

# Public Document Pack

**Date of meeting** Monday, 12th October, 2020

**Time** 7.00 pm

**Venue** Licensing and Public Protection - Virtual Meeting - 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 STATEMENT OF LICENSING POLICY 2020-2025 (Pages 21 - 86)**

##### **7 CUMULATIVE IMPACT ASSESSMENT (Pages 87 - 90)**

##### **8 LICENSING FEES AND CHARGES 2021-2022 (Pages 91 - 96)**

**9 MINUTES OF LICENSING SUB COMMITTEE MEETINGS (Pages 97 - 98)**

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

**FIVE MINUTE BREAK**

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

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

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

**11 STATUTORY TAXI AND PRIVATE HIRE STANDARDS AND POLICY (Pages 99 - 188)**

**12 DRAFT TAXI FEES AND CHARGES 2021-2022 (Pages 189 - 194)**

**13 DOG CONTROL ORDER (Pages 195 - 212)**

**14 URGENT BUSINESS (Pages 213 - 216)**

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

**(1) PUBLIC PROTECTION SUB-COMMITTEE ROTA**

The item is considered urgent due to the number of Sub-Committees being held before the next scheduled meeting of this Committee

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

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

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

**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:	Julie Cooper	John Tagg
	Gary White	Sue Moffat
	Trevor Johnson	Silvia Burgess
	Paul Northcott	Ian Wilkes
	Marion Reddish	

*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.

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of the Local Government Act 1972.

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## LICENSING & PUBLIC PROTECTION COMMITTEE

Tuesday, 4th August, 2020  
Time of Commencement: 7.10 pm

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

**Councillors:** Julie Cooper                      Gary White  
Graham Hutton                      Mrs Gill Heesom  
Stephen Sweeney

**Officers:** David Beardmore                      Environmental Health Team Manager  
  
Matthew Burton                      Licensing Administration Team Manager  
Nesta Barker                      Head of Environmental Health Services  
  
Anne-Marie Pollard                      Solicitor  
  
Denise French                      Democratic Services Team Leader

Also in attendance:

### 13. **DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:-** That the public be excluded from the meeting during consideration of 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

### 14. **MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS**

**Resolved:** That the Minutes of the meetings held on 6 May, 27 May, 17 June and 8 July be received.

### 15. **APOLOGIES**

Apologies for absence were received from Councillor J Waring with Councillor Julie Cooper attending as substitute and Councillor T Kearon.

### 16. **DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

There were no declarations of interest stated.

### 17. **MINUTES OF PREVIOUS MEETING**

**Resolved:** That the Minutes of the meeting held on 27 April be agreed as a correct record.

**18. DRAFT STATEMENT OF LICENSING POLICY 2020/25**

The Committee considered the draft Statement of Licensing Policy. It was a requirement under the Licensing Act 2003 that the Policy was reviewed by January 2021 and thereafter every 5 years. Once the draft was approved by this Committee a 6 week consultation period would be undertaken. Any comments would be reported back to this Committee in October and the Council would be recommended to adopt the revised statement on 18 November 2020.

**Resolved:** that the draft Statement of Licensing Policy be approved for public consultation.

**19. BUSINESS AND PLANNING ACT 2020**

The Committee considered a report on the detail of the new Business and Planning Act 2020 which placed responsibility to the Council for processing and issuing pavement licenses and to make amendments regarding alcohol off-sales. The detail of the provisions were outlined and were designed to support businesses that sold food and drink. The Act introduced a new 10 working day determination period and a cap on the application fee.

The full list of 22 conditions was outlined; the Committee was informed of the comments of the Police who were supportive of the conditions particularly those relating to the time at which the pavement area must cease and no use of glass bottles or drinking vessels beyond 20.00 hours.

**Resolved:** That

- (a) The standard duration for pavement licenses be for 1 year or expiry on 30 September 2021 whichever is soonest;
- (b) The fee for the granting of a Pavement Licence be waived;
- (c) Enforcement of the provisions be undertaken in accordance with the Corporate Enforcement Policy;
- (d) All the licensing functions, powers and duties contained within the Business and Planning Act 2020 be delegated to the Executive Director – Operational Services; and
- (e) The proposed conditions be agreed and approved for Pavement Licenses issued by the Borough Council and these conditions be published as guidance for applicants, consultees and members of the public.

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

There were no declarations of interest stated.

**21. DOG CONTROLS, PUBLIC SPACES PROTECTION ORDER REVIEW**

The Committee considered a report outlining proposals for a public consultation regarding a planned extension to the dog Controls Public Spaces Protection Order for a further 3 years.

The current order came into force on 21<sup>st</sup> October 2017 and was valid for 3 years; it covered a range of items including a requirement to remove dog fouling and an obligation to have a bag available for removal of fouling; locations where dogs were not permitted and sites where dogs must be on a lead. It was proposed that a 6 week consultation period be entered into regarding extending the current Order without revision, for a further 3 year period.

**Resolved:** that:

- (a) a 6 week period of public consultation be approved on the proposed extension of the current Public Spaces Protection Order; and
- (b) a further report be made to the Committee following the public consultation period to consider feedback and whether the Order should be extended, varied or discharged.

**22. SCHEME UPDATES: (A) TOWN CENTRE HACKNEY CARRIAGE MARSHALLING & (B) USE OF THE BUS STATION FOR PRIVATE HIRE VEHICLES**

The Committee considered a report updating on schemes:

- (a) Town Centre Hackney Carriage Marshalling; and
- (b) Use of Bus Station for Private Hire Vehicles.

The report outlined the background to the schemes which had both run for around 10 years. New road layouts and Traffic Regulation Orders would now remove the need for Traffic Marshalls. The use of the bus station site by Private Hire operators needed review due to reduced use and legal precedent.

**Resolved:** that

- (a) The Council will have no further involvement with the Newcastle and Kidsgrove Hackney Association rank marshalling scheme; and
- (b) The Executive Director – Commercial Development & Economic Growth be given approval to review the use of the bus station site and set new conditions for its future night time use by Private Hire operators including charges if appropriate.

**23. ENVIRONMENTAL ACT 1995 - PART (IV) LOCAL AIR QUALITY MANAGEMENT - ANNUAL STATUS REPORT 2020**

The Committee considered a report of the findings on air quality across the Borough for 2019 as outlined in the statutory Annual Status Report.

The Head of Environmental Health explained that the pollutant of concern was Nitrogen Dioxide (NO<sub>2</sub>). Monitoring showed a decreasing trend but a number of areas had levels of NO<sub>2</sub> above the annual mean objective level. There were 4 areas in Newcastle town that would remain Air Quality Management Areas. Members asked about the impact of Covid-19 which had seen reduced traffic levels. The Head of Environmental Health said it was assumed that levels would return to their pre Covid-19 level as seen in other areas of the country.

Members asked whether the introduction of double yellow lines on the A34 location had helped to reduce levels; this would be investigated and a response circulated to the Committee outside the meeting.

**Resolved:** that

- (a) The report be received; and
- (b) The information regarding parking restrictions on the A34 be circulated to Members separately.

**24. URGENT BUSINESS**

There was no urgent business.

**Chair**

Meeting concluded at 8.10 pm





## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 12 October 2020

**Report Title:** 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 the outcome of the public consultation on the draft Statement of Licensing Policy for the Council and to seek approval for the Policy to be submitted to Council.

#### **Recommendation**

**That Members receive the outcome of the public consultation**

**That Members approve submission of the Statement of Licensing Policy to Council on 18<sup>th</sup> November 2020 for adoption.**

#### **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.
- 1.3 On 4<sup>th</sup> August 2020 the Committee determined that the draft policy go out for consultation with the statutory consultees, relevant other bodies and members of the public for a period of 6 weeks that would end on 17<sup>th</sup> September 2020.

### **2. Issues**

- 2.1 The statement of policy sets 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 as Appendix 1 to this is the revised Statement of Licensing Policy that was consulted upon for 6 weeks. During that 6 weeks the Council received two responses to the proposals.
- 2.3 The first response, received from Madeley Parish Council, outlined their support for outdoor seating arrangements for licensed premises during the current pandemic period. A copy of their comments are attached as Appendix 2.
- 2.4 The second response was from Councillor Gary White. Cllr White commented that when applications for new premises licences, or variations to existing licences, are received part of the consultation process should be to include Ward Councillors and Parish Councils where relevant. Cllr White's comments are attached as Appendix 3.
- 2.5 Members of Licensing and Public Protection Committee are invited to make any comments on the Policy prior to proposing its adoption by Full Council on 18<sup>th</sup> November 2020.

### 3. **Proposal**

- 3.1 That Members receive the outcome of the public consultation, consider any amendments as required, and propose that the policy is adopted at Full Council.

### 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. The Council is required to revise its Statement of Licensing Policy by 25<sup>th</sup> November 2020

### 5. **Options Considered**

- 5.1 To agree that the proposed policy, attached as Appendix 1, is forwarded to Full Council 18<sup>th</sup> November 2020 to agree and adopt; **(RECOMMENDED)**
- 5.2 To make amendments to the proposed policy prior to adoption by Full Council.

### 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 – Proposed 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"

Type of Accommodation	Area allowed per person
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 at 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,

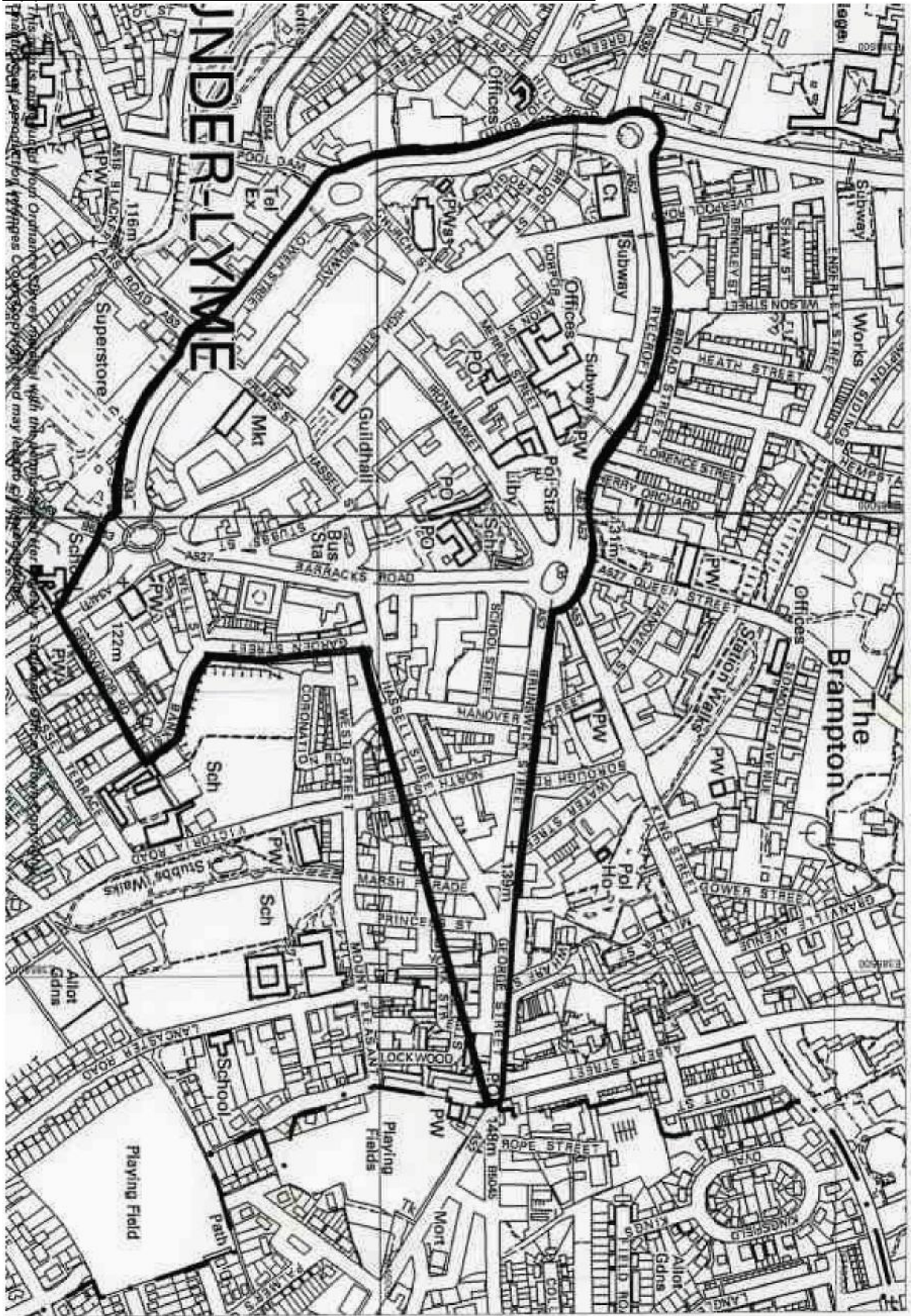
but allow for the production of other proof, such as photo-driving licences and passports. It should be noted that many adults in England and Wales do not currently carry any proof of age. To assist in ensuring that only persons over the age of 18 are able to purchase alcohol, then the Challenge 25 Scheme 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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-----Original Message-----

From: Janet Simpson <[parish.clerk@madeley.staffslc.gov.uk](mailto:parish.clerk@madeley.staffslc.gov.uk)>

Sent: 07 September 2020 09:02

To: licensing <[licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)>

Subject: Re: [UNCLASSIFIED] NULBC Draft Statement of Licensing Policy 2020-25 - Consultation

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Dear Matt,

thank you for giving Madeley Parish Council the opportunity to comment on this draft document. I can confirm that it was discussed at the virtual meeting held on 3rd September and the only comment they would like to make is in relation to outdoor seating arrangements for licenced venues during the Covid crisis. This is something they would support to encourage economic recovery as well as public safety.

Yours sincerely,

Jan Simpson

Quoting licensing <[licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)>:

> [Classification: NULBC UNCLASSIFIED]

>

> Dear all,

>

> Newcastle-under-Lyme BC are consulting upon our Statement of Licensing

> Policy under the Licensing Act 2003. This is a process that occurs

> every 5 years, and can also be carried out in the interim if required.

> The Licensing Act 2003 provides for a number of statutory consultees,

> and also allows the Council to consult with any person or body that

> they feel is relevant.

>

> Consultation begins today for a period of 6 weeks and closes on 17th

> September 2020. If you would like to make any comments then please

> return them via email to

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

>

> To view the draft document please visit the Council Website:

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

>

> Kind Regards,

> Matt

>

> Matt Burton

> Licensing Administration Team Manager

> Newcastle-under-Lyme Borough Council

> 01782 717717

>

> [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk)<<http://www.newcastle-staffs.gov.uk/>>

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> Council.

--

Madeley Parish Clerk,  
10 Freebridge Close,  
Longton,  
Stoke-on-Trent.  
ST3 5XQ



**From:** White, Gary (Cllr) <[Gary.White@newcastle-staffs.gov.uk](mailto:Gary.White@newcastle-staffs.gov.uk)>  
**Sent:** 11 September 2020 14:31  
**To:** licensing <[licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)>  
**Subject:** Response to licensing consultation

Hello

I would like to comment as follows-

It is important that any new license or variation to existing license is notified automatically as part of the consultation process to Ward Cllrs and Parish Council where relevant. This should be alongside the statutory process.

Thank you

Cllr Gary White  
Mayor's Consort  
Ward Cllr for Madeley, Betley, Onneley, Leycett, Wrinehill and Balterley

Sent with BlackBerry Work

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## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

### **EXECUTIVE MANAGEMENT TEAM'S REPORT TO**

#### **Licensing and Public Protection Committee 12 October 2020**

**Report Title:** Establishing a Cumulative Impact Assessment

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** Town Ward

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

To advise members of the process for establishing a Cumulative Impact Assessment to support the Statement of Licensing Policy, and propose that the current Cumulative Impact Policy remains operative until the process is complete.

