no more than six dogs
- Requirement to place a dog on a lead when instructed to do so by an authorised officer

1.3 Full details of the current controls are explained on the council's web page at <https://www.newcastle-staffs.gov.uk/all-services/environment/dog-wardens/dog-control-orders> the current order is published at <https://www.newcastle-staffs.gov.uk/sites/default/files/IMCE/Environment/DogWarden/DogControlOrder2017.pdf>

## 2. **Issues**

2.1 To ensure that Orders remain valid they can only have a maximum term of three years. There is a prescribed process to extend or vary an Order, and a requirement that they be published and promoted so that those who are effected by them are aware of their obligations.

2.2 To extend an Order the council must be satisfied that the Order remains necessary, and that without it there is likely to be an occurrence or recurrence of the activities the Order seeks to address, or an increase in the frequency or seriousness of those activities.

2.3 Officers consider that the current Order remain valid to ensure that we can all enjoy clean and safe public places by balancing the needs of dog owners with those of other residents. Previously residents have agreed that they are simple, fair rules, which should be easy to follow.

2.4 It is likely that, when invited to comment, there will be a range of views expressed which may be conflicting. A future report will summarise feedback received for Members further consideration.

### 3. **Proposal**

3.1 Members are requested to approve a six week consultation period, during which residents and key stakeholders will be advised that the council is minded to extend the current Dog Controls Order, without revision. Feedback will be encouraged via the council's website, following the advice of the Communication Team's Research Officer.

3.2 A further report will then be brought to Members summarising feedback and recommending whether orders should be extended, varied or discharged.

### 4. **Reasons for Proposed Solution**

4.1 It is considered that a six week period for comments is considered sufficient.

### 5. **Options Considered**

There are two potential options:

- a) Invite comments and review
  - Order can be extended or varied or discharged if there is evidence to support.
- b) Take no action
  - Allow Order to laps on expiry

### 6. **Legal and Statutory Implications**

6.1 Public Spaces Protection Orders must be made, extended, varied or discharged in accordance with the Anti-social Behaviour, Crime and Policing Act 2014

6.2 Details a PSPO that is made, extended, varied or discharged must be published in accordance with The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014. The Act sets lighter touch consultation requirements to save costs (for example, there is no duty to advertise in local newspapers).

6.3 An appeal to the High Court can be made by someone who lives in the area or regularly visits the area and must be made within six weeks of the order or variation of the order being applied for. However, this does not preclude others (such as national bodies) from seeking judicial review.

### 7. **Equality Impact Assessment**

Not applicable

### 8. **Financial and Resource Implications**



9. **Major Risks**

Not applicable

10. **Sustainability and Climate Change Implications**

Not Applicable

11. **Key Decision Information**

Not Applicable

12. **Earlier Cabinet/Committee Resolutions**

Members previously approved consultation of this matter on 14<sup>th</sup> March 2017, and agreed the current controls on 21<sup>st</sup> September 2017

13. **List of Appendices**

None

14. **Background Papers**

None

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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAM'S  
REPORT TO**

**Licensing and Public Protection Committee  
04 August 2020**

**Report Title:** Scheme Updates: a)Town Centre Hackney Carriage Marshalling & b ) Use of Bus Station for Private Hire Vehicles

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** Town

**Purpose of the Report**

To review two town centre taxi initiatives and recommend future actions.

**Recommendation**

**That Members agree**

1. **The council has no further involvement with the Newcastle & Kidsgrove Hackney Association rank marshalling scheme**
2. **The Executive Director - Commercial Development & Economic Growth be given approval to review the use of the bus station site and to set new conditions for its future night time use by Private Hire operators, including charges if appropriate.**

**Reasons**

Agreed changes to road layouts and traffic regulation orders will remove the need for Hackney Carriage marshalling to Hassell Street

The use of the bus station by only one Private Hire operator together with legal precedent now makes it inappropriate for the council to fund its supervision. The authority should make best economic use of its resources.

1. **Background**

1.1 The council has previously been requested to assist with two schemes:

- a) Weekend town centre marshalling / rank arrangements for Hackney Carriages
- b) Provision of town centre bus station site for use by Private Hire Operators

**Weekend Rank Marshalling: Hackney Carriages**

1.2 A weekend marshalling scheme started approximately 10 years ago following discussions between Newcastle & Kidsgrove Hackney Carriage Association, Staffordshire Police, and the Borough Council. The Association developed and operated a scheme, privately employing two taxi queue marshals, with funds it raised from its members.

1.3 The marshalling scheme enabled the on Hassell Street rank to be extended adding about 25 additional spaces where taxis could wait for passengers.

- 1.4 Recently, following public safety concerns, Staffordshire Police and Staffordshire County Council have sought to close Hassell Street to through traffic and create a new rank in High Street as part of a town centre improvement programme.
- 1.5 Both the Association and Staffordshire Police have sought advice from the Borough Council about the future operation of the marshal scheme. The council's advice has been:
  - The council does not manage or endorse the scheme
  - It is unlawful for an association to charge a fee for the use of / prevent licensed drivers from using formally designated highway ranks
  - Membership of the scheme is voluntary
  - Enforcement of traffic regulation orders rests with Staffordshire Police
- 1.6 Not all licenced Hackney Drivers are members of the Association and support for the voluntary marshal levy has reduced amongst licenced drivers. A small number of drivers have voiced complaints that the scheme prevents them using highway rank spaces.