#### **Recommendation**

##### **That**

1. Members note the process for establishing a Cumulative Impact Assessment and the difficulties created by the current Public Health emergency.
2. Members confirm that the current Cumulative Impact Policy continues in its present form pending the completion of a Cumulative Impact Assessment.

#### **Reasons**

Cumulative Impact Assessments (CIA) were introduced to the Licensing Act 2003 by the Policing and Crime Act 2017. In general terms and effect they replace Cumulative Impact Policies (CIP) however there is no statutory transition or conversion process. Before adopting a CIA the authority must establish the evidential basis that one is required, and consult upon its scope and extent with the same persons that must be consulted over the Statement of Licensing Policy.

The Committee last reviewed the evidence to support the continuation of its CIP in April 2019. Since that time the current Public Health emergency has impacted significantly on both footfall and economic activity within the town centre area currently subject to a CIP.

#### **1. Background**

- 1.1 The Council has previously resolved to have a CIP that covers an area of Newcastle's town centre and this was incorporated into the authority's Statement of Licensing Policy.
- 1.2 In April 2019 the Committee resolved 'that the Cumulative Impact Policy continue in its current form pending transition to a Cumulative Impact Assessment'.
- 1.3 Under the review of Licensing Policy currently before Committee it is proposed to replace the current CIP with a Cumulative Impact Assessment (CIA) which will be a standalone 'live' document capable of being amended when required.

1.4 In effect and operation a CIA is similar to a CIP, however to move from one to the other requires the authority to:

- Consult with the same persons it consults regarding reviews and revisions to its Statement of Licensing Policy
- Explain why it is considering adopting a CIA
- Set out the part or parts of the district to be included in the CIA
- Set out which type of licences the CIA will apply to
- Give the evidential basis for the CIA

1.5 In considering the evidential basis for a CIA the current Public Health emergency has impacted significantly on both footfall and economic activity within the current CIP area.

## 2. **Issues**

2.1 The current public health emergency has overtaken the authority's process of converting its existing CIP into a CIA, and may have changed the evidential basis and rational for the current scope and extent of cumulative impact controls.

2.2 Discussions with Police colleagues suggest that while crime and disorder associated with licensed premises is still being seen, the times of its occurrence, frequency and severity have all been impacted by the ongoing controls and restrictions introduced to deal with the transmission of Coronavirus infections.

2.3 In consequence comparisons of crime and disorder previously used to evidence the need for a CIP need to be re-considered to support the introduction of a CIA, together with considerations of the current and likely future economic landscape in the existing CIP area.

2.4 Government guidance which accompanied the introduction of CIAs recommended that any existing cumulative impact controls are replaced with CIAs within 3 years of the commencement of the legislation which created them. To follow that guidance the authority should replace its existing CIP with a CIA by 5 April 2021.

## 3. **Proposal**

3.1 That officers review with partners the current evidence for a CIA based upon the scope and boundaries of the current CIP, and bring forward for Members the options highlighted by the evidence including the creation of a Cumulative Impact Assessment for Newcastle town centre where the data and consultee comments support this course of action.

3.2 The proposal will involve a review of evidence from the Police, Environmental health, Street scene, health partners, ward members and traders, with the outcome and a proposed CIA being presented to the Committee in January 2021.

3.3 A period of consultation with partners, trade bodies, and the community would then be required before a final debate on adoption by the Committee in March 2021.

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

4.1 The CIP which has operated since 2013 has served the Borough well in limiting serious problems of nuisance and disorder arising from the number, type and density of licensed premises in the town centre. While the current public health emergency has impacted upon

footfall and economic activity in the town centre, and thereby nuisance behaviour and disorder, the longer term 'return to normal' is likely to require a continuation of cumulative impact controls. Changes to legislation mean that the current CIP must be replaced with a CIA for cumulative impact to continue to be a feature of the consideration of any new licence. The solution proposed recognises that updated evidence set against the recent trading conditions will be required to justify the adoption of a CIA.

## 5. **Options Considered**

5.1 To gather and review evidence justifying the adoption of a CIA for the area forming the current CIP (**RECOMMENDED**).

5.2 To allow the current CIP controls to end in April 2021.

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

6.1 Guidance issued regarding the introduction of CIAs under Section 5A of the Licensing Act 2003 recommends that existing cumulative impact controls are considered for replacement with a CIA within 3 years of the operative date of the legislation (06/04/2018), or when the Authority's Statement of Licensing Policy is reviewed, whichever is soonest.

6.2 The Statement of Licensing Policy is being presented for re-adoption to this committee however the current public health emergency has potentially changed the evidence base for a CIA and hence a more detailed consideration is required than envisaged in earlier reports to Committee.

6.3 To maintain cumulative impact controls as part of its licensing policy it is necessary to look afresh at the evidence for them and to undertake the consultation process set out in the legislation prior to replacing the current CIP with a CIA.

## 7. **Equality Impact Assessment**

7.1 Not applicable.

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

8.1 There are no financial impacts identified arising from this report.

8.2 Licensing resources will be required to liaise with partners, collect and collate evidence, consult with trade representatives and partners, and propose a CIA to members. Those resources currently exist and can be deployed on these tasks.

## 9. **Major Risks**

9.1 There are risks to the control of the number and type of licensed premises in the town centre associated with the Council not replacing its current CIP with a CIA by 6<sup>th</sup> April 2021.

## 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 Committee's review of the current CIP controls in April 2018 and 2019 identified the need to continue those controls while a CIA was investigated and adopted if supported by sufficient evidence.

13. **List of Appendices**

13.1 None.

14. **Background Papers**

14.1 None.

## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

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

**12 October 2020**

#### **FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2021-22**

**Submitted by:** Head of Environmental Health & Licensing Administration Team Manager

**Portfolio:** Finance & Efficiency

**Ward(s) affected:** ALL

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

For Members to consider the fees to be charged in relation to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues.

#### **Recommendations**

That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2021/22.

#### **Reasons**

Decisions relating to the setting of non-statutory fees and charges for licensing have been delegated from Council to Licensing Committee.

#### **1. Background**

1.1 The approval of certain fees and charges relating to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues licensing regimes are Council functions.

1.2 Council at their meeting on 22<sup>nd</sup> February 2017 delegated this function to Licensing Committee.

#### **Gambling:**

1.3 The Gambling Act 2005 allows Licensing Authorities to set their own fees for premises licenses, subject to maximum levels which have been specified by Central Government.

1.4 The Councils Gambling Policy was implemented in January 2019, following approval from the Licensing Committee and Council.

#### **Sexual Entertainment Venues:**

1.5 The Local Government (Miscellaneous Provisions) Act 1982 ('the Act') introduced a licensing regime to control sex establishments. The Council adopted schedule 3 of the Act on the 31<sup>st</sup> March 2010 and the schedule took effect on the 3<sup>rd</sup> August 2010. This means the Council can control and regulate the operation of certain kinds of sex establishments within its area.

No sex establishment can operate unless it has obtained a licence from the Council. Any licence may contain conditions that will restrict how that sex establishment may trade.

- 1.6 The setting of fees for the licensing of sex establishment remains with the Local Authority. The licence is for a one year period.

#### **Scrap Metal Dealers:**

- 1.7 The Scrap Metal Dealers Act 2013 ('the SMDA13') introduced a licensing regime to control Scrap Metal Dealers, replacing the registration scheme used previously. The SMDA13 allows Licensing Authorities to set their own fees for both Site and Collectors licences.

## **2. Issues**

### **2.1 The European Services Directive states (Art 12.2):**

*"Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures"*

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.

Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

### **2.2 Guidance for Local Authorities on the Provision of Service Regulations States (2<sup>nd</sup> Edition June 2009 Para 12d):**

*"Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors."*

### **2.3 All proposed license fees and charges are detailed in table below:**

Licences:	2020/21 Fee	2021/22 Proposed Fee	Difference
<b>General</b>			
Sex establishments - application fee	3,193.00	3,289.00	3%
Sex establishments - Renewal	3,193.00	3,289.00	3%
Sex establishments - variation	1,082.00	1,114.00	3%
Sex establishments – transfer	1,082.00	1,114.00	3%
Scrap metal dealer site licence	273.00	281.00	3%
Scrap metal dealer collectors licence	216.00	222.00	3%
<b>Gambling Act 2005</b>			
Lotteries - application fee	40.00	40.00	All Frozen or
Lotteries - annual fee	20.00	20.00	Set by



Bingo - application fee	3,500.00	3,500.00	Statute unless stated otherwise
Bingo - annual fee	1,000.00	1,000.00	
Bingo - application to vary	1,750.00	1,750.00	
Bingo – application for transfer	1,200.00	1,200.00	
Bingo – application to reinstate	1,200.00	1,200.00	
Track betting - application fee	2,500.00	2,500.00	
Track betting - annual fee	1,000.00	1,000.00	
Track betting - application to vary	1,250.00	1,250.00	
Track betting - application to transfer	950.00	950.00	
Track betting – application to reinstate	950.00	950.00	
Betting premises - application fee	3,000.00	3,000.00	
Betting premises - annual fee	600.00	600.00	
Betting premises - application to vary	1,500.00	1,500.00	
Betting premises - application to transfer	1,200.00	1,200.00	
Betting premises – application to reinstate	1,200.00	1,200.00	
Family entertainment centre - application fee	2,000.00	2,000.00	
Family entertainment centre - annual fee	750.00	750.00	
Family entertainment centre - application to vary	1,000.00	1,000.00	
Family entertainment centre - application to transfer	950.00	950.00	
Family entertainment centre – application to reinstate	950.00	950.00	
Adult gaming centre - application fee	2,000.00	2,000.00	
Adult gaming centre - annual fee	1,000.00	1,000.00	
Adult gaming centre - application to vary	1,000.00	1,000.00	
Adult gaming centre - application to transfer	1,200.00	1,200.00	
Adult gaming centre – application to reinstate	1,200.00	1,200.00	
Copy of any of the above licences (lost, stolen, damaged)	25.00	25.00	
Notice of Intention – 2 or less gaming machines	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines	150.00	150.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Variation	100.00	100.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Transfer	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Annual Fee	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Change of Name	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Copy (lost, stolen, damaged)	15.00	15.00	
Club Gaming/Club Machine Permits – New/Renew	200.00	200.00	

Club Gaming/Club Machine Permits for holders of Club Premises Certificates (under LA03) – New/Renew	100.00	100.00	
Club Gaming/Club Machine Permit – Annual Fee	50.00	50.00	
Club Gaming/Club Machine Permit – Variation	100.00	100.00	
Club Gaming/Club Machine Permit – Copy (lost, stolen, damaged)	15.00	15.00	
UFEC (Unlicensed family entertainment Centre – 10 year licence)	300.00	300.00	
Prize Gaming Permit – New/Renewal	300.00	300.00	
Prize Gaming Permit – Change of Name	25.00	25.00	
Prize Gaming Permit – Copy (lost, stolen, damaged)	15.00	15.00	
Temporary Use Notice (TUN)			
Casino Small – New application	6,930.00	7,138.00	3%
Casino Small – Annual Fee	3,465.00	3,569.00	3%
Casino Small - Variation	2,310.00	2,379.00	3%
Casino Small – Application for Transfer	1,485.00	1,530.00	3%
Casino Small – application to reinstate	1,485.00	1,530.00	3%

### 3. **Proposal**

- 3.1 That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venue Licensing for 2021/2022.

### 4. **Reasons for Preferred Solution**

- 4.1 The locally set fees can be used to cover the cost of the following:

**Administration** – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

**Initial visit/s** – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

**Third party costs** – Some licensing processes will require third party input from experts.

**Liaison with interested parties** – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

**Management costs** – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

**Local democracy costs** – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

**On costs** – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

**Development, determination and production of licensing policies** – The cost of consultation and publishing policies can be fully recovered.

**Web material** – The EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

**Advice and guidance** – This includes advice in person, production of leaflets or promotional tools, and online advice.

**Setting and reviewing fees** – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

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

### 5.1 In line with the Council's objectives –

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

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

### 6.1 **Hemming v Westminster**

The degree to which fees and processes are proportionate has been tested in a legal challenge brought against the fee charged by Westminster City Council for licensing sex establishments. The case established a number of key points about setting fees under the Services Directive.

In *Hemming v Westminster*, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This means the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee, although the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement found that the annual reviews conducted by an officer of Westminster City Council were no substitute for determinations by the council. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Where fees charged result in a surplus, *Hemming v Westminster* stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the reinvestment of the surplus over more than one year, but this will need careful consideration

about whether contributors may leave the licensing system over that period and therefore lose out on the return. Deficits can similarly be recovered, although where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of *R v Tower Hamlets LBC* (1994) is also relevant, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”.

7. **Equality Impact Assessment**

7.1 Not applicable

8. **Financial and Resource Implications**

8.1 Should a challenge be made in relation to the fee level as detailed in the *Hemming v Westminster* there could be detrimental financial implications for the Council

9. **Major Risks**

9.1 As detailed under Legal and Statutory Implications

10. **Sustainability and Climate Change Implications**

10.1 Not applicable

11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Council/Committee Resolutions**

12.1 The Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31<sup>st</sup> March 2010 which came into effect on 3<sup>rd</sup> August 2011.

12.2 Council delegated the function of setting fees and charges to Licensing Committee on 22<sup>nd</sup> February 2017.

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 LGA Guidance on Local Fee Setting

**LICENSING SUB-COMMITTEE**

Wednesday, 23rd September, 2020  
Time of Commencement: 10.00 am

**Present:**

Councillors:            Stephen Sweeney            Graham Hutton            John Williams

Officers:                Melanie Steadman                Licensing Officer  
                             Anne-Marie Pollard               Solicitor  
                             Denise French                    Democratic Services Team  
   Leader

Also in attendance: Rajan Regahunath, applicant  
                             and Glyn Cross, agent  
   2 residents

**1. APPOINTMENT OF CHAIR**

**Resolved:** That Councillor Graham Hutton be appointed Chair of the Sub-Committee.

**2. APOLOGIES**

There were no apologies for absence.

**3. OF INTEREST**

There were no declarations of interest.

**4. APPLICATION FOR A NEW PREMISES LICENCE - TALKE EXPRESS, 70 NEWCASTLE ROAD, KIDSGROVE, ST7 1RW**

The Sub-Committee considered a new premises licence application at the Talke Express, 70 Talke Road, Kidsgrove. The application was to sell alcohol off the premises on Mondays through to Sundays between the hours of 06.00 and 23.00, which matched the opening times planned for the shop. The applicant further requested that the hours be extended for a further 2 hours on Christmas Day, Boxing Day and New Year's Eve. The applicant had volunteered a number of conditions to attach to the licence including CCTV being installed, display of notices and Challenge 25 scheme.

There had been no representations received from relevant authorities but two relevant representations had been received from interested parties – local residents. The Licensing Officer advised that as the interested parties had raised representations that fell into the licensing objectives of Public Nuisance and Prevention of Crime and Disorder the application was required to be submitted to the Sub-Committee for determination.

The two residents attended the meeting and were given the opportunity, in accordance with the procedure, to address the Sub-Committee and outline their concerns which related to issues around Anti-Social Behaviour, litter and the resultant impact on nearby residential properties.

The applicant's agent, Glyn Cross, addressed the Sub-Committee and referred to additional representations he had submitted in support of the application. He noted how the premises had previously been a shop with off-licence but due to the licence being surrendered by the previous owner a new application had to be submitted rather than it being transferred. He referred to the report from the Licensing Officer that there was no historic evidence of complaints relating to the premises. The applicant was willing to take a number of steps to meet the Licensing Objectives as set out in the report.

**Resolved:** That the application for a premises licence to sell alcohol off the premises on Monday through to Sunday between the hours of 06.00 and 23.00, with an extension of 2 hours on Christmas Day, Boxing Day and New Year's Eve, be granted, subject to taking the steps to promote the 4 Licensing Objectives as set out in the application and a further requirement that litter bins be provided at the premises as soon as possible and a litter clearing schedule be undertaken of 3 litter picks a day in the vicinity of the premises.

**COUNCILLOR GRAHAM HUTTON**  
**Chair**

Meeting concluded at 11.00 am



## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

### **EXECUTIVE MANAGEMENT TEAM'S REPORT TO**

**Licensing and Public Protection Committee**  
**12 October 2020**

**Report Title:** Statutory Taxi and Private Hire Standards & Policy

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** All

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

To advise members of Statutory Taxi and Private Hire Standards introduced by Government and present for discussion amendments to the Council's Taxi Licensing Policy 2019-2021 which flow from them.

#### **Recommendation**

##### **That**

1. Members consider Statutory Taxi and Private Hire Standards introduced by Government in July 2020.
2. Members consider amendments proposed to the Taxi Licensing policy 2019-2021 arising from the statutory standards.
3. Members consider minor amends to the Taxi Licensing Policy 2019-2021 arising from typographical errors and member feedback for Public Protection sub-committees
4. Members approve a consultation period appropriate for the proposed amendments to allow for feedback from interested parties.
5. Members receive a further report detailing any feedback, requesting approval of the 2021-2023 Taxi Licensing Policy and agreeing a date for implementation.

#### **Reasons**

In July 2020, following a number of high profile enquiries into criminal offences involving taxi drivers, the Secretary of State for Transport issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities aimed at safeguarding children and vulnerable adults. The Standards set-out a range of measures to protect taxi and private hire vehicle passengers and the Department for Transport will require an update from each licensing authority by January 2021 of their response to the Standards and of actions taken as a result of them.

Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards, and are expected to publish their consideration of the measures contained in the Standards and changes to policies and procedures that stem from these.

#### 1. **Background**

- 1.1 In July 2020 Government published new Statutory Guidance regarding Taxi and Private Hire Vehicle licensing.

Further details can be seen here:

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

- 1.2 The new guidance followed a number of high profile enquiries into serious sexual offences facilitated, and in some cases perpetrated by, the taxi trade and research into

data regarding abuse and exploitation of children and vulnerable adults and the taxi industry.

- 1.3 Licensing authorities are under a legal duty to have regard to the new guidance and to reflect it in their taxi licensing policies and procedures.
- 1.4 Additional guidance is expected to follow these new standards in time, to reflect changes in technology and how many of the public now interact with the licensed taxi trade.
- 1.5 The Council's current taxi policy, implemented on 1<sup>st</sup> November 2019, compares well to the new Statutory Guidance such that only a few changes are necessary to align with the standards expected by Government.
- 1.6 Members attending Public Protection Sub-committees have identified some minor inconsistencies within the policy, there are also some typographical and cross-referencing amendments along with changes due to alteration in the administration process which could be considered alongside the statutory guidance changes. These changes are shown as tracked changes in Appendix 1.

## 2. **Issues**

- 2.1 Adopting the new guidance and minor amendments into the current taxi licensing policy requires the changes outlined in the table below together with the page number for the new/amended text indicated in blue in the amended policy attached as Appendix 1.

Proposed change	Page number in amended policy
a) Confirmation that the policy adheres to the Statutory Guidance	5
b) Amendment to policy further detailed	7*
c) Highlight that the Council's Whistleblowing policy as the means for licensing staff to raise concerns that the policy isn't being correctly applied.	12
d) Include details on rejecting applications	13*
e) Confirm the workforce and job role permitted on DBS certificates	14
f) Commit the Council to make use of the DBS service multi status check facility to periodically check batches of DBS certificates for recent changes.	14
g) Emphasis that applicants who have spent significant periods of time overseas must provide criminal record details or credible certificates of good character.	14
h) Formalise the two-way exchange of information with the DBS service, local police, National Anti-fraud network, MASH, neighbouring councils and other partners.	14/15
i) Amendment to DBS requirements to include standard/enhanced DBS and referencing	21 & 28 & 34*
j) Inclusion of time period for testing	22 and 29*



k) Extend Private Hire Operator records to include details of which staff took a customer service request and dispatched a vehicle.	33 and 75
l) Require Private Hire Operators to ensure they have seen a basic DBS certificate for all staff dealing with customer requests and dispatching vehicles.	34
m) Require Private Hire Operators to provide details of their policy regarding the employment of ex-offenders.	34
n) Addition that licence holders must comply with requests from officers of other local authorities, and comply with relevant statutory requirements. To aid consistency	37, 49, 60, 68
o) Clarify how complaints are used to target compliance and enforcement work.	37
p) Inclusion of failure to notify as an example for warnings	39*
q) Distinguish between motoring offences and those involving harassment, sex or violence, dishonesty or fraud.	46
r) Introducing a shorter notification period for questioning, arrest and release, interviewing voluntarily under caution, charging by the Police or conviction of a criminal offence regarding harassment, sexual offences, violent offences, dishonesty or fraud.	46
s) Amendment of timescale for consistency	53*
t) Amendment to cross referencing	65*

\* indicates amendment not required by statutory guidance

2.2 Changes to the taxi policy normally involve a period of consultation with trade representatives and other interested parties. However in this instance the majority of changes proposed are required by Government who expect them to be implemented in full unless there are compelling local reasons not to do so. The other change to the policy are not considered to be to the detriment to applicants however is it recommended that there is a short period of consultation to allow interested parties, including trade representatives, to feedback on the proposals.

2.3 Officers cannot envisage any compelling local reasons and it is therefore suggested that, given the circumstances the period of consultation should be no longer than 4 weeks.

### 3. **Proposal**

3.1 That Members consider Statutory Taxi and Private Hire Standards introduced by Government in July 2020.

3.2 That Members consider the amendments proposed in Appendix 1 to the Taxi Licensing policy 2019-2021 arising from the statutory standards.

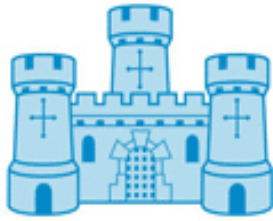
3.3 That Members consider minor amends to the Taxi Licensing Policy 2019-2021 arising from typographical and member feedback for Public Protection sub-committees.

- 3.4 That Members approve a consultation period appropriate for the proposed amendments to allow for feedback from interested parties. Officer recommendation is that the period should be no longer than 4 weeks.
- 3.5 That Members receive a further report detailing any feedback, requesting approval of the 2021-2023 Taxi Licensing Policy and agreeing a date for implementation.
4. **Reasons for Proposed Solution**
- 4.1 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards, and are expected to adopt them unless there are compelling local reasons not to.
5. **Options Considered**
- 5.1 To amend the authority's Taxi Licensing Policy to reflect the new statutory guidance **(RECOMMENDED)**.
6. **Legal and Statutory Implications**
- 6.1 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards.
7. **Equality Impact Assessment**
- 7.1 EIA was considered by Government in formulating the statutory guidance.
8. **Financial and Resource Implications**
- 8.1 There are no financial or resource impacts identified arising from this report.
9. **Major Risks**
- 9.1 The authority must report to the Department of Transport in January 2021 on its actions to consider and implement the statutory guidance.
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 Public Protection Committee, 20<sup>th</sup> August 2019 – adoption of the Taxi Licensing Policy 2019-2021
13. **List of Appendices**
- 13.1 Appendix 1 – draft version 10 NUL Taxi Policy Sept 2020.

14. **Background Papers**

14.1 Statutory Taxi & Private Hire Vehicle Standards – Department of Transport – July 2020

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

# Draft V10

**THE BOROUGH COUNCIL OF  
NEWCASTLE-UNDER-LYME**

**TAXI LICENSING POLICY**

**2021-2023**

<b>Document Control</b>	
Prepared by:	Matthew Burton
Title	Taxi Licensing Policy
Status	Approved
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Date of Review	July 2019

<b>Revision History</b>			
Version	Date	By	Summary of Change
1.0			Creation
1.1			Comments from
2.0	18.8.17	MBU	Amendments following working groups
3.0	17.11.17	MBU	Amendments following correspondence with Outside Bodies
4.0	26.1.18	MBU	Amendments following discussions with HoEH
5.0	17.7.18	MBU	Amendments following Taxi Conference and Jim Button training
6.0	30.7.18	MBU	Amendments following discussions with HoEH
7.0	30.8.18	MBU	Amendments following Internal Consultation
8.0	28.6.19	MBU	Amendments following decisions by Public Protection Committee on 11 <sup>th</sup> June 2019
9.0	30.11.19	MBU	Amendment to Appendix L with agreed vehicle signage at Committee on 22.10.19
Draft 10.0	15.09.20	MPB/MBU	Amendments to reflect Statutory Guidance issued by the Secretary of State for Transport July 2020, typographical and referencing amends and minor inconsistencies

<b>Approval Signature</b>			
Name:		Date	
Name:		Date	
Council	Approved	Date	

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## **Glossary**

- 'The Council' or 'the Authority' refers to Newcastle under Lyme Borough Council, except if stated otherwise;
- 'Drivers Licence' refers to the Dual Hackney Carriage and Private Hire Drivers Licence issued by the Council, except if stated otherwise;
- 'Driving' refers to an individual driving a 'Vehicle' or 'Licensed Vehicle' under their 'Drivers Licence'
- 'Garage Test' or 'Safety Test' refers to the mechanical safety test undertaken for all vehicles applying for the grant of a new or to renew a 'Vehicle' licence;
- 'Hackney Carriage' refers to a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire in the area covered by the Council;
- 'Medical Exemption Certificate' refers to a certificate that may be issued by 'the Council' under ss166, 169 and 171 of Equality Act 2010 to an individual with a 'Drivers Licence' to exempt them from the legal requirement to carry assistance dogs or offering assistance to passengers in a wheelchair;
- 'MOT' refers to a test carried out by an authorised vehicle examiner upon a 'Vehicle' in line with the statutory provisions;
- 'Private Hire Operator' refers to a person who holds an operator's licence under the Act and makes provision for the acceptance of private hire bookings for themselves or to pass to others to undertake;
- 'Private Hire Vehicle' refers to a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") to carry passengers for hire or reward by prior booking;
- 'Private Hire Vehicle Exemption Certificates' refers to a certificate that may be issued by 'the Council' under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 to exempt a 'Private Hire Vehicle' from certain statutory requirements and/or licence conditions;
- 'Taxi' refers to both a Hackney Carriage and Private Hire provisions;
- 'Vehicle' or 'Licensed Vehicle' refers to both a Hackney Carriage and Private Hire vehicle;
- 'Wheelchair Accessible Vehicle' refers to a vehicle that has been specifically designed, or converted, to allow for the safe carriage of at least one passenger in a wheelchair alongside the fixed seating arrangements of the 'Vehicle'.



## ABOUT THIS POLICY

### 1.1 Introduction

The Borough Council of Newcastle-under-Lyme ("the Council") is the licensing authority for the private hire and hackney carriage regime in the Borough of Newcastle-under-Lyme.

In carrying out its Taxi and Private Hire licensing function the Council seeks to promote the following objectives:

- Protection of the Public
- Safety and health of drivers and the public;
- High standards of vehicle safety, comfort and access;
- Prevention of crime and disorder and the protection of the consumers;
- Ensure that the decision making processes are transparent, and the resulting decisions are fair, proportionate and consistent;
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors and operators to demonstrate commitment to promoting these objectives.

In addition, this Policy attempts to encompass the Council's key corporate priorities of:

- Local Services that Work for Local People;
- Growing our People and Places;
- Healthy, Active and Safe Borough; and
- A Town Centre for All

The Policy seeks to ensure that transport for those with a disability will be provided.

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using taxi and private hire services.

Should you wish to contact the Council's Licensing Team, the address for correspondence is:

Licensing Administration Team  
Newcastle-under-Lyme Borough Council  
Castle House, Barracks Road  
Newcastle-under-Lyme,  
Staffordshire,  
ST5 1BL

T: 01782 717717

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

The main types of licence are:

1. **Dual Hackney Carriage and Private Hire Drivers' Licence** - All drivers of Hackney Carriages and Private Hire Vehicles ('Drivers') must hold a Dual Hackney Carriage and Private Hire Drivers' Licence issued by the Borough Council of Newcastle-under-Lyme;
2. **Private Hire Vehicle Licence** - Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council.
3. **Private Hire Operator Licence** - Private Hire Operators must be licensed by the Council, as must the Drivers and Vehicles they operate.
4. **Hackney Carriage Vehicle Licence** - Hackney Carriages (Taxis) must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on Taxis and Private Hire Vehicles can be complex. This document is intended to make it clear how the Council operates its licensing service.

Each time this policy is reviewed a new version will be produced. This edition was approved by the Public Protection Committee on 20<sup>th</sup> August 2019.

## 1.2 The Council's Mission Statement

### Scope

- 1.2.1 The Taxi Licensing Policy ('the Policy') is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriages, Private Hire Vehicles, Operators and Drivers.

### Purpose

- 1.2.2 The fundamental purpose of the Policy is to protect the safety and welfare of the public who live, work and visit the Borough of Newcastle-under-Lyme. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of the Borough's local economy is recognised; however, the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under the Policy.
- 1.2.3 Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available, or outside normal hours of operation, and assist those with mobility problems.
- 1.2.4 The main concerns for the Council are to ensure:
- the safeguarding of children, young persons and adults at risk of abuse and neglect;
  - that in order to promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to [Newcastle-under-Lyme BC's Safeguarding Policy](#), and Appendices A and K for further information);
  - that any person who applies to be a hackney carriage or private hire vehicle, driver or operator is a fit and proper person and does not pose a threat (in any form) to the public. The Council also use the phrase 'safe and suitable' in place of 'fit and proper' as an aid to interpret what is meant by it. The tests that the Council will use to determine whether an individual is considered fit and proper/safe and suitable to hold a licence are below:
    - For drivers: *"Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care, to get into a vehicle with this person alone?"*
    - For private hire operators: *"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"*
    - For vehicle proprietors: *"Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without*

*arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”.*

- that the public are safeguarded from dishonest persons; that vehicles used to convey passengers are safe and fit for the purpose for which they are licensed; and
- that the impact on the environment is reduced in line with European and national guidelines.

1.2.5 The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- persons who wish to apply for hackney carriage and private hire vehicle, drivers or operator licences; persons who hold existing licences, including those that are the subject of review;
- the Council, in its capacity as the licensing authority, including licensing officers, members of the public protection committee;
- service users who have concerns relating to an operator, vehicle or driver;
- licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates' and judges hearing appeals against Council decisions.

1.2.6 The Policy is also designed to put the Council's licensing requirements into context.

### 1.3 Consultation and Communication

1.3.1 In determining the Policy, the Council has consulted widely as set out on page 44. The views of relevant stakeholders have been taken into consideration.

1.3.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information in relation to the Policy; conditions; changes in the law and reviews. The methods of communication and consultation will be determined on what is most appropriate in the circumstances.

### 1.4 Review of the Policy

1.4.1 The policy will be formally reviewed after 3 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.

1.4.2 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.

### 1.5 Legislative framework

1.5.1 The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions, the Regulators' Code (BRDO 14/705 April 2014) and [the Secretary of State for Transport Statutory Taxi and Private Hire Vehicle Standards July](#)

2020, and such other guidance that may be issued from time to time by the Department for Transport and other Government departments.