#### Use of Bus Station: Private Hire

- 1.7 For more than 10 years the town centre bus station has been used from midnight on Friday and Saturday nights by private hire vehicles, following a scheme introduced by the Borough Council, as land owner.
- 1.8 At the start of the scheme 10 operators (representing more than half of all private hire vehicles) agreed terms with the Council to use the bus station and provided booking agents to correctly arrange a booking for clients before they started their journey.
- 1.9 The Borough Council arranged for police officers to be present at the bus station to oversee operations, agreeing to meet the force's costs through a licensing levy.
- 1.10 Over the years the number of operators wishing to use the bus station has reduced to currently one. The current operator wishes to continue to use the bus station, which can accommodate up to 20 of their fleet.
- 1.11 Since April 2019 the borough council has no longer commissioned police supervision of the bus station, its reasons being:
  - Usage of the bus station by only one operator meant that funding a police presence was disproportionate
  - Pressures on the force meant that it could no longer guarantee officer presence and attendance was intermittent
  - The original arrangements were no longer compliant with the Council's procurement arrangements and financial regulations
  - A court decision clarified that use of a licencing charge in this way was inappropriate

## 2. **Issues**

### Weekend Queue Marshalling

- 2.1 The Borough Council now has no day to day involvement with the operation of this scheme.
- 2.2 Staffordshire County Council's cabinet has agreed changes to the current highways ranks, part funded by Staffordshire Police, although these works are still to be fully implemented.
- 2.3 The works have been subject to public consultation, including feedback from the Association.

- 2.4 New traffic flows and extra rank spaces should ensure that there is adequate rank provision and the need for the vehicle marshalling scheme should end.

#### Use of Bus Station

- 2.5 Current Private Hire Operators were canvassed in December 2018 to establish if they wished to recommence use of the bus station. Only the current site user expressed a wish to use the site.
- 2.6 The Council owns the bus station site and has no ongoing obligation to offer its site for this use.

### 3. **Proposal**

- 3.1 That the Council has no further involvement with the Newcastle & Kidsgrove Hackney Association rank marshalling scheme
- 3.2 The Executive Director - Commercial Development & Economic Growth be given approval to review the use of the bus station site and to set new conditions for its future night time use by Private Hire operators, including charges if appropriate.

### 4. **Reasons for Proposed Solution**

- 4.1 Agreed changes to road layouts and traffic regulation orders will remove the need for Hackney Carriage marshalling to Hassell Street
- 4.2 The use of the bus station by only one Private Hire operator together with legal precedent now makes it inappropriate for the council to fund its supervision. The authority should make best economic use of its resources.

### 5. **Options Considered**

- 5.1 There is an option for the authority, at its cost, to take an active role in Hackney Marshalling. Alternatively it could continue its present position that any voluntary / police supported scheme operated without Council input.
- 5.2 The authority currently has the option to conclude its bus station use scheme, or to formalise its future use, through site use licence, with appropriately devised terms and conditions

### 6. **Legal and Statutory Implications**

- 6.1 There is no legal basis for the council to become involved in vehicle marshalling / traffic flow control.
- 6.2 Subject to any planning & use restriction, and provided appropriate process the authority can select who uses its land and set terms and conditions
- 6.3 The Supreme Court judgement in respect of Hemming Vs Westminster City Council clarified what costs could legitimately be included within licensing fees. A recent Court of Appeal case confirmed what costs could legitimately be included when setting taxi driver licence fees. It would be inappropriate to fund any future schemes of this type through a licensing charge

7. **Equality Impact Assessment**

7.1 No equality issues are raised by this report

8. **Financial and Resource Implications**

8.1 Any decision to take an active role in vehicle marshalling would require officer resource. Costs associated with the provision of marshals, the collection of a voluntary scheme fee, and potential debt would need to be borne by the authority.

8.2 Any agreement for the future use of the bus station site would need to consider any associated costs – e.g. insurance, and any resulting obligations such as monitoring/controlling site usage.

9. **Major Risks**

9.1 None.

10. **Sustainability and Climate Change Implications**

10.1 Relevant criteria have been considered by Staffordshire County Council as part of their highway and rank alterations review and public consultation.

11. **Key Decision Information**

11.1 This is not a key decision

12. **Earlier Cabinet/Committee Resolutions**

12.1 Public Protection Committee, 20th July 2009 – use of Bus Station approved.

12.2 Public Protection Committee, 21st September 2009 – use of Bus Station conditions agreed

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 None



**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAM'S  
REPORT TO**

**Licensing and Public Protection Committee  
04 August 2020**

**Report Title:** Environment Act 1995 – Part IV Local Air Quality Management – Annual Status Report 2020

**Submitted by:** Head of Environmental Health & Environmental Protection Team Manager

**Portfolios:** Environment & Recycling

**Ward(s) affected:** All

**Purpose of the Report**

1. To advise Committee of the findings of the statutory Annual Status Report for 2020 which covers the 2019 calendar year in respect of air quality within the Borough

**Recommendation**

1. That the report be received.

**Reasons**

1. To inform committee of the state of local air quality within the Borough for 2019 and action be taken to monitor and improve local air quality in respect of transport related Nitrogen Dioxide level and also particulate matter exposure.