- 1.5.2 The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

- Road Safety Act 2006
- Road Traffic Acts (Various)
- Criminal Justice & Public Order Act 1994
- Transport Act 1985

In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the authority must have regard to when exercising its licensing functions:

- [Safeguarding Policy](#)
- Equality & Diversity Policy
- [Data Protection Policy](#)
- [Enforcement Policy](#)

- 1.5.3 The General Data Protection Regulations ("GDPR") and the Data Protection Act 2018 ("DPA18") covers the collection, storage, processing and distribution of personal data. It also gives certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation to the fullest extent by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 obliges local authorities to comply with the below data protection principles. The principles state that the information shall be:

- used fairly, lawfully and transparently
- used for specified, explicit purposes
- used in a way that is adequate, relevant and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage

Further information about GDPR and DPA18 can be obtained at the Information Commissioner's website ([www.ico.gov.uk](http://www.ico.gov.uk)). Enquiries regarding the Council's use of personal data should be addressed to the Council's Data Protection Officer at [dataprotection@newcastle-staffs.gov.uk](mailto:dataprotection@newcastle-staffs.gov.uk)

- 1.5.4 The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with disabilities, e.g. those who need to carry oxygen for medical purposes or those with assistance dogs. This may have implications on the extent of the discretion that drivers have to refuse to carry passengers with certain disabilities.

## 1.6 Conditions

- 1.6.1 The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of the Policy, i.e. to protect the safety and welfare of the public, [and in particular children and vulnerable adults](#).

## 1.7 The Service provided by the Council

### Level of taxis and private hire vehicles in Newcastle-under-Lyme

- 1.7.1 There are, as at present, approximately **1000+** drivers, **80+** operators, **700+** private hire vehicles and **190+** hackney carriages (**NB:** numbers fluctuate as licences are granted, lapse or are surrendered based on market forces). The Council does not set a cap on the maximum number of licences it will issue.

### What can I expect from the Licensing Service?

- 1.7.2 You can expect a friendly and efficient service. The service aims to be focused on the public and the trade. If you have any concerns about the service you receive please contact a member of the licensing team in the first instance.

Ultimately, if you are unhappy with the service provided you can escalate this via the Council's complaints procedure which can be found at: <https://www.newcastle-staffs.gov.uk/all-services/advice/complaints-comments-and-compliments>

The Council's performance should be open to scrutiny and you should know when you can expect to receive an answer. We have therefore set the following service standards:

- To submit an online Disclosure and Barring Service Check form (DBS form) within 2 working days of receipt of the relevant supporting documentation subject to any relevant Home Office checks being carried out;
- To issue a vehicle licence plate within 5 working days of receiving all the relevant documentation;
- It is the Council's aim to process all valid renewal applications within 10 working days;
- To respond to voicemails and messages within 1 working day or receipt;
- To acknowledge any email received within 2 working days of receipt;
- To acknowledge letters within 5 working days of receipt;
- To respond to enquiries within 10 working days;
- Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

### Our approach

- 1.7.3 The Council aim to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately reduce the availability and increase the cost of taxis/private hire vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public.

The Council are committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in as user friendly form as possible.

### Public Register

- 1.7.4 The Council will hold and maintain a register for all the licences which it issues. The information held on the register will be restricted to the name of the licence holder; a unique licence number; the date of commencement; and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Councils Licensing team and where possible will be published on the Councils website.

## LICENSING PRINCIPLES, DELEGATION AND DECISIONS

### 2.1 Licensing Principles

- 2.1.1 The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.
- 2.1.2 This part of the Policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Public Protection Committee and officers of the Council.
- 2.1.3 The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc. may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.
- 2.1.4 All licence applications will be considered and determined on their own individual merits, [but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services.](#)

### 2.2 Licensing Process and Delegation of Functions

- 2.2.1 The Council is the licensing authority. The Council's constitution delegates all functions relating to the licensing of private hire/taxis to the Public Protection Committee, Sub-Committee and authorised officers of the Council, with the exception of the Taxi and Private Hire Licensing Policies which are subject to approval by full Council.
- 2.2.2 Whilst officers and the relevant committees will, in the majority of cases, follow Policy [and statutory guidance](#), there may be specific circumstances that require a departure from [these](#). In such circumstances, the reasons for departing from Policy [or Guidance](#) will be made clear.

### 2.3 Committees

#### 2.3.1 Public Protection Committee

This Committee is currently made up of 15 members of the Council. It deals with policy issues, standard conditions of licence, the setting of fees and charges and hackney carriage fares. Further details can be found on the Council website: <https://www.newcastle-staffs.gov.uk/all-services/your-council>

#### 2.3.2 Public Protection Sub-committee

This Committee is made up of a selection of Members from the Public Protection Committee. Three to Four members will sit on hearings to deal with new applications, renewals and reviews of licences that are referred by officers, with a quorum of 3 members. Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to:

- hackney carriage and private hire legislation,
- this Policy,
- The Council's Safeguarding Policy,
- Department for Transport and any other Government Guidance as applicable;
- Road Traffic Act 1988 and other relevant road traffic legislation including MOT provisions,
- Human Rights Act 1998,
- Equality Act 2010,
- Deregulation Act 2015,
- Immigration Act 2016
- any relevant legal case law; and
- other relevant Council policies.

## **2.4 Decisions**

2.4.1 The Council, by virtue of a duly authorised officer, has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings or issues cautions where applicable.

2.4.2 Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning will be made in accordance with the Council's scheme of delegation and other relevant policies, [statutory guidance](#) and procedures.

2.4.3 Where applications are to be determined, the officer, or Public Protection Sub-committee as appropriate will take into consideration:

- the facts of the application;
- any information and/or evidence provided by other interested parties including, but not restricted to, officers from the Council with responsibility for safeguarding, testing vehicles or enforcement and officers from Staffordshire Police; and

In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or hearing.

2.4.4 Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered within 7 days or as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

2.4.5 Licensing decisions are made in accordance with the powers and authorities delegated by the Council's constitution:

- Decisions on driver's applications are taken by a duly authorised officer or the Public Protection Sub-Committee.
- Decisions on vehicles are taken by a duly authorised officer or the Public Protection Sub-Committee.
- Decisions on existing and prospective private hire operators are taken by the Public Protection Sub-committee, except where renewal of an existing operator licence is within the scope of this policy.

### **Application/Renewal Decision**



- 2.4.6 Where the Council **is minded to not** approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.
- 2.4.7 Where an application is incomplete or does not meet the application criteria the Council will reject the application. This will be confirmed in writing.

#### **Decision to suspend/revoke a licence**

- 2.4.8 Suspension, Immediate Suspension, Revocation and Immediate Revocation of a dual drivers licence can be carried out by the Public Protection Committee, Sub-Committee, or a duly authorised officer of the Council.

Where the Council **is minded to** suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, by telephone or face to face, or in writing by letter or email before the decision is taken.

- 2.4.9 Suspension or Revocation of a vehicle licence can be carried out by a duly authorised officer, Public Protection Committee or the Public Protection Sub-Committee.

## **2.5 Appeals**

- 2.5.1 If the applicant/licence holder is aggrieved by the decision of the Council he/she may appeal to the relevant court (in most cases the Magistrates Court). The appeal needs to be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

## **2.6 Working in partnership**

- 2.6.1 The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, neighbouring local authorities, Staffordshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits teams, Safeguarding Partnerships and consumer groups.
- 2.6.2 The Borough Council of Newcastle-under-Lyme regularly meets and shares information with other enforcement authorities including Staffordshire Police and Staffordshire Trading Standards through the Newcastle-under-Lyme Responsible Bodies Group (RBG) and Stoke on Trent and Staffordshire Responsible Bodies Group (SSRBG).
- 2.6.3 The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure protection of the public.
- 2.6.4 **Where licensing staff do not consider that this policy is being correctly applied they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.**



## TYPES OF LICENCE & APPLICATIONS

### 3.1 General Information

This part of the Policy concerns the types of licence and the necessary steps required to obtain and hold such a licence. These steps include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

#### 3.1.1 The following are applicable to all licence types:

- a. Where an applicant has failed to declare relevant information or provided false information, the application is likely to be refused [since these acts are seen as behaviour that brings into question the applicants honesty and suitability to hold a licence](#); where this relates to an existing licence, the licence is likely to be considered for revocation [on the same grounds](#). Applicants are reminded that it is an offence to knowingly or recklessly make a false declaration or omit any material particularly when giving information required for the application for a licence;
- b. All licence fees are payable at the time of application in full. Where a licence is not granted, i.e. the applicant withdraws their application a portion of the fees may be returned to the applicant. The actual amount of the refund will depend upon the progress of the application at the time the applicant withdraws;
- c. In the event that an application for a licence is paid by cheque, the application will not be valid until such time as the cheque has cleared. In the event that the cheque does not clear and the licence has been issued, the Council will suspend the licence until such time as full payment has been received;
- d. The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant's control, e.g. external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned. A refund may be made for abandoned applications depending on the level of work that has already been carried out.
- e. Where a licence has lapsed, been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedures before the Council will consider the application;
- f. When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

#### Appointments

- 3.1.2 The Council operates an appointment system. **Applicants will not be seen and applications will not be accepted without an appointment without prior agreement by a Council Officer.** To assist drivers, vehicle owners and operators to make appointments in a timely manner, the Council will endeavour to notify all operators and proprietors of vehicles that their licence is due to expire at least four weeks before the actual expiry of a licence.

The Council will endeavour to notify drivers at least three months before the actual expiry date of their licence. This is to allow sufficient time for DBS checks to be undertaken and returned, and any necessary training or other requirements to be completed.

#### IMPORTANT:

**However, it is the licence holder's responsibility and the onus is on them to ensure that a renewal application is made in good time. Under no circumstances will a licence be issued without satisfactory completion of all required checks.**

### Disclosure & Barring Service (DBS) data and other relevant information

- 3.1.3 The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and will retain a copy for the certificate in line with the Council's data retention policy and data protection legislation. DBS certificates must be in the correct workforce (i.e. 'Other Workforce') and for the correct job role (i.e. Taxi Driver or Taxi Licensing). Further information about the DBS can be found at:

<https://www.gov.uk/government/organisations/disclosure-and-barringservice/about>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided:-

- It is for 'other workforce';
- It includes both of the Barring checks
- It is for the same job role (Taxi Driver or Taxi Licensing)
- It is presented to the Council for verification within 3 months of issue date of the certificate
- the applicant has subscribed to the DBS Update Service; and
- the applicant has authorised the Council to access the relevant online record

Further information can be found at:

<https://www.gov.uk/dbs-update-service>

The Council will make regular use of the Multiple Status Check Facility provided by the DBS service and, where this shows changes to a licensee's record, a new DBS disclosure will be required. **The licensee is required to pay the appropriate fee before the new DBS disclosure application is submitted.**

- 3.1.4 Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

- 3.1.5 Drivers who undertake work for County Council transport contracts, e.g. school contracts, are advised to contact the Transport and Connected County Unit at Staffordshire County Council in order to ascertain the level of criminal record disclosure required and any other requirements in this respect. Information will be shared between Staffordshire County Council and the Borough Council about individuals and businesses that apply and/or tender to deliver passenger transport contracts.

<https://www.staffordshire.gov.uk/Education/School-transport-provider-information/Home.aspx>

The Transport and Connected County Unit can be contacted by email at:

[transportcontracts@staffordshire.gov.uk](mailto:transportcontracts@staffordshire.gov.uk)

- 3.1.7 In addition to information via the DBS service the authority maintains close links with the local police licensing unit ensuring that information held by either party, relevant to taxi and private hire driver licensing, is efficiently and effectively shared under existing protocols.

- 3.1.8 Where the local authority obtains or holds relevant information not known to the DBS service or the local police they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual

presents a risk of harm to a child or vulnerable adult.

- 3.1.9 The authority will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the national register maintained by the National Anti-Fraud Network known as the 'NR3' register.

### Counter-Terrorism and Security Act 2015

- 3.1.10 The Council has a duty under the Counter-Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism.

The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under section 29 of the CTSA and in particular to ensure that they:

- understand what radicalisation means and why people may be vulnerable to being drawn into terrorism;
- are aware of extremism and the relationship between extremism and terrorism;
- know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- obtain support for people who obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in illegal terrorist related activity, the applicant/licence holder must refer such person or activity to the police.

For more information please see:

<https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-and-communities>

<https://www.gov.uk/government/publications/prevent-duty-catalogue-of-training-courses>

### Immigration Act 2016

- 3.1.11 As of 1<sup>st</sup> December 2016 the Council are obliged to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found here:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with ones of the documents listed in Annex A of the Government Guidance.

Where an applicant cannot provide a **current** proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK then the Council will only issue a licence up until the expiry date of that document.

## 3.2 Dual Hackney Carriage and Private Hire Drivers Licences

- 3.2.1 It is the responsibility of the Council to protect the public and to ensure that before anyone is granted a licence the Council is satisfied that he/she is a "fit and proper" person to hold such a licence.

There is no agreed definition for "fit and proper" - in the absence of such a definition, the Council will use the widely accepted interpretation of:

*"Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care, to get into a vehicle with this person alone at any time of day or night?"*

If, on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence.

#### Period of licence

3.2.2 New and renewal driver licences will be valid for three years unless otherwise indicated by a medical practitioner as part of the medical examination, or there is a time limited right to work in the UK in which case the licence will be valid for the period indicated by the medical practitioner or document respectively or decided by Public Protection Sub-Committee.

3.2.3 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information / documentation and will be informed that the application will not be accepted until such time as all required information/documentation is provided.

The full fee for the licence is payable at the time the application is submitted.

3.2.4 In addition to submitting the application form and fee an applicant must:

- Be over 21 years of age
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 3 years. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the Government for exchanging/applying for a DVLA licence (<https://www.gov.uk/exchange-foreign-driving-licence>)
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service;
- Provide one (1) passport sized photograph or be prepared for a digital photograph to be taken at your appointment;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements, where applicable;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's knowledge test;
- Pass Disability Equality Training approved by the Council
- Provide a Safeguarding and Child Sexual Exploitation Awareness training certificate issued by the Council or by Staffordshire County Council within the previous 3 months;
- Undergo Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Practitioner who confirms they have had access to the full medical records when determining the applicant's fitness to drive issued within the previous 3 months;
- Complete a DVLA data protection mandate (DP20) or provide a DVLA online check code
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver.

3.2.5 On renewal of an existing licence, applicants must:

- Submit a completed application form;

- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 3 years;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the update service with a relevant up to date certificate.
- Authorise the Council to access the relevant online record via the DBS update service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices
- Provide One (1) passport sized photograph or be prepared for a digital photograph to be taken at your appointment;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements;
- Provide a Safeguarding and Child Sexual Exploitation Awareness training certificate issued by the Council or by Staffordshire County Council within the previous 3 months;
- Pass Disability equality training approved by the Council. (first renewal after policy implementation only)
- Undergo Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Practitioner who confirms they have had access to the full medical records when determining the applicant's fitness to drive issued within the previous 3 months. All licensed drivers aged 65 years and over must undertake a medical examination annually and produce the report to the Council;
- Complete a DVLA data protection mandate (DP20) or provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver. If the applicant is unable to satisfy the Council then it may require them to undertake and pass the Council's knowledge test.
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council (first renewal after policy implementation only);

3.2.6 Providing the above are satisfied, the Council will renew the licence. It is the responsibility of the applicant to provide the Council with the DBS certificate once received. A licence will not be issued without a current DBS certificate, or any of the other specified documents that make up a complete application.

3.2.7 To allow continuous driving, applicants for licence renewals should allow at least eight weeks for the DBS check. Valid renewal applications (including a current DBS certificate) must be received by the Council at least 5 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application.

Where applicants fail to submit a valid renewal application within this timescale, their licence may expire before the renewal is issued. Once a licence expires, is revoked (subject to a statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive a Hackney Carriage or Private Hire Vehicle in these circumstances.

It is the driver's responsibility to notify the Council of any cautions, convictions or other disposals received during the course of a licence period, in line with the driver code of conduct. Failure to notify the Council at the time of the caution, conviction or disposal may lead to a licence being referred to the Public Protection Sub-Committee to be determined. In these instances the Council will not issue a licence for any interim period between the expiry of the current licence and the next available Public Protection Sub-Committee hearing.

3.2.8 Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new driver licence application which will be processed in accordance with the Council's new application procedures.

The main legal requirements of the driver licence are as follows. The full driver code of conduct

is shown in **Appendix B**:

Production of documents

- 3.2.9 The driver must, on request, produce for inspection their hackney carriage/private hire driver's licence immediately or within 7 days to either the Council's offices or a police station.

Driver's badges and licences

- 3.2.10 The badge must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible. The driver must also display the second badge issued by Council in a prominent position within the vehicle that they are currently driving so that it is clearly and distinctly visible to all passengers whenever he/she is acting as a hackney carriage or private hire driver.
- 3.2.11 All drivers of vehicles licensed for hackney purposes of which they are not the proprietor, must before commencing driving that vehicle, deposit their driver's licence (paper counterpart) with the proprietor **before** commencing driving the vehicle. The vehicle proprietor must retain the licence until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.
- 3.2.12 On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the driver's licence, the licence holder must return the badges and licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

Journeys

- 3.2.13 Drivers must not unnecessarily prolong a journey, in distance or in time.

Vehicles

- 3.2.14 Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes

Driving Licensed Vehicles

- 3.2.15 Only drivers who are licensed by the Council that licensed the vehicle are permitted to drive the licensed vehicle. The only exceptions to this are when the vehicle is undergoing an MOT test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation.

Smoking in vehicles

- 3.2.16 Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes the use of electronic cigarette and/or vapourisers etc. If drivers are witnessed smoking, or allowing a passenger to smoke, in a licensed vehicle then they may be served with a fixed penalty notice, issued with a warning and/or referred to the Public Protection Sub-Committee. Drivers smoking when their vehicle is parked / not hired must get out and step away from their vehicle.

Transporting children

- 3.2.17 Drivers must inform parents/carers that the decision to permit children to travel in the vehicle, without the correctly sized seat restraints (as permitted by relevant legislation) and with the obvious risks associated with such an action, remains with the parent/carer responsible for the children. Failure to use a child car seat or similar designed apparatus where available, will enable the driver to refuse the carriage of that child/young person. However drivers will not be able to refuse to carry children if the booking they are carrying out is under a Staffordshire

County Council, or other relevant body, contract for carrying vulnerable persons, and if appropriate they may be carried in the front passenger compartment of the vehicle.

However once in the vehicle it is the driver's responsibility to ensure that passengers under 14 years old are correctly restrained.

### **Dual Drivers in Hackney Carriage Vehicles**

#### Touting

- 3.2.18 A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose. This is an offence under the Criminal Justice and Public Order Act 1994, section 167.

#### Plying for hire

- 3.2.19 Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at **Appendix F** and is based on relevant legislation and case law.

#### Refusing to convey passengers

- 3.2.20 A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger without a reasonable excuse. E.g. if the person/s are severely intoxicated or being abusive to the driver.

#### Overcharging

- 3.2.21 Drivers of hackney carriages must not charge more than is permitted under the current table of fares. Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commenced must not charge more than that indicated on the taximeter or more than the current table of fares allows.

#### Persons riding without consent

- 3.2.22 Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent from the person who is actually hiring the vehicle.

#### Unlicensed drivers

- 3.2.23 Licensed drivers of hackney carriages must not allow any persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate licence to do so.

#### Obstruction

- 3.2.24 Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities, on a rank or other designated collection point.

## **3.3 Hackney Carriage Vehicle Licences**

### **Summary**

- 3.3.1 Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.3.2 Commonly known as 'taxis', hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.

3.3.3 All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council. Under s.167 Equality Act 2010 the Council may create a list of all licensed Wheelchair Accessible Vehicles, placing the below duties on the driver:

- (a) to carry the passenger while in the wheelchair;
- (b) not to make any additional charge for doing so;
- (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- (e) to give the passenger such mobility assistance as is reasonably required.

3.3.4 The Council will not licence a vehicle for hire and reward which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.

3.3.5 The Council does not limit the number of hackney carriage vehicle licences that it will issue.

#### **Period of licence**

3.3.6 Vehicle licences will be issued for 12 months.

3.3.7 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/Logbook.

#### **Vehicles**

3.3.8 The Council requires all hackney carriage vehicles to comply with specifications and requirements set out in **Appendix E** and advises all applicants and current licence holders to familiarise themselves with this section.

3.3.9 Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time. E.g. If the vehicle has X number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry X + 1 passengers. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

#### **Vehicle Type and Age**

3.3.10 Upon first application all vehicles must be a purpose built hackney carriage, wheelchair accessible, or converted to conform with European type approval and be less than 7 years old.

3.3.11 There is no maximum age for vehicles to be licensed. At 10 years old all vehicles will require a Council Vehicle Test prior to each renewal and at 6 monthly intervals.

#### **Grandfather Rights**

3.3.12 Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are



licensed at the time this version of the policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months. The cost of the tests will be met by the vehicle owner. At each renewal test, and subsequent 6 month test the vehicle will be permitted **one** retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

- 3.3.13 Current holders of Hackney Carriage licences for non-wheelchair accessible vehicles (i.e. saloons, hatchbacks and estates) will continue to benefit from existing grandfather rights allowing them to replace their current vehicle, with another non-wheelchair accessible vehicle either during the licence period or at the expiry date of the licence. However those rights will cease if the vehicle is transferred to another proprietor/s.

#### **Taximeters**

- 3.3.14 All hackney carriage vehicles are required to be fitted with taximeters that comply with the specifications and requirements set out in **Appendix E** and all applicants and current licence holders are advised to familiarise themselves with this section.

#### **Application and Supporting Documentation**

***The application process to licence a hackney carriage vehicle is the same for a new or renewal application.***

- 3.3.15 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.
- 3.3.16 Any person wishing to licence a hackney carriage vehicle must submit:
- a) A completed application form;
  - b) A Basic Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service ([unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process](#));
  - c) A Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions';
  - d) the appropriate licence fee (in full at the time of application);
  - e) a valid MOT (in accordance with the requirements set out at paragraph 3.3.17 below);
  - f) a current vehicle fitness/garage test pass certificate (from the Council's Garage);
  - h) a valid certificate of insurance for public hire, **This must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.**
  - g) the V5 registration certificate (or alternative interim measure outlined in paragraph 3.3.21 below);
  - g) a valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements set out in **Appendix E**
  - h) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.);

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of non-

mechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

### **Vehicle Testing Requirements**

#### **MOT**

3.3.17 MOTs are required in accordance with the following requirements:

- a) Vehicles must be submitted for an MOT inspection at least once per year, and if deemed necessary by an authorised officer. The applicant must produce valid MOT certificates to the Council in this respect;
- b) MOTs must be undertaken by a 'Nominated Tester' or Authorised Vehicle Examiner at a Vehicle Testing Station appointed under Section 45 of The Road Traffic Act 1988; the cost of all tests must be met by the vehicle proprietor;
- c) If the vehicle is less than 12 months old when first licensed then the first MOT is due during the first licence period. If a vehicle is over 12 months old when first licensed then it will require an MOT prior to being licensed;
- d) With respect to a licensed vehicle, in the event of a proprietor failing to present to the Council an MOT test certificate as required (unless delayed or prevented by sufficient cause accepted and agreed by the Council), the Council may suspend the licence and require the proprietor of that vehicle to return the plate to them within 72 hours of receipt of the written request.

#### **Vehicle Fitness/Garage Test**

3.3.18 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council Garage, Central Depot, Knutton Lane, Newcastle-under-Lyme, ST5 2SL, or at an alternative location as authorised by the Council.

3.3.19 The frequency of testing is once per year, vehicles can be presented for test up to 8 weeks prior to the Council issuing a renewed licence. An authorised officer of the Council may request that an additional test is carried out during the licence period. All costs of the test are to be made by the vehicle proprietor.

It is the proprietor's responsibility to organise the testing of the vehicle before the existing plate expires. Applicants should note that the earliest you can present your vehicle for test is one month prior to its current expiry date.

3.3.20 Where a vehicle licence is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted.

Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

#### **V5 registration certificate**

3.3.21 The Council accepts that a full V5 registration form in the new keeper's name is not always

available upon first licence; however, the V5/2 green section of the V5 form must be produced along with the proof of purchase. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new keeper's name must be produced to the Council within 7 days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.

### **Renewal of a Licence**

- 3.3.22 To allow the vehicle's licence to be renewed, a renewal application form must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application. It is the Council's intention to process all valid renewal applications within 10 working days; hence, where applicants fail to submit their renewal application within this timescale, the risk that their licence will expire increases. Once a licence expires, is revoked (subject to a statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive the vehicle as a Hackney Carriage Vehicle in these circumstances.
- 3.3.23 Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

### **Vehicle Not Fit for the Conveyance of Passengers**

- 3.3.24 Where a proprietor has notified the Council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, an authorised officer of the Council may at that time suspend the vehicle licence and require the proprietor of the vehicle to return the vehicle's plate to them within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. A vehicle fitness/garage test will be required to determine whether the suspension can be lifted.

### **Advertising**

- 3.3.25 Proprietors are not permitted to advertise any third party company/person on hackney carriages vehicles at any time.

### **Signage**

- 3.3.26 All Hackney Carriage vehicles must display the vehicles signs shown in **Appendix L** on the exterior of the rear passenger door on both sides of the vehicle, at all times that the vehicle is a licensed by the Council.

### **Closed Circuit Television (CCTV)**

- 3.3.27 Proprietors of hackney carriage or private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

### **Trailers**

- 3.3.28 Hackney carriages are permitted to tow trailers when undertaking the licensable activity, providing the conditions set out at **Appendix D** are complied with.

### **Ranks**

- 3.3.29 The Highways section of Staffordshire Council is primarily responsible for the creation of ranks and will work with the hackney carriage trade, the Council and Staffordshire Police to determine where ranks/stands ought to be situated.
- 3.3.30 Where a driver is plying for hire and is illegally parked or creating an obstruction or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location (this does not include a legitimate period of time where a hackney carriage has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

### **LPG Converted Vehicles**

- 3.3.31 The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. The Council will undertake a check of the UK LPG Vehicle Register.
- 3.3.32 With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application.
- 3.3.33 In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of the conversion. The Council will suspend the vehicle licence until such time as evidence is available on the UK LPG Vehicle Register. If the necessary evidence is not available on the UK LPG Vehicle Register within 28 days from the date the licence was suspended the Council will revoke the licence.
- 3.3.34 In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, an authorised officer of the Council will suspend the licence until such time as necessary works to the conversion have been undertaken and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 28 days from the date the licence was suspended the Council will revoke the licence.

### **Electric and Zero Emission Capable Vehicles**

- 3.3.35 The Council encourages and promotes the purchase of fully electric and zero emission capable vehicles to be licensed as Hackney Carriages. Where possible the Council will seek to implement a number of 'plug-in' points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities. Hybrid vehicles will not be permitted as Hackney Carriages unless they also fulfil the Wheelchair Accessible Vehicle requirements, or are a vehicle operating under Grandfather Rights. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

### **Hackney Carriage Fares**

- 3.3.36 The hackney carriage trade will be expected to apply for any change to the hackney carriage fares. Any proposed changes will be considered by the Public Protection Committee, notified to all hackney carriage licence holders and advertised in the local press before they are adopted. This does not preclude the Council from putting forward changes to the fares or taking a decision not to accept the application from the trade.

#### **Licence conditions**

- 3.3.37 The applicable conditions relevant to a hackney carriage licence are set out at **Appendix D**; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of the Policy.

#### **Change of proprietor and/or driver**

- 3.3.38 The proprietor must give notice to the Council of any transfer in her/his interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for proprietors.

The proprietor must give notice to the Council when any changes are made as to driver of the vehicle.

#### **Change of address**

- 3.3.39 The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

#### **Retention of drivers licences**

- 3.3.40 A proprietor of a hackney carriage must ensure that each driver's licence is lodged with the proprietor before the driver is employed to carry out work and must retain the licence in their possession for the period during which the driver remains in their employ. When a driver leaves the employ of a proprietor, the proprietor must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint determined by the Courts. (Note: If the Courts find that the licence has been improperly retained they have the powers to order its return and to award compensation.)

#### **Inspection**

- 3.3.41 The proprietor must present their hackney carriage for inspection/testing by the Council as required, up to a maximum of 3 times per year. If a vehicle continually fails tests and/or is found to be unsuitable following inspections or repeatedly fails to attend then the Council may suspend or revoke the vehicle licence.
- 3.3.42 The proprietor must provide, on request, the address where the hackney carriage is kept and allow the Council to inspect/test the vehicle at that address.

#### **Accidents**

- 3.3.43 The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must also report to the Council any accident as soon as reasonably practicable. However, where the

vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours.

#### **Production of documents**

- 3.3.44 The proprietor must, on request by an authorised officer of the Council or a police officer, produce to the officer for inspection the hackney carriage vehicle licence and insurance certificate within 7 days.

#### **Return of identification plates**

- 3.3.45 Where a licence is revoked or suspended, the proprietor, when required by the Council to do so, must return the identification plates within 7 days otherwise further action may be taken against the licence holder. Where the licence plate expires, no replacement plates will be issued until the expired plates are returned to the Council.

#### **Ranks**

- 3.3.46 Hackney carriage ranks/stands are provided in accordance with the Local Government (Miscellaneous Provisions) Act 1976. There are currently three ranks appointed in the Borough Council of Newcastle-under-Lyme area.

#### **Fares**

- 3.3.47 Drivers of hackney carriages must not charge more than is permitted under the current table of fares. Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commenced must not charge more than that indicated on the taximeter or more than the current table of fares allows.
- 3.3.48 Where a hackney carriage is used for a private hire contract the fare charged must not exceed the fares set down in the current table of fares unless it has been agreed in advance between the driver and passenger and the journey is not wholly within the administrative area of the Borough Council.

#### **Parking/waiting**

- 3.3.49 Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them.

The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986.

### **3.4 Private Hire Vehicle Licences**

#### **Summary**

- 3.4.1 Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.

- 3.4.2 When considering whether a vehicle is a private hire vehicle by the nature of the work it does, the Borough Council of Newcastle-under-Lyme will have regard to the document - [Private Hire Vehicle Licensing - A note for guidance from the Department for Transport \(August 2011\) and any other subsequent Government issued guidance.](#)
- 3.4.3 The Council cannot limit the number of private hire vehicle licences that it will issue.
- 3.4.4 The Council will not licence a vehicle for private hire which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.
- 3.4.5 All private hire vehicles shall be capable of providing for at least one wheelchair if designated as a Wheelchair Accessible Vehicle by the Council. Under s.167 Equality Act 2010 the Council may create a list of all licensed Wheelchair Accessible Vehicles, placing the below duties on the driver:
- (a) to carry the passenger while in the wheelchair;
  - (b) not to make any additional charge for doing so;
  - (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
  - (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
  - (e) to give the passenger such mobility assistance as is reasonably required.

#### **Period of licence**

- 3.4.5 Vehicle licences will be issued for 12 months.
- 3.4.6 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/Logbook.