1. **Background**

- 1.1. Local authorities in the UK have statutory duties for managing local air quality under Part IV of the Environment Act 1995. District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range prescribed Air Quality Objectives
- 1.2. The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national Air Quality Objectives prescribed in the Air Quality Regulations [http://ukair.defra.gov.uk/assets/documents/National\\_air\\_quality\\_objectives.pdf](http://ukair.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf) will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment. In relation to people, the objectives apply at the facades of relevant receptors, generally dwellings, hospitals, schools. Workplaces are excluded.
- 1.3. The Council is also undertaking a separate study for a different regulatory purpose in conjunction with Stoke-on-Trent City Council under a 2018 Ministerial Direction to understand and assess compliance with EU Limit Values under the Ambient Air Quality Directive, across the two local authority areas. The study is principally concerned with assessing compliance with nitrogen dioxide annual mean levels at locations within 4 metres of the roadside, locations within 25 metres of a major junction are out of scope. Although there is reference to this work in the 2020 Annual Status Report, the outcomes of the Ministerial Direction work will be the subject of a future report to Cabinet.

- 1.4. At the most fundamental level, our health and prosperity depend on the health of the planet on which we live. From the air we breathe to the water we drink, the food we eat and the energy that powers our homes and businesses, we need to protect and sustain the health of the natural environment.
  - 1.5. The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe.  
<http://www.euro.who.int/en/mediacentre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-health-impact-of-air-pollution-in-europe>).
  - 1.6. At the local level, estimated costs of the health impacts of air pollution from ultra-fine particulate matter alone is thought to be between £20 - 47 million for Newcastle-under-Lyme and between £39 – 93 million for Stoke-on-Trent. Costs to the NHS and Social Care are thought to be between £96 – 176 thousand for Newcastle-under-Lyme and between £189 – 349 thousand for Stoke-on-Trent.
  - 1.7. Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy
2. **Issues**
    - 2.1. **Annual Status Report (ASR) 2019**
    - 2.2. In accordance with its statutory duties, the Borough Council has recently completed its Annual Status Report for 2020 which is concerned with air quality within the Borough during the 2019 calendar year. A copy of the 2020 ASR, along with previous years air quality reports can be found online at <https://www.newcastle-staffs.gov.uk/allservices/environment/environmental-protection/air-quality-newcastle-under-lyme>
    - 2.3. Previous assessments have identified nitrogen dioxide (NO<sub>2</sub>) as the pollutant of concern, with a number of locations within the Borough exceeding the nitrogen dioxide annual mean objective of 40 µg/m<sup>3</sup>. Levels of NO<sub>2</sub> are heavily influenced by road traffic emissions, topography and distance from the emission source to receptor.
    - 2.4. This Annual Status Report considers all new monitoring data and assesses the data against the Air Quality Objectives. It also considers any changes that may have an impact on air quality and details progress on progressing measures with the associated Air Quality Action Plans for the for the four air quality management areas within the Borough.
    - 2.5. **Summary of Air Quality Borough Wide in 2019**
      - 2.5.1. The review of new diffusion tube monitoring data has not identified any locations outside of the four existing Air Quality Management Areas (AQMA's), (declared in December 2015) where the annual NO<sub>2</sub> objective was exceeded in 2019.
      - 2.5.2. Monitoring of NO<sub>2</sub> concentrations in the AQMAs and at a variety of locations across the Borough during 2019 shows, that there has been a general decrease in NO<sub>2</sub>, with the majority of areas now being under the annual mean objective. This indicates that the strategies currently in place are already helping to reduce the NO<sub>2</sub> concentration within these areas of the Borough.