#### **Vehicles**

- 3.4.7 The Council requires all private hire vehicles to comply with specifications and requirements set out in **Appendix H** and advises all applicants and current licence holders to familiarise themselves with this section.

Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time. Eg. If the vehicle has X number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry X + 1 passengers. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

#### **Vehicle Age**

- 3.4.8 Upon first application all vehicles must be less than 7 years old
- 3.4.9 There is no maximum age for vehicles to be licensed. At 10 years old all vehicles will require a Council Vehicle Test prior to each renewal and at 6 monthly intervals.

#### **Grandfather Rights**

- 3.4.10 Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this version of the policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months. The cost of the tests will be met by the vehicle owner. At each renewal test, and subsequent 6 month test will be permitted **one** retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

#### **Taximeters**

- 3.4.11 Private Hire vehicles are not required to be fitted with taximeters but if they do then they must comply with the specifications and requirements set out in **Appendix H** and the Council advises all applicants and current licence holders to familiarise themselves with this section.  
***The application process to licence a Private Hire vehicle is the same for a new or renewal application.***

#### **Application**

- 3.4.12 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.
- 3.4.13 Any person wishing to licence a private hire vehicle must submit:
- a) A completed application form;
  - b) A Basic Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service ([unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process](#));
  - c) Complete a Statutory Declaration detailing the complete history of any criminal or motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices;
  - d) the appropriate licence fee (in full at the time of application);
  - e) a valid MOT (in accordance with the requirements set out at paragraph 3.4.14 below);
  - f) a current vehicle fitness/garage test pass certificate (from the Council's Garage);
  - g) a valid certificate of insurance for public hire, This must remain valid for the period of the licence and must be produced on demand to an authorised officer or Police, and in any case within 24 hours.
  - h) the V5 registration certificate (or alternative interim measure outlined in paragraph 3.4.19 below);
  - i) where a taximeter is fitted - a valid certificate/report to confirm the vehicles taximeter is fitted in accordance with the requirements set out at **Appendix H**
  - j) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998. (NB. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations.);

Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB. Council officers will check that the provision of non-mechanical ramps is being maintained by the vehicle proprietor.); and

Where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided that has been issued by an approved installer.



## **Vehicle Testing Requirements**

### **MOT**

3.4.14 MOTs are required in accordance with the following requirements:

- a. Vehicles must be submitted for an MOT inspection at least once per year, and if deemed necessary by an authorised officer. The applicant must produce valid MOT certificates to the Council in this respect;
- b. MOTs must be undertaken by a 'Nominated Tester' or Authorised Vehicle Examiner at a Vehicle Testing Station appointed under Section 45 of The Road Traffic Act 1988; the cost of all tests must be met by the vehicle proprietor;
- c. Vehicles will not require an MOT until they turn 3 years old. Once they turn 3 years old then it must have a valid MOT throughout the licence period;
- d. With respect to a licensed vehicle, in the event of a proprietor failing to present to the Council an MOT test certificate as required (unless delayed or prevented by sufficient cause accepted and agreed by the Council), the Council may suspend the licence and require the proprietor of that vehicle to return the plate to them within 72 hours of receipt of the written request.

### **Vehicle Fitness/Garage Test**

3.4.15 The Council requires all vehicles to be tested at least once a year, depending on the age of the vehicle, to ensure that they are suitable and 'fit' to be licensed.

Testing of all vehicles takes place at the Council Garage, Central Depot, Knutton Lane, Newcastle-under-Lyme, ST5 2SL, or at an alternative location as authorised by the Council.

3.4.16 The frequency of testing is once per year, vehicles can be presented for test up to 8 weeks prior to the Council issuing a renewed licence. An authorised officer of the Council may request that an additional test is carried out during the licence period. All costs of the test are to be made by the vehicle proprietor.

3.4.17 It is the proprietor's responsibility to organise the testing of the vehicle before the existing plate expires. Applicants should note that the earliest you can present your vehicle for test is one month prior to its current expiry date.

Where a vehicle is suspended as a result of an accident; a garage test will be required to confirm that it is roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness/garage test pass certificate will be required before the suspension can be lifted.

3.4.18 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for a re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

### **V5 registration certificate**

3.4.19 The Council accepts that a full V5 registration form in the new owner's name is not always available upon first licence; however, the V5/2 green section of the V5 form must be produced along with the proof of purchase. Where the green section has been produced on first licensing the vehicle, a full V5 form in the new owner's name must be produced to the Council within 7

days of the form being received by the owner of the vehicle. A V5 form or proof of purchase must be produced upon transfer of a vehicle licence.

### **Renewal of a Licence**

3.4.20 To allow the vehicle's licence to be renewed, a renewal application form must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application. It is the Council's intention to process all valid renewal applications within 10 working days; hence, where applicants fail to submit their renewal application within this timescale, the risk that their licence will expire increases. Once a licence expires, is revoked (subject to a statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive the vehicle as a Hackney Carriage or Private Hire Vehicle in these circumstances.

3.4.21 Once a licence ceases to exist a renewal application will not be accepted by the Council and the applicant must submit a new vehicle licence application which will be processed in accordance with the Council's new application procedures.

### **Vehicle Not Fit for the Conveyance of Passengers**

3.4.22 Where a proprietor has notified the Council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not. If not, an authorised officer of the Council may at that time suspend the vehicle licence and require the proprietor of the vehicle to return the vehicle's plate to them within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council, to be fit for conveying passengers. A vehicle fitness/garage test will be required to determine whether the suspension can be lifted.

### **Advertising**

3.4.23 Proprietors are not permitted to advertise any third party company/person on private hire vehicles at any time.

### **Signage**

3.4.24 All Private Hire vehicles will be required to display the signs as detailed in **Appendix L** on the exterior of the rear passenger door on both sides of the vehicle, at all times that the vehicle is licensed by the Council.

### **Closed Circuit Television (CCTV)**

3.4.25 Proprietors of hackney carriage or private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. For further information:

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

### **Trailers**

- 3.4.26 Private hire vehicles are permitted to tow trailers when undertaking the licensable activity, providing the conditions set out at **Appendix G** are complied with.

#### **LPG Converted Vehicles**

- 3.4.27 The Council must be satisfied that any vehicle that has been converted to LPG has been converted correctly prior to a licence being issued. The Council will undertake a check of the UK LPG Vehicle Register.
- 3.4.28 With respect to new applications, where it is established that a conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, the Council will refuse the application.
- 3.4.29 In the event that an LPG conversion has been undertaken on a vehicle during a current licenced period and the proprietor of the vehicle fails to notify the Council within 7 days of the conversion. The Council will suspend the vehicle licence until such time as evidence is available on the UK LPG Vehicle Register. If the necessary evidence is not available on the UK LPG Vehicle Register within 28 days from the date the licence was suspended the Council will revoke the licence.
- 3.4.30 In the case of a conversion that has been undertaken on a vehicle during a current licenced period and it is subsequently established that the conversion has not been undertaken correctly and/or the vehicle is unsafe in any way, an authorised officer of the Council will suspend the licence until such time as necessary works to the conversion have been undertaken and/or it is demonstrated to the satisfaction of the Council that the vehicle is safe. If this does not occur within a period of 28 days from the date the licence was suspended the Council will revoke the licence.

#### **Electric and Zero Emission Capable/Hybrid Vehicles**

- 3.4.31 The Council encourages and promotes the purchase of fully electric and zero emission capable or hybrid vehicles to be licensed as Private Hire Vehicles. Where possible the Council will seek to implement a number of 'plug-in' points around the district which will be available for vehicle proprietors to use, and also to actively target funding opportunities. The Council support the use of electric vehicles that are fitted with a range extension device, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

#### **Licence conditions**

- 3.4.32 The applicable conditions relevant to a private hire vehicle licence are set out at **Appendix G**; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of the Policy.

#### **Change of proprietor and/or driver**

- 3.4.33 The proprietor must give notice to the Council of any transfer in her/his interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given, in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred.

The proprietor must give notice to the Council when any changes are made as to driver of the vehicle.

#### **Change of address**

- 3.4.34 The proprietor of a private hire vehicle must notify the Council in writing, within 7 days, of any change of their address.

#### **Retention of drivers licences**

- 3.4.35 A proprietor of a private hire vehicle must ensure that each driver's licence is lodged with the proprietor before the driver is employed to carry out work and must retain the licence in their possession for the period during which the driver remains in their employ. When a driver leaves the employ of a proprietor, the proprietor must return the driver's licence unless the licence holder has been guilty of misconduct in which case the operator may retain the licence and must issue a summons to have the cause of complaint determined by the Courts. (Note: If the Courts find that the licence has been improperly retained they have the powers to order its return and to award compensation.)

#### **Inspection**

- 3.4.36 The proprietor must present their private hire vehicle for inspection/testing by the Council as required, up to a maximum of 3 times per year. If a vehicle continually fails tests and/or is found to be unsuitable following inspections, or repeatedly fails to attend inspections then the Council may suspend or revoke the vehicle licence.
- 3.4.37 The proprietor must provide, on request, the address where the private hire vehicle is kept and allow the Council to inspect/test the vehicle at that address.

#### **Accidents**

- 3.4.38 The proprietor, notwithstanding their responsibilities under relevant road traffic legislation, must also report to the Council any accident as soon as reasonably practicable. However, where the vehicle has suffered accident damage that materially affects the safety, performance or appearance of the vehicle, or the comfort or convenience of fare paying passengers, the driver must notify the Council within 72 hours.

#### **Production of documents**

- 3.4.39 The proprietor must, on request by an authorised officer of the Council or a police officer, produce to the officer for inspection the hackney carriage vehicle licence and insurance certificate within 7 days.

#### **Return of identification plates**

- 3.4.40 Where a licence is revoked, suspended or expires, the proprietor, when required by the Council to do so must return the identification plates within 7 days. No new licence plates will be issued until the expired plates are returned to the Council.

#### **Ranks/stands**

- 3.4.41 A private hire vehicle must not wait (stop or park) on any rank/stand. It is an offence to do so and may result in enforcement action being taken against the driver.

#### **Parking/waiting**

- 3.4.42 Where a driver is dropping off or picking up a fare and is illegally parked or creating an obstruction (this does not include a legitimate period of time where a private hire vehicle has stopped to drop

off or pick up a fare), the driver's licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action such as being interviewed, have a warning issued to them.

The vehicle's horn is not to be used to inform customers you are waiting or that you have arrived. It must only be used in line with Reg.99 The Road Vehicles (Construction and Use) Regulations 1986.

### 3.5 Private Hire Operator Licences

#### Summary

- 3.5.1 Private hire operators are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle must hold a private hire operator licence.

#### Period of licence

- 3.5.2 Operator licences will be issued for a period of 5 years unless the Council has reasonable cause to issue for a shorter time period.

#### Operator's Premises

- 3.5.3 All new applicants must have a base within the administrative area of Newcastle-under-Lyme in order to ensure that the Council can inspect the base and associated operator records to check compliance with licence conditions.
- 3.5.4 Private Hire Operators that hold a licence with the authority and operate their business from premises located outside of the Borough, at the time of policy implementation, will continue to be licensed to operate from that premises providing that they renew their licence prior to it expiring.
- 3.5.5 The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.
- 3.5.6 The Council advises operators to have all necessary planning permissions for the operator base before a licence is granted. Proof of which may be requested as part of the application procedure.
- 3.5.7 Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all laws have been complied with, including the Equality Act 2010.
- 3.5.8 There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

#### Record Keeping

- 3.5.9 Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a police officer.

Under the conditions the operator is required to keep a number of different forms of record namely:

- Booking records (to include which member of staff took the booking);
- Operator vehicle schedule;
- Operator driver schedule;

Each of these records must be kept up to date and retained by the operator for a period of at least 12 months (as per conditions of licence).

3.5.10 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation, or fee is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence (including the cost of a DBS check and Safeguarding Training, where appropriate) is payable at the time the application is submitted.

3.5.11 Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- a completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of birth of all partners, directors/company secretaries, as appropriate) A check of the Companies House register may be undertaken to confirm these details;
- a basic standard, or enhanced DBS certificate issued within the last 12 months or a DBS certificate registered on the update service ([unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process](#)); for each director, partner and company secretary;
- a schedule of all employees that are not NULBC licensed drivers [indicating those staff who take bookings and dispatching vehicles](#);
- a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
- a Safeguarding Training certificate, issued within the last 3 years for each director, company secretary and employees that are not NULBC licensed drivers
- [details of their policy regarding the employment of ex-offenders](#)
- the appropriate licence fee;
- a list of the vehicles and drivers which they operate; and
- any fleet insurance they hold with an accompanying schedule of vehicles and named drivers disclosed to the insurance company.

[The schedule of employees must be kept up to date with any changes notified in writing to the licensing authority.](#)

[Any changes of director, partner or company secretary must also be notified in writing to the licensing authority.](#)

### Criminal Record Disclosure

3.5.12 All applicants (including sole traders, partnerships and companies) for a private hire operator's licence must prove that they are a fit and proper person to hold an operator's licence.

The applicant must also prove that all employees that work for them and who [take bookings, dispatch vehicles, or](#) have access to booking records are fit and proper people to be employed in such positions. [They must provide evidence that they have seen a basic DBS for such employees who are not NULBC licensed drivers and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.](#)

3.5.13 Where the applicant or employee already holds a valid dual drivers licence (this will only apply to sole traders as individuals), a check will be made on the DBS update service. If the driver is not registered on the DBS update service then they will be required to submit a Basic DBS certificate. If the applicant is not a licensed driver then they will be required to submit a Basic

DBS certificate. For a Basic Certificate:

Applicants can apply to the DBS online at <https://www.gov.uk/government/organisations/disclosure-and-barring-service/> or through a [Responsible Organisation](#).

- 3.5.14 For partnerships or companies, the above requirements apply to all partners and directors/company secretaries.
- 3.5.15 The Council adopts the same principles when determining whether an applicant is a fit and proper person to hold a private hire operator's licence as it does to persons applying for a drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at paragraph 3.2.1 of this Policy.
- 3.5.16 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission.

Further information can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the [GOV.UK](#) website at <https://www.gov.uk/government/world>.

The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at: FCO, King Charles Street, London, SW1A 2AH.

Proof of a right to work in the United Kingdom will also be required. For further details please see the Home Office Guidance issued to Local Authorities:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

## Insurance

- 3.5.17 Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.
- 3.5.18 If there is a requirement for the operator to have Employers Liability indemnity then it must be for a minimum of £10,000,000.
- 3.5.19 For vehicle insurance, the Council will generally only accept original insurance documentation. The exception to that policy is that the Council will accept copy documentation where the Council itself receives an email confirmation of cover from the Insurance Company itself and the Council is entirely satisfied as to its validity.
- 3.5.20 Where the policy is a vehicle fleet policy confirmation that the vehicle is included on the schedule of vehicles will also be required in addition to the insurance certificate.

## Closed Circuit Television (CCTV)

- 3.5.21 Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must prominently display signs

indicating that CCTV is in use in the vehicle.

### **Complaints Procedure**

- 3.5.22 Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a complaint.
- 3.5.23 The complaints procedure and compliant records must be made available to the licensing authority or Staffordshire Police on request and will be audited and checked by an authorised officer of the Council as appropriate.

### **Licence Conditions**

- 3.5.24 Applicable conditions relevant to a private hire operator licence are set out at **Appendix I**. These conditions must be complied with.

### **Contract**

- 3.5.25 Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle whether or not the operator provided the vehicle.

### **Production of records/documents**

- 3.5.26 Any records required to be retained in accordance with the licence must be produced, on request, to any authorised officer of the Council or to any police officer. The operator licence must also be produced if requested.

### **Safeguarding Training**

- 3.5.27 Where the applicant or employee already holds a valid taxi drivers licence (this will only apply to sole traders as individuals), no further checks will be undertaken by the Council and the current Safeguarding Training certificate will be considered sufficient. However, if a valid driver's licence is not held, the applicant/employee must:-
- Attend the Council's Safeguarding and Child Sexual Exploitation Awareness Training prior to an operator's licence being granted, including being renewed, and employees being permitted to take bookings.



# COMPLIANCE, COMPLAINTS AND ENFORCEMENT

## 4.1 Summary

- 4.1.1 This part of the Policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

### Compliance and enforcement

- 4.1.2 The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Enforcement Policy, which is available on the Council's website at <https://www.newcastle-staffs.gov.uk/all-services/your-council/policies-and-strategies-z/corporate-enforcement-policy>

In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of the Borough Council of Newcastle-under-Lyme, other local authorities and the police.

- 4.1.3 The Council will work closely with other enforcement authorities when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross boundary related issues.
- 4.1.4 Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their drivers licence.
- 4.1.5 Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Councils enforcement policy and will be referred to the duly authorised officer. Repeated breaches of licence conditions will result in the matter being referred to the Public Protection Sub-Committee.

### Complaints

- 4.1.6 Where appropriate, complainants will be encouraged to raise complaints directly with the relevant licence holder or business concerned in the first instance. However, the Council will also respond to complaints in line with its Enforcement Policy and will use complaint information to assist in the determination of licensing decisions.
- 4.1.7 The authority will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

## 4.2 Enforcement

### Enforcement Policy Statement

- 4.2.1 The Council has an Enforcement Policy which it will take into account before taking any enforcement action.
- 4.2.2 The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.

- 4.2.3 Enforcement Officers will be authorised by the Council to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 4.2.4 Where there is a shared enforcement role with other agencies, e.g. the Police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.
- 4.2.5 The Council will investigate all valid complaints with regard to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by the licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised officer of the Council or Public Protection Sub-Committee.
- 4.2.6 An authorised officer of the Council /Public Protection Sub-Committee will consider the history of all complaints made against the driver to assess any patterns. If a problem is inherent, then the Council will consider whether the driver is a fit and proper person to hold such a licence.
- 4.2.7 Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.
- 4.2.8 Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving, either due to the maintenance and safety of their vehicles, or in the manner of their driving. The Council expects all licence holders to adhere to the specifications set out in this Policy and in any relevant legislation. Any complaints that relate to misconduct will be fully investigated and appropriate action will be taken where deemed necessary.
- 4.2.9 Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interviews and vehicle inspections, and producing documentation upon request.

### **4.3 Enforcement Options**

- 4.3.1 Licence application and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the:-
- seriousness of any offences;
  - driver or operator's past history;
  - consequence of non-compliance;
  - likely effectiveness of the various enforcement options;
  - danger to the public.

Having considered all relevant information and evidence, the choices for action are:-

#### Licence Applications:

- grant licences subject to the Council's Standard Conditions;
- refuse to grant a licence.
- Grant for a limited time period

#### Enforcement Action:

- take no action;
- take informal action;
- suspend a licence;
- revoke a licence;
- use simple cautions;
- prosecute;

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the Public Protection Sub-Committee.

This Council will have regard to the Convictions Guidelines at **Appendix J**.

### **Informal Action**

4.3.2 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

4.3.3 Such informal enforcement actions may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- from the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance;
- confidence in the operator's management is generally high;
- the consequences of non-compliance will not pose a significant risk to the safety of the public.
- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability (Appendix J) outlined in this policy

Details of any informal action will be recorded on the councils' records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 36 month rolling period their licence will be referred to the Public Protection Sub-Committee to determine whether any further action is required.

### **Appearance before the Public Protection Sub Committee**

4.3.4 An offending individual or company may be summoned before the Public Protection sub-Committee to answer allegations of breaches of relevant legislation, or conditions attached to licences.

The Public Protection Sub Committee have the option of deciding the application on its merits, and may:

- Take no action;
- Give a written warning;
- require the production of driving licences or other specified documentation at the Council's office;
- suspend the licence, upon setting conditions, or for a period of time;
- revoke the licence;
- recommend prosecution action.

Details of the appeals procedure will be set out in the written notification of action sent by the Council.

The Public Protection Sub Committee will have regard to the guidance on convictions shown at **Appendix J** of this policy.

**Suspension Notices under section 68 of the Local Government (Miscellaneous Provisions) Act 1976**

- 4.3.5 An authorised officer may serve notice in writing for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.
- 4.3.6 This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the officer is satisfied with the condition of the hackney carriage or private hire vehicle.
- 4.3.7 This action will only be taken when the officer has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passengers and/or other road users.

Details of the appeals procedure will be set out in the written notification of action sent by the Council.

**Prosecution**

- 4.3.8 The decision to prosecute is a very significant one. Prosecution will, in general be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner, and be proportionate to the circumstances.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm.

Officers will take account of the Council Enforcement Policy when circumstances have been identified which may warrant a prosecution.

**Simple Cautions**

- 4.3.9 A simple caution may be used as an alternative to a prosecution in certain circumstances.

## FARES & FEES

### 5. FARES & FEES

5. 1 The Council's policy is that the fees charged by the authority should meet the cost to the authority to administer the service. The service provided in relation to hackney carriages and private hire vehicles should not make a profit or a loss. Any surplus produced would of course be put back into the service. This is in line with Council's charging policy.

#### Review and Setting of fees

5. 2 The Council may review the licence fees annually. The Council is committed to working with the trade to identify ways in which savings/efficiencies can be made to avoid increasing the burden on the trade.

#### Private hire rates

5. 3 The Council has no power to regulate the rate for private hire vehicles. However the conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition the Council expects all drivers to meet their legal obligation not to prolong a journey.

#### Hackney carriage tariffs

5. 4 The Council sets the Table of Fares (or Tariffs) for hackney carriage journeys and they are the maximum charges that Hackney Carriages can charge for journeys wholly within the Borough's administrative area and the rate at which the taximeters must be calibrated to in order for them to calculate journey fares. These will be reviewed upon request by the trade, with a view to any changes coming into effect within 6 months of the review. The Council recognises the importance of these tariffs being fair (both to the public and to the trade). This is particularly the case as Hackney Carriages used for private hire can only charge at the Council set rates by virtue of section 67 of the Local Government (Miscellaneous Provisions) Act 1976.

The licensing conditions set out the requirement that the amount charged shall be no more than the agreed fare. In addition the Council expects all drivers to meet their legal obligation not to prolong a journey

The Table of Fares (or Tariffs) is published on the Council's website here: <https://www.newcastle-staffs.gov.uk/all-services/business/licensing/private-hire-and-hackney-carriage-licences>.

5. 5 It is an offence to charge more than the maximum metered fare for any journey that starts and ends within the Borough. A fixed price can be agreed before the journey commences but it must not exceed the maximum metered fare.
- 5.6 It is an offence to charge more than the maximum metered fare for any journey start ends outside of the Borough unless an agreement to pay more has been made in advance of the hiring. If there is no pre-agreement then the driver is bound to charge not more than the maximum metered fare for that journey.

## POLICY CONSULTATION

6.0 Members of the public were invited to put forward their comments to the proposed policy document during a series of consultation periods. In addition consultation was undertaken with the following stakeholders and partners:-

- Hackney Carriage and Private Hire Operators, Drivers and Proprietors
- The Borough Council of Newcastle-under-Lyme Public Protection Committee
- The Borough Council of Newcastle-under-Lyme Legal Services
- The Borough Council of Newcastle-under-Lyme Licensing and Environmental Services Team
- The Borough Council of Newcastle-under-Lyme Garage Vehicle Inspectors
- The Borough Councils Partnerships team
- Staffordshire County Council Passenger Transport Service (Education and Welfare)
- Staffordshire Safeguarding Children's Board Child and Adult Safeguarding Services
- Staffordshire Police
- Staffordshire Fire and Rescue Service
- Guide Dogs for the Blind
- Neighbouring local authorities

The draft policy was approved to go out for consultation by the Public Protection Committee on **18th September 2018**. The consultation was originally scheduled for a 12 week period from **2<sup>nd</sup> October 2018** to **21st December 2018**. The consultation period was extended twice which resulted in the final date for consultation being 14<sup>th</sup> March 2019. At the end of the 23 week period the responses were collated, amendments were made where deemed appropriate and the updated policy was referred back to the Public Protection Committee to be approved.

Public Protection Committee agreed to adopt the Policy in its current form on **20<sup>th</sup> August 2019** and for it to be partially implement on 1<sup>st</sup> November 2019 and the remaining sections on 1<sup>st</sup> January 2020. Everything would be implemented on 1<sup>st</sup> November EXCEPT the in-house knowledge test and disability equality training provisions which would implemented from 1<sup>st</sup> January 2020.

During the consultation period the Council held meetings with the Hackney Carriage Association and representatives of holders of Private Hire Operator and Vehicle Licences.

## **APPENDICES**

Appendix A – CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

Appendix B – DRIVER CODE OF CONDUCT

Appendix C – DRIVER CRITERIA

Appendix D – HACKNEY CARRIAGE VEHICLE CONDITIONS

Appendix E – HACKNEY CARRIAGE VEHICLE SPECIFICATIONS

Appendix F – PLYING FOR HIRE

Appendix G –PRIVATE HIRE VEHICLE CONDITIONS

Appendix H – PRIVATE HIRE VEHICLE SPECIFICATIONS

Appendix I – PRIVATE HIRE OPERATOR CONDITIONS

Appendix J – TAXI AND PHV LICENSING CONVICTIONS GUIDELINES

Appendix K – CODE OF CONDUCT WHEN WORKING WITH VULNERABLE PERSONS

Appendix L – VEHICLE SIGNAGE

## APPENDIX A

### CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

#### Introduction

Set out below is information for hackney carriage and private hire vehicle drivers and operators to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons, particularly as it relates to child sexual exploitation and trafficking.

#### General information

The Borough Council of Newcastle-under-Lyme's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly Staffordshire Police, Children and Adult Services within the Council and the Staffordshire Safeguarding Children Board.

Through partnership working and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with Staffordshire Police and Staffordshire Safeguarding Children's Board helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.

Child sexual exploitation is a crime that can affect any child, anytime, anywhere regardless of their social or ethnic background.

Sexual exploitation of children and young people involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

Child sexual exploitation involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

#### **How hackney carriage and private hire vehicle drivers and private hire operators can help tackle child sexual exploitation.**

Drivers of hackney carriages and private hire vehicles as well as private hire operators are in a good position to help identify victims of sexual exploitation because, through the transport services they provide, drivers and operators regularly come into contact with children and young people. This means that licensed drivers and private hire operators are in an ideal position to help protect young people.

In particular, drivers should ask themselves the following questions when picking up a fare.

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are you taking them to a hotel, party or secluded location? If so, ask yourself why?
- Are children/young people being taken regularly to the same localities? If so, ask yourself why?

**If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported.**



**If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns to and share information with Staffordshire Police (Tel: 101) and First Responders at Staffordshire County Council on 0800 131 3126 or if out of office and in an emergency on 0345 604 2886.**

Further information about Staffordshire Safeguarding Children Board can be found at:

<http://www.staffsscb.org.uk/Home.aspx>

## APPENDIX B

### DRIVER CODE OF CONDUCT RELATING TO INDIVIDUALS ISSUED A DUAL HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE

Drivers issued a dual drivers licence by the Borough Council of Newcastle-under-Lyme under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") must abide by this Code of Conduct. The Borough Council of Newcastle-under-Lyme considers that the Code is reasonably necessary.

It sets out the way in which the licence holder must act whilst acting as a licensed driver in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal ply for hire.

It does not set out the detail as to what steps are required to become a licensed driver and it does not set out what factors are taken into account in deciding whether a person is a fit and proper person to be a driver. This is set out in the specifications earlier in the Policy.

**Breach of the code of conduct may lead to the immediate suspension of the licence, consideration of revocation of the licence or other enforcement action including prosecution.**

The Code of Conduct requires drivers to:

#### Notification requirements

1. Change of Name and/or Address - The licence holder ("the driver") must notify the Licensing Administration Team in writing at the Borough Council of Newcastle-under-Lyme ("the Council") within 7 days of changing name and/or address.
2. Medical circumstances – The driver must notify the Council in writing immediately if possible, or as soon as practicable of any serious illness, injury, medication or severe physical deterioration which could affect their ability to meet the DVLA's Group II medical standards and therefore drive a licensed vehicle.
3. Damage to vehicle – The driver must inform the operator of any licensed vehicle in his custody of any damage occurring to that vehicle within 24 hours of the damage occurring. If the driver cannot contact the operator within 24 hours he/she must notify the Council in writing within 72 hours of the damage occurring.
4. Cautions, warnings, motoring convictions and fixed penalties – The driver must notify the Council in writing within 72 hours of any issue of a formal caution, warning, motoring conviction, or issue of a fixed penalty notice by the Police or a Local Authority. **The 72 hour period begins on the day of the caution or conviction, or the warning being received. For a Fixed Penalty Notice it begins on the day that the driver accepts liability for the offence.**
5. Charges, Questioning, Interview under caution, Arrests, and Convictions - The driver must inform the Council in writing within 48 hours if they are questioned, arrested and released, interviewed voluntarily under caution, charged by the Police or convicted of a criminal offence regarding harassment, sexual offences, violent offences, dishonesty or fraud.
6. When questioned by the Police or appearance in Court, the driver must inform the Police/Court that they are a licensed driver.

7. The driver must also notify the Council in writing within 72 hours of any other enforcement action taken by any other local authority under the 1976 Act or the Town Police Clauses Act 1847.
8. Where the driver is required to notify the Council, in writing, under sections 4, 5, 6 or 7 he/she shall provide the Council with details of:
  - The offence/behaviour complained of;
  - Whether the offence occurred in a licensed vehicle and/or if they were working;
  - The date of conviction/enforcement action;
  - The sanction imposed.
9. Where the licence holder identifies or suspects that someone may be engaged in illegal terrorist related activity, the licence holder must refer such person or activity to the police.
10. Where the licence holder amends or changes their insurance policy for the vehicle they are driving then they must produce their amended/new insurance certificate to the Council Licensing department within 7 days.
11. Where the licence holder changes the operator that they work for they must notify the Council in writing within 7 days of that change with details of which operator they work for.

### **Child Sexual Exploitation & Safeguarding Training**

12. Licence Holders must report any concerns they have to the relevant bodies as outlined in Appendix A.

### **Drivers' Badges/Licences**

13. Wearing/displaying of badges – The driver must wear the badge issued by the Council to them so that it is clearly and distinctly visible whenever he/she is acting as a hackney carriage or private hire driver. The driver must also display the second badge issued by the Council in a prominent position within the vehicle they are currently driving so that it is clearly and distinctly visible to all passengers whenever he/she is acting as a hackney carriage or private hire driver.
14. Licences given to Operator – The driver must provide a copy of the driver licence issued to them by the Council to their operator when they have made themselves available for private hire work for that operator. They must also give them a copy of their DVLA driver's licence.
15. Return of badges/licences – In the event of expiry of the licence or where the driver ceases to operate as a licensed private hire driver he/she must immediately return his/her badge and licence plates to the Council and otherwise upon any request by an Authorised Officer of the Council.