## 2.6. Summary of Air Quality in Newcastle-under-Lyme Town AQMA in 2019

- 2.6.1. Appendix 1 contains a map of diffusion tube results for the Town Centre AQMA based on compliance with the annual mean nitrogen dioxide UK objective for 2018.
- 2.6.2. Air Quality in this area is influenced by traffic utilising the major arterial routes, which converge on the town centre. There are a number of relevant receptors located at the back of pavement. The network is heavily congested at peak times of the day with high volumes of low speed mixed traffic. The town centre is experiencing a period of regeneration with provision for developments to provide up to 3000 student bed spaces by 2020.
- 2.6.3. Furthermore, a number of office spaces are able to covert to residential use without Planning Permission or requiring consideration of air quality. This has resulted in significant increases in the numbers of relevant receptors within the area, especially those located at back of pavement in terraced type properties, where the Council is unable to influence development. The planned mixed retail and accommodation development for the Rycroft site has not progressed. Any new proposals for this site will need to be supported by an appropriate air quality assessment, which demonstrates that the development will not lead to exceedances of air quality objectives or EU limit values. In addition, the rural areas of the Borough are facing increased demands for applications for residential development, with people in these areas heavily reliant on cars to access services and employment opportunities within the town centre and wider areas.
- 2.6.4. There continue to be exceedances of the NO<sub>2</sub> annual mean objective in this area at the following four locations representative of relevant exposure for LAQM purposes, DT11– 34 London Road -41.2 ug/m<sup>3</sup>, DT85 – 106 King Street - 44.2 ug/m<sup>3</sup>; DT102 -Belong Care Home, Lower Street – 44.8 ug/m<sup>3</sup>, DT104 – 7 King Street- 54.5ug/m<sup>3</sup>
- 2.6.5. The following seven sites were below but within 10% of the NO<sub>2</sub> annual mean objective at locations representative of relevant exposure for LAQM purposes and are considered to remain at risk of exceedance in future years, DT72 - 134 High Street, Newcastle-36.7; DT74 - 39 London Road Newcastle -35.7 ug/m<sup>3</sup>; DT76 - 11 Brunswick Street -37.7 ug/m<sup>3</sup>; DT84 -102 King Street - 37.1 ug/m<sup>3</sup>; DT87 - 1 King Street -39.4 ug/m<sup>3</sup>, DT96 - JJ Design London Road -39.5 ug/m<sup>3</sup>; DT98 - Newcastle Taxi's Brunswick Street – 38.8 ug/m<sup>3</sup>.  
Comparison of results for 2019 against all years since 2012 shows a generally decreasing trend. However, the sites which have exceeded or which were below but within 10% of the annual mean objective in 2019 are proving challenging to reduce exposure to NO<sub>2</sub>.
- 2.6.7. At locations being monitored for compliance against the NO<sub>2</sub> annual mean EU Limit Value, the following locations have exceeded in 2019, DT85 – 106 King Street - 44.2 ug/m<sup>3</sup>; DT102 - Belong Care Home, Lower Street – 44.8 ug/m<sup>3</sup>, DT104 – 7 King Street- 54.5ug/m<sup>3</sup>; DT85 – 106 King Street - 44.2 ug/m<sup>3</sup>; N26 – 120 Etruria Road – 43.2ug/m<sup>3</sup>.
- 2.6.8. For sites which exceed or are close to exceeding the LAQM NO<sub>2</sub> annual mean objective and /or the NO<sub>2</sub> annual mean EU Limit Value it is considered that levels are significantly influenced by the following which are not conducive to reducing levels of NO<sub>2</sub> volume and composition of traffic, congestion and local geography, with a number of properties being located at back of pavement.
- 2.6.9. Based on an assessment for compliance with the EU Limit Value undertaken in 2018, compliance based on expected changes in fleet composition, traffic growth and changes in vehicular emissions is not predicted to occur before 2026 without measures to positively influence changes in emissions. Work is currently underway to identify appropriate measures.
- 2.6.10. This AQMA will remain in place until all sites measure an annual mean NO<sub>2</sub> concentration that is consistently, at least 10% below the annual mean legal objective.

## 2.7. Summary of Air Quality in Kidsgrove AQMA in 2019

- 2.7.1. Appendix 2 contains a map of diffusion tube results for Kidsgrove AQMA based on compliance with the annual mean nitrogen dioxide UK objective for 2018.
- 2.7.2. Air Quality in this location is heavily influenced by traffic using the A50 Liverpool Road and local traffic accessing side roads from Liverpool Road within the centre of Kidsgrove. Relevant receptors are located back of footway and in close proximity to junctions and areas of congestion.
- 2.7.3. For the 2019 calendar year, there were no exceedances of the NO<sub>2</sub> annual mean objective representative of relevant exposure for LAQM purposes. The highest NO<sub>2</sub> annual mean objective level at a location of relevant exposure was DT 6 106 Liverpool Road with a façade level of 38.6ug/m<sup>3</sup> similar to that measured in 2012, followed by DT 94 - 116 Liverpool Road 38.66ug/m<sup>3</sup> with a façade level of 38.2ug/m<sup>3</sup> and DT64 – 57-59 Liverpool Road with a façade level of 36.76ug/m<sup>3</sup>. Comparison of results in this area since 2012 shows there has been an overall decreasing trend in the NO<sub>2</sub> annual mean with no exceedances recorded since 2016.
- 2.7.4. Staffordshire County Council are planning a number of works in this area during 2020 which are aimed at reducing congestion on Liverpool Road and hopefully this will have a beneficial effect on air quality.
- 2.7.5. The diffusion tube-monitoring network in this area will remain in place to monitor the success of the highway improvement works. This AQMA will remain in place until all sites measure an annual mean NO<sub>2</sub> concentration that is consistently, at least 10% below the annual mean legal objective.

## 2.8. Summary of Air Quality in Maybank, Wolstanton and Porthill AQMA in 2019

- 2.8.1. Appendix 3 contains a map of diffusion tube results for Maybank-Wolstanton-Porthill AQMA based on compliance with the annual mean nitrogen dioxide UK objective for 2019.
- 2.8.2. Air Quality in this area is influenced by local road traffic and traffic utilising the junctions associated with the A500 dual carriageway. Relevant receptors in this location are mainly located at the back of footway. The main route through the area is single carriageway with traffic lighted junctions, signal controlled crossings, on street bus stops and significant sections of on street parking. Porthill Bank and Grange Lane are on significant gradients.
- 2.8.3. There have continued to be no measured exceedances of the NO<sub>2</sub> annual mean objective in this AQMA with this being the case since 2012. In 2019, the highest NO<sub>2</sub> annual mean objective representative of relevant exposure for LAQM purposes was recorded for site DT24 – 26 High Street May Bank with a result of 34.8ug/m<sup>3</sup>, an increase of 4.4ug/m<sup>3</sup> compared to 2018. Site DT9 – 32 Porthill Bank, DT24 – 26 High Street Maybank and DT49- 2 Vale View Porthill, recorded an increase on the NO<sub>2</sub> annual mean objective compared to 2018. However, comparison of results in this area since 2012 shows there has been an overall decreasing trend in the NO<sub>2</sub> annual mean with no exceedances recorded since 2012.
- 2.8.4. The diffusion tube sited at the junction with Grange Lane and Church Lane (DT103) will remain in place as there are a number of works planned which may affect upon this location, this includes the Etruria Valley Development scheme, which sees changes to the junction, the junction near to this site, and a new access from Grange Lane into the City Centre via Etruria Valley. Highways England are undertaking improvement works to the A500 between Wolstanton and Porthill, which are scheduled for delivery by Summer 2020. These works have the potential to increase traffic flow through this AQMA.

- 2.8.5. Additionally, a new route from the Borough into the City Centre will be created by the planned City Council scheme Etruria Valley Link Road development. This will allow traffic to flow from Newcastle into Stoke on Trent via Grange Lane. Reports submitted with the planning application show that although there is predicted to be an increase in traffic and traffic related emissions as a consequence of this development in the Grange Lane area of this AQMA, there is likely to be a reduction in NO<sub>2</sub> emissions on the A53 Etruria Road caused by reduced traffic and reduced congestions as traffic will be able to utilise this new. NO<sub>2</sub> levels are not predicted to cause exceedances of the relevant UK objectives or EU Limit Values.
- 2.8.6. Accordingly, the diffusion tube-monitoring network will remain in place in this AQMA, until the highway schemes have become embedded (at least 5 years post opening) and there is confidence that NO<sub>2</sub> annual mean levels are consistently below the statutory objective.
- 2.9. **Summary of Air Quality in Little Madeley AQMA in 2019**
- 2.9.1. Appendix 4 contains a map of diffusion tube results for Little Madeley AQMA based on compliance with the annual mean nitrogen dioxide UK objective for 2019.
- 2.9.2. Air Quality in this location is heavily influenced by traffic using M6 motorway which runs within 20 metres of the nearest receptor at Collingwood, 3 Newcastle Road, and Little Madeley.
- 2.9.3. The NO<sub>2</sub> concentration at this location in has steadily decreased over the past 7 years. The NO<sub>2</sub> annual mean result at DT3 (Newcastle Road, Little Madeley) for 2019 was 27µg/m<sup>3</sup> (a slight increase from 24.8µg/m<sup>3</sup> measured in 2018. However since 2012, there has been an overall decreasing trend in the NO<sub>2</sub> annual mean in this area.
- 2.9.4. Highways England are introducing smart managed motorways and hard shoulder running up to Junction 15 of the M6 (Stoke on Trent South) and from junction 16 (Stoke on Trent North and Crewe) through to junction 22. The stretch of motorway between junctions 15 and 16, which runs past the receptor experiences congestion at peak periods and may become a candidate for hard shoulder running and smart managed motorways in the future.
- 2.9.5. Due to the works to the M6 motorway, this location will continue to be monitored for the near future
- 2.10. **Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>)**
- 2.10.1. Due to the health risk posed by PM<sub>2.5</sub>, a new requirement has been brought in to assess PM<sub>2.5</sub> concentrations. Newcastle-under-Lyme does not currently monitor for this fraction of particulate matter.
- 2.10.2. Manmade PM<sub>2.5</sub> is estimated to contribute to some 4.2% or 60 deaths per annum for adults over 30 years of age within the Borough.
- 2.10.3. The Borough Council, along with the Staffordshire Air Quality Forum and Staffordshire Public Health, is looking at ways in which PM<sub>2.5</sub> concentrations can be reduced at both a local and regional level.
- 2.10.4. **Newcastle under Lyme Air Quality and Health Impacts 2019**
- 2.10.5. Data showing the impact of air quality on health in Newcastle under Lyme and Stoke on Trent has been provided by the County Council's Public Health Epidemiologist. The latest available

dataset is for 2017/18 and is provided in in Appendix 5 along with comparisons with the district and city authorities in Staffordshire and England as a whole.

### 2.11. **Proposed actions arising from the 2019 Annual Status Report**

These are as follows.

- Continue the current network of NO<sub>2</sub> diffusion tube monitoring in the District to identify future changes in pollutant concentrations;
- Continue to ensure that air quality considerations are properly accounted for in planning application submissions and in recommendations to the LPA
- Continue to enforce air quality and emission related legalisation within the Borough (e.g. regulation of industrial processes, smoke control, dust nuisance, smoke nuisance, trade waste burning, dark smoke on trade and industrial premises)
- Consult on and adopt an Air Quality Strategy for the Borough
- Consult on and adopt an Air Quality Developers Guide
- Engage with the Director of Public Health at Staffordshire County Council and Staffordshire Councils to implement measures to reduce exposure to PM2.5
- Continue to work with colleagues in the city to ensure that air quality related planning policies are delivered in the Joint Local Plan
- Continue to deliver the Air Quality Action Plan Measures. (Most of the measures identified fall within the remit of the County Council as the Highways Authority)

### 3. **Reasons for Preferred Solution**

- 3.1. The Council is required to take the action outlined in this report in order to fulfil its statutory duties under the Part IV of the Environment Act 1995.

### 4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 4.1. The action taken achieves the following priorities detailed within the Council Plan

- Local services that work for local people
- A healthy, active and safe borough

### 5. **Legal and Statutory Implications**

- 5.1. Local authorities in the UK have statutory duties for managing local air quality under Part IV of the Environment Act 1995. District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.

### 6. **Equality Impact Assessment**

- 6.1. Not applicable

### 7. **Financial and Resource Implications**

- 7.1. Existing budgets will be utilised to fund the work identified in this report, where delivery of action plan measures rests with others, such as Staffordshire County Council for highways related schemes, your officers will continue to work with delivery partners to bring forward action plan measures as quickly as possible.

### 8. **Major Risks**

- 8.1. Not applicable

**9. Sustainability and Climate Change Implications**

9.1 Not applicable

**10. Key Decision Information**

10.1 Not applicable

**11. Earlier Cabinet/Committee Resolutions**

11.1 Not applicable

**12. List of Appendices**

- Appendix 1 Map of NO<sub>2</sub> Diffusion Tube results 2019 Town Centre AQMA – UK NO<sub>2</sub> Annual Mean objective
- Appendix 2 Map of NO<sub>2</sub> Diffusion Tube results 2019 Kidsgrove AQMA – UK NO<sub>2</sub> Annual Mean objective
- Appendix 3 Map of NO<sub>2</sub> Diffusion Tube results 2019 Porthill, Wolstanton, Maybank AQMA – UK NO<sub>2</sub> Annual Mean objective
- Appendix 4 Map of NO<sub>2</sub> Diffusion Tube results 2019 Little Madeley AQMA – UK NO<sub>2</sub> Annual Mean objective
- Appendix 5 Newcastle-under-Lyme and Stoke-on-Trent Air Quality and Health 2017/18 data

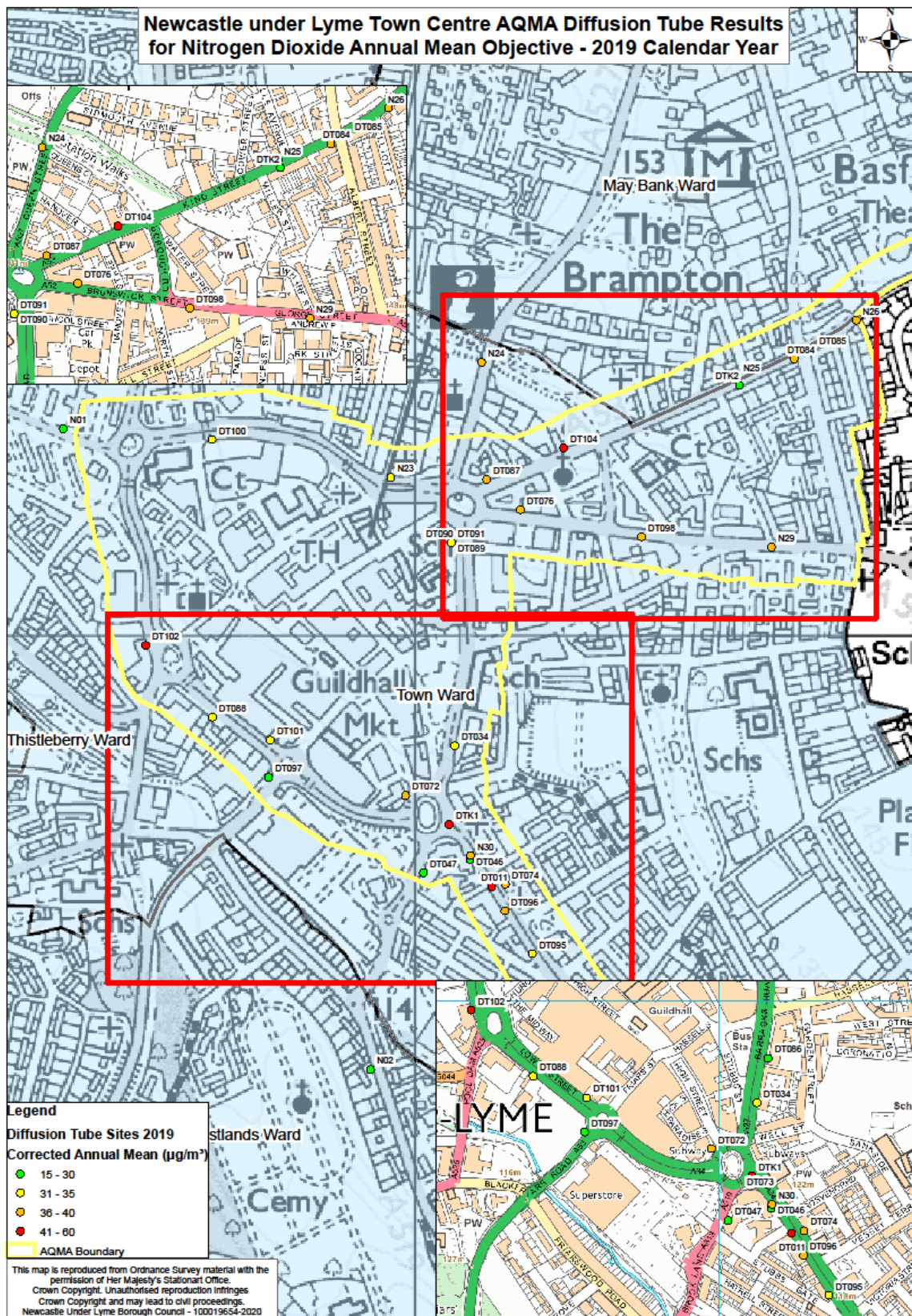
**Background Papers**

- Environment Act 1995 – Part IV
- Local Air Quality Management Technical Guidance (LAQM.TG.16) (available at <http://laqm.defra.gov.uk/documents/LAQM-TG16-April-16-v1.pdf>)
- Air Quality Reports completed since 1997 available from <https://www.newcastlestaffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastleunder-lyme>





Map of NO<sub>2</sub> Diffusion Tube results 2019 Town Centre AQMA – UK NO<sub>2</sub> Annual Mean objective

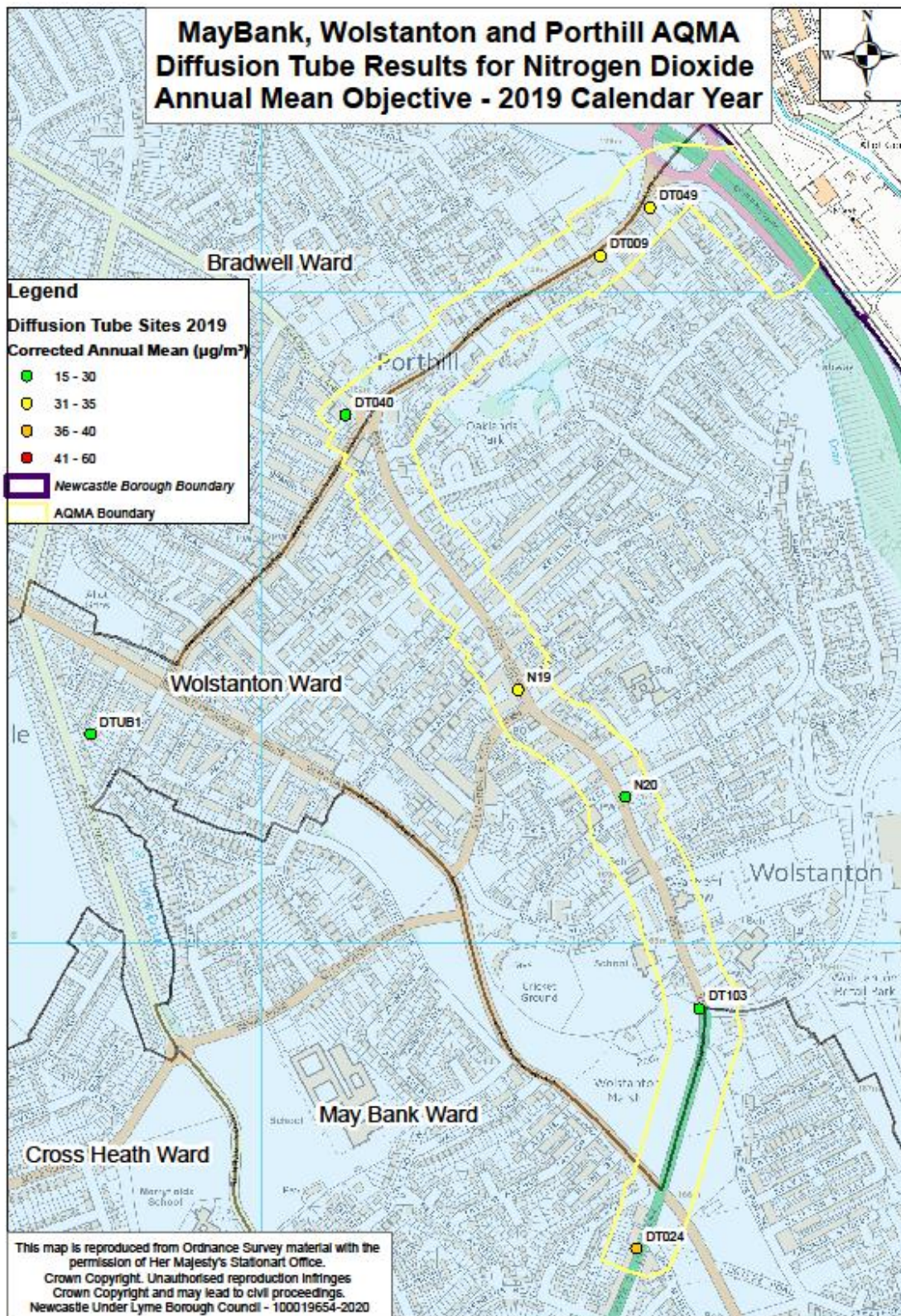






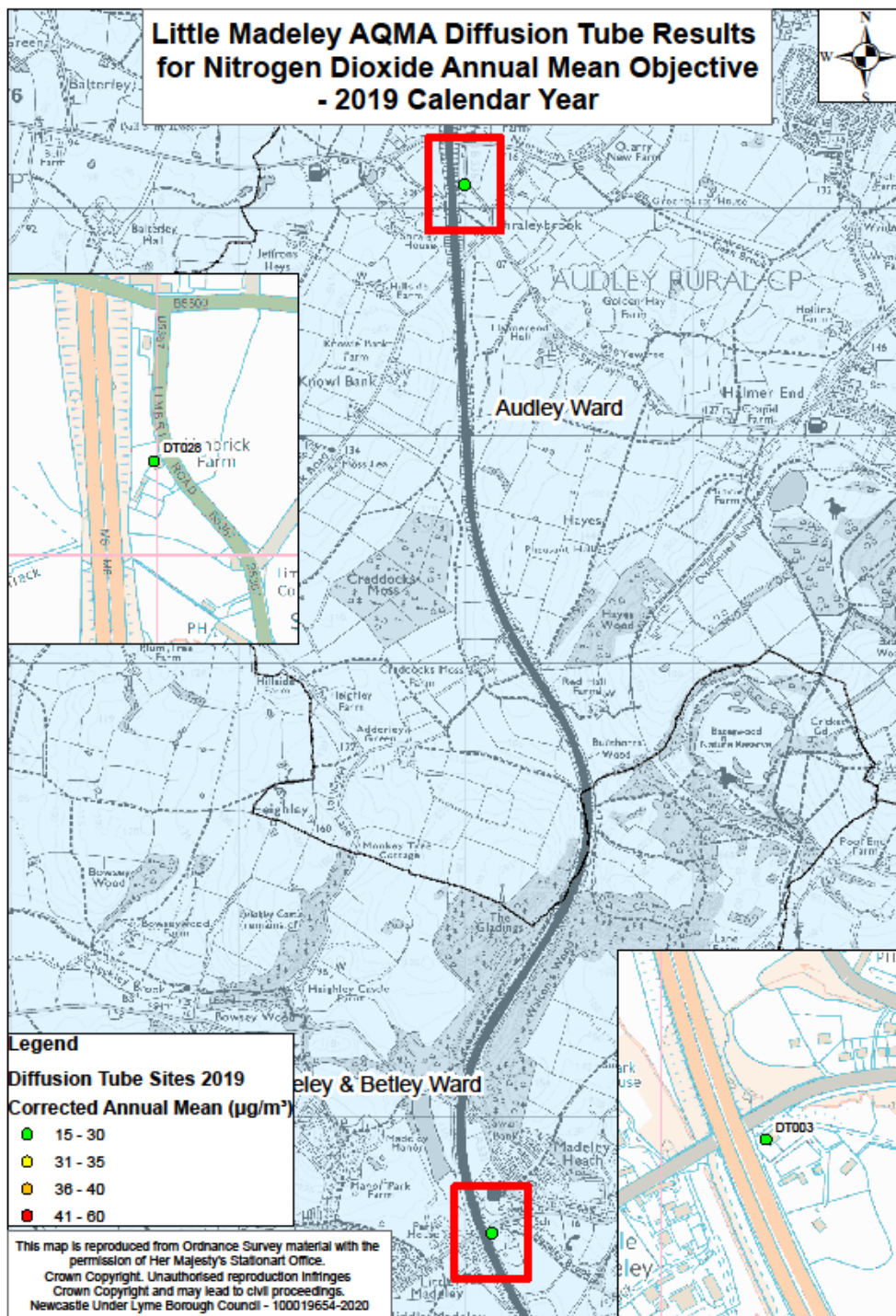


Map of NO<sub>2</sub> Diffusion Tube results 2019 Porthill, Wolstanton, Maybank AQMA – UK N02 Annual Mean objective





Map of NO<sub>2</sub> Diffusion Tube results 2019 Little Madeley AQMA – UK NO<sub>2</sub> Annual Mean objective



## Appendix 5

- Newcastle-under-Lyme and Stoke-on-Trent Air Quality and Health 2017/18 data

### **Public Health Outcomes Framework Indicator 3.01- Fraction of annual all cause adult mortality attributable to anthropogenic (human made) particulate air pollution (measured as fine particulate matter, PM<sub>2.5</sub>) for Staffordshire Authorities 2014 to 2018<sup>8</sup>**

Estimated numbers of annual all-cause adult mortality attributable to anthropogenic (human-made) particulate air pollution (measured as fine particulate matter, PM <sub>2.5</sub> *) for Staffordshire 2014 to 2018 <sup>8</sup>															
* Fraction of annual all-cause adult mortality attributable to anthropogenic (human-made) particulate air pollution (measured as fine particulate matter, PM <sub>2.5</sub> *)															
District/County	2014			2015			2016			2017			2018		
	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths	Deaths - all causes persons 30+	%*	Estimated attributable deaths
Newcastle-under-Lyme	55	4.7	60	55	4.2	50	1291	4.7	60	1197	4.2	50	1334	4.2	60
Stafford	65	4.8	60	60	4.7	60	1254	4.8	60	1267	4.3	50	1336	4.2	60
East Staffordshire	55	5.1	50	55	4.8	50	1065	5.6	60	1098	5.0	50	1093	4.6	50
South Staffordshire	55	5	50	55	4.7	60	1128	5.1	60	1239	4.5	60	1211	4.6	60
Lichfield	50	5	50	50	4.6	50	1044	5.5	60	1070	4.9	50	1087	4.6	50
Staffordshire Moorlands	45	4.5	50	45	4	40	1110	4.6	50	1127	3.9	40	1108	3.8	40
Cannock Chase	45	5.1	40	45	4.6	40	879	5.4	50	940	4.7	40	976	4.6	50
Tamworth	35	5.4	30	30	4.9	30	615	6	40	634	5.3	30	653	5.1	30
Stoke on Trent	2318	5.0	115	2479	4.9	110	2454	5.0	120	2490	4.4	110	2746	4.4	120
Staffordshire County	400	4.9	400	390	4.5	390	8386	5.2	430	8572	4.5	390	8792	4.4	390

8 Source Public Health England <https://fingertips.phe.org.uk/profile/public-health-outcomes-framework/data#page/3/gid/1000043/pat/6/par/E12000005/ati/102/are/E10000028/iid/30101/age/230/sex/4>

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