### **Conduct**

16. Punctuality - The driver shall attend punctually when hired and shall provide reasonable assistance with the loading and unloading of luggage.
17. Appearance - The driver shall wear respectable and appropriate clothing at all times and appropriate footwear for driving.
18. Language – The driver must be capable of understanding instructions in the English language from customers and being understood in the English language by anyone hiring the vehicle.
19. Route - The driver must, unless otherwise requested by the hirer proceed to the destination by the most direct route

20. Receipts – The driver must, if requested, provide the hirer with a full written receipt for the fare paid.
21. Number of passengers – The driver must not allow the private hire vehicle to be used for more than the number of passengers the vehicle is licensed to carry.
22. Other passengers – The driver must not, without the express consent of the hirer, allow another person to be carried in the vehicle.
23. Front seat – The driver must not convey more persons in the front of the vehicle than the vehicle is designed for and must not convey any child below the age of fourteen years in a front seat unless the booking they are carrying out is under a Staffordshire County Council, or other relevant body, contract for carrying vulnerable persons, in which case the child may be carried in the front passenger compartment of the vehicle.
24. Music/Radio – The driver must comply with any request by the hirer to turn down or turn off any radio, music or other sounds in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle. The driver must obtain the relevant licence to play music in their vehicle when passengers are present (eg. PRS licence).
25. Behaviour – The driver must behave in a civil and orderly manner. The driver must not use any offensive, abusive, profane or insulting language or behaviour. The driver must take all reasonable precautions to ensure the health and safety of persons conveyed in or entering or alighting from the vehicle he is in charge of driving.
26. Assistance – The driver must offer reasonable assistance to customers with belongings upon request. This includes assistance with carrying shopping and luggage and lifting it into and out of the vehicle.
27. Check for lost property – The driver must at the end of each hiring search the vehicle for any lost property, which may have been left. Any property found must be handed to the owner, the nearest police station or the base operator.
28. Offer to hire vehicle - The driver must not, whilst driving or in charge of a private hire vehicle, accept an offer for the hire of any private hire vehicle while the holder of that vehicle is on the road or other public place except where such an offer is first communicated to the driver by telephone, radio or other communication method by a licensed operator or their booking office staff
29. Agreed fare - Where the fee is agreed in advance, the driver shall ensure that no more than the agreed fare is paid.
30. Receipts – The must issue a written receipt to the passengers for the fare paid for the journey undertaken, if requested to do so.
31. Smoking/Vaping – The driver must not smoke in any form, including using e-cigarettes and vaping, at any time they are in a licensed vehicle. This includes when driving the vehicle for private use and when working but not carrying passengers.
32. Data Protection – The driver must not use any personal data received during the course of their duty for any other purpose than that it was originally intended.
33. Rest Periods – The driver must ensure that they are properly rested between shifts, and do not

work an excessive number of hours in accordance with the existing GB Domestic Drivers Hours Rules for Passenger-carrying Vehicles.

[www.gov.uk/drivers-hours/gb-domestic-rules](http://www.gov.uk/drivers-hours/gb-domestic-rules)

### Medical

34. Medical reports – Group II shows that the applicant meets the required medical standard. Licence holders over the age of 65 are required to undertake annual medical examinations.
35. Medical reports where required by the Council - Any driver must, at their own cost, where required to by the Council, undergo a medical assessment with their own General Practitioner or other medical practitioner that has access to their full medical history. Such medical assessment must be completed using the standard form supplied by the Council. The Council will only exercise this power where such a medical is required to assist in the determination of whether a driver is fit and proper, for example where the driver has been seriously ill or an assessment has been recommended by a medical practitioner.

### Maintenance check

36. Maintenance – The driver must before the start of any shift carry out a basic safety check to make sure that the vehicle is in a roadworthy condition e.g. checking lights, oil and water levels, condition of tyres, looking for obvious defects on the vehicle. Details of the checks must be recorded in writing, retained for at least 12 months and available to authorised officers of the Council and Police Constables within 72 hours of any request. Any issues with the vehicle must be reported immediately to the operator/proprietor as relevant.

### Animals

37. The driver must not convey in the vehicle any animal except one belonging to a passenger.
38. The driver may carry any animal belonging to a passenger at his/her own discretion and it is the responsibility of the driver to ensure that the animal is suitably restrained in order that it will not cause a distraction, or cause injury to you or themselves if you have to stop quickly. N.B. if you are carrying an animal in the front of the vehicle, your vehicle has an airbag and it is not lying in the footwell you must notify the owner.
39. Paragraph 38 does not in any way remove or reduce the duty placed on the driver of the vehicle to carry assistance dogs in the passenger compartment with the dogs' owner under Equality Act 2010 without charge unless the driver has a valid exemption certificate issued by this authority under that Act (sections 168 and 169 apply to hackney carriage drivers; sections 170 and 171 apply to private hire drivers). When plying for hire or attending a booked fare and the passenger has an assistance dog with them the driver must stop to carry them. Failure to do so will be treated as an illegal refusal.

### Other requirements

40. Comply with all other relevant statutory requirements. The most common statutory requirements are set out in the Council's guidance and policy statement accompanying these conditions.
41. Licence holders must comply with any reasonable request from an authorised officer of another local authority

**The licence holder must comply with this code of conduct at all times. Failure to comply may lead to enforcement action being taken against your licence.**

**I acknowledge receipt of this code of conduct**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

## APPENDIX C

### CRITERIA TO BECOME A DRIVER

1. Any person who drives a hackney carriage must hold the appropriate vehicle driver's licence. Hackney carriage vehicle driver's licences are issued in accordance with section 46 of the Town Police Clauses Act 1847.
2. Any person who drives a private hire vehicle must hold the appropriate vehicle driver's licence. Private hire vehicle driver's licences are issued in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
3. The Council will issue a dual drivers licence, this will permit the licence holder to drive both hackney carriage and private hire vehicles, unless an applicant makes a specific request to the Council for either a hackney carriage driver licence or a private hire vehicle driver licence.

### Fit and proper person

4. The Council will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they meet all criteria to be deemed a fit and proper person. Licensed drivers provide a public service.
5. In considering the fit and proper person test all applicants on initial application and renewal must:
  - Provide a current and satisfactory enhanced Disclosure and Barring Service (DBS) check which will include a check against the Adult and Child Barring Lists;
  - undergo a medical examination to the DVLA Group 2 standard completed by your own GP or one that has access to your full medical history. All licensed drivers aged 65 years and over must undertake a medical examination annually and produce the report to the Council;
  - produce a document proving their right to work in the UK in line with the Home Office requirements for taxi drivers;
  - Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
  - The Council may also make additional enquiries through Staffordshire Police (and other relevant police forces, where appropriate), other relevant local authorities (particularly if a driver has been previously licensed by another authority) and any other appropriate organisation, agency or person in order to ensure the Council is in a position to make as accurate an assessment of the applicant's fitness to hold a licence as is reasonably practicable.
6. New applicants for drivers licence will need to provide:
  - their certificate proving they have successfully completed the Level 2 BTEC/NVQ (or equivalent) in the professional role of a Taxi/Private Hire Driver;
  - the certificate proving they have attended a satisfactory Safeguarding Training course within the last 3 months;
  - their certificate proving they have successfully completed the Council's in-house knowledge test;
7. With specific reference to existing licence holders, where there is any cause for a licence to be reviewed, the Council may require the licence holder to complete a further enhanced DBS check, the cost of which would lie with the licence holder. Where a licence holder refuses, this will be taken into consideration in determining their continuing fitness to hold a licence. Drivers with convictions may have their licences reviewed in-line with the Convictions Guidelines at Appendix J, and where they have fallen within the previous policy it may result in them being

referred to an authorised officer or Public Protection Sub-Committee to determine if they will be considered fit and proper.

8. When assessing the fitness of an applicant to hold a drivers licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, compliance with licence conditions and willingness to co-operate with licensing officers) whilst holding a licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, irrespective of the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour or conduct that may indicate that the applicant could put the safety and welfare of the public at risk.
9. It must also be recognised that the Council will consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst drivers were directly engaged in hackney carriage or private hire work at the time or whether they occurred during the drivers' own personal time.
10. In addition, an important element associated with the fitness to hold a licence is the appearance and behaviour of a licensed driver. Consequently, the Council requires all licensed drivers to maintain a reasonable standard of appearance (see **Appendix B**) and behaviour when in contact and dealing with other road users, pedestrians, customers, the general public, other licensed operators and drivers of hackney carriage and private hire vehicles, Council officers and elected members at all times. Applicants and licensed drivers must also co-operate with any reasonable request made by an authorised officer of the Council or any police officer.

## **Criminal Record Disclosure**

11. Hackney carriage and private hire vehicle drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) Check and due to the nature of the occupation such drivers are deemed to be an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974 (by virtue of the amended Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975).
12. The effect of this, in relation to hackney carriage and private hire drivers, is to render the Rehabilitation of Offenders Act 1974 not applicable and therefore convictions are never regarded as 'spent'. As a result, all convictions (including cautions), will be taken into account when considering a person's suitability to hold a driver's licence.

**Applicants are required to provide details of ALL convictions and cautions, including driving endorsements and disqualification periods relating to traffic offences.**

13. Although cautions are generally considered not as serious as convictions, they require an admission of guilt before they can be issued and are therefore will be treated in the same way, are a useful indication of an applicant's character and whether they are a fit and proper person to hold or be granted a licence.
14. A criminal record does not automatically prevent or bar an applicant from holding a drivers licence. However, it will be a significant factor when determining whether a licence should be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out in **Appendix L**. However, the principal consideration will be to ensure the safety and welfare of the public.
15. Applicants who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. Guidance can be found here:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>



Such a certificate must be authenticated, translated and sealed by the Embassy or High Commission. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

Proof of a right to work in the United Kingdom will also be required. For further details please see the Home Office Guidance issued to Local Authorities:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the [GOV.UK](https://www.gov.uk) website at <https://www.gov.uk/government/world>.

The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.

### **Non-conviction information**

16. In addition to information regarding convictions/cautions, applicants are expected to provide details of:
- all warnings, driving endorsements/disqualification periods relating to traffic offences, fixed penalties, penalty charge notices and any other similar sanctions;
  - any charges or arrests that they **were or are** the subject of in connection with criminal offences, whether or not actually charged with the offence, and
  - details of any allegations of involvement in criminal activity or where they have been questioned in connection with any alleged criminal activity
  - or inappropriate/unacceptable behaviour or any other relevant pending matter.

For existing licence holders, this information must be notified to the Council within 72 hours, in writing.

17. Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed. However, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings. Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character, then the application is likely to be refused.
18. Where there is evidence and/or information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a fit and proper person, the Council will give serious consideration to refusing an application or revoking an existing licence.

### **DVLA and other relevant driving licences**

19. A person applying for a drivers licence must be a minimum of 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 3 years at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences. These requirements apply only to applications received on or after the date this Policy comes into force.
20. Throughout the currency of the drivers licence, the driver must possess a full driving licence in accordance with the above requirements. Where a driver has received a ban from driving under their DVLA licence they must return their taxi driver licence to the Council within 7 days.
21. Applicants are required to produce the original of their driving licence, whether it is a photo card or old style paper licence. Copies will not be accepted. A holder of a DVLA drivers licence must also provide a valid code to enable the Council to carry out an online check of their driving history.

22. All applicants holding driving licences issued by countries other than the UK or those within the EU/EEA must produce a certificate to show a driving record from the country of issue. If the driving licence was not issued in the UK or EU/EEA then they must comply with the Government requirements on exchanging/applying for a DVLA licence.

### Knowledge test

23. All new applicants are required to pass the Council's written test before the Council will grant them a driver's licence. The test will be carried out in English.

The test comprises an exam covering the following areas:

- the highway code;
- taxi legislation;
- the Council's vehicle conditions and driver Code of Conduct;
- safeguarding and child sexual exploitation awareness;
- Disability equality
- Local area knowledge
- Working out fares and giving change;
- The understanding of and testing of written English

A 75% pass mark is required for each section, all sections must be passed at the same time and failure to answer certain questions correctly will result in automatic failure.

Where an applicant fails the knowledge test there is an additional fee for every subsequent test and every missed test. Once an appointment has been allocated for the test, the applicant must give 2 clear working days' notice to cancel an appointment otherwise they will be required to pay the test fee. In such circumstances the Council will deem that the applicant has failed the test.

Anyone failing the test will be entitled to re-sit the test twice, at a cost to themselves.

**If the applicant fails the test three times then the application will be cancelled and the applicant will be unable to reapply again for a licence until a minimum period of 12 months has elapsed from the date of the last failure and be treated as a new applicant.**

If any applicant has any particular needs as a result of a disability or otherwise he/she should let the Licensing team know and suitable arrangements can be made to facilitate the test.

24. Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the test and will be required to take a fresh test and pay the appropriate fee. This may also affect their fitness and propriety to be granted a licence.
25. The holder of a driver's licence may be required to satisfactorily undertake a further knowledge test or tests at the discretion/request of an authorised officer of the Council or the Public Protection Sub Committee.
26. Failure to submit to or pass any knowledge test will permit the Council to refuse to grant or renew a driver's licence or to revoke or suspend the licence as required.

### Safeguarding and Child Sexual Exploitation Awareness

27. The Council requires all licensed drivers to attend Safeguarding and Child Sexual Exploitation Awareness training. For new driver applications, this must be completed **before** a licence is issued for the first time.

Applicants for renewal of an existing driver licence must have completed the awareness training **before** their first licence renewal after this policy comes into force. All drivers will be expected to renew/refresh this training every 3 years.

The licensing Authority will accept attendance at a Safeguarding and Child Sexual Exploitation Awareness delivered by Staffordshire County Council as part of a home to school transport contract and training from other Local Authorities that meet the standard required by the Council.

The Council requires all licensed drivers to abide by the Council's 'Code of Conduct' which will be issued as a supporting document to a granted new or renewal application, a copy of which can be found at **Appendix B**.

## Medical requirements

28. The Council is permitted to satisfy itself that an applicant for a licence is mentally and physically fit and remains so during the currency of any licence. Consequently, all applicants for a Dual hackney carriage or private hire driver's licence are required to undertake a medical examination on initial application, at defined intervals thereafter and at any other such time as the Council require to ensure their fitness to drive.

The standards required are set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive'. The standards are amended from time to time and can be found online at:

<https://www.gov.uk/government/publications/at-a-glance>

The standard required is the 'Group 2 Entitlement'.

29. All new applicants must undertake the medical examination and provide a satisfactory medical certificate before a licence is issued for the first time and then every 3 years in line with a renewal application. All licensed drivers aged 65 and over must undertake a medical examination annually and produce the report to the Council. Failure to do so may result in the licence being suspended or revoked.
30. The Council may also require drivers to undertake more regular medicals if their medical condition warrants it. The medical cannot be more than 3 months old at the time the licence is issued. It is therefore advisable to wait until the rest of the application process is complete before making arrangements for your medical.
31. The Council will not grant or renew, any driver's licence unless the medical examination requirements are complied with and the driver can demonstrate that they are medically fit to hold a drivers licence.
32. In particular, applicants must consider the medical conditions listed in the current DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive'), as the Council may refuse to grant an application or revoke an existing licence where an applicant is unable to meet the nationally recommended guidelines in respect of the listed medical conditions.
33. If, once licensed, the driver's medical circumstances change during the licence period, the driver must inform the Council within 7 days. The Council may require the driver to immediately undertake a further medical examination and provide an approved medical certificate confirming the outcome of this examination and the driver's fitness (or otherwise) to continue as a licensed driver.
34. Should an authorised officer of the Council have reason to believe that a licensed hackney carriage or private hire vehicle driver has a medical condition that renders them unfit to drive, a

further medical examination will be requested. The cost of the further medical examination will be met by the licensed driver.

35. The medical must be filled out on the Council's medical application form. The medical must be carried out either by the applicant/driver's own GP or by a medical practitioner than can gain access to that individual's full medical history. Any other medical will not be accepted.
36. With respect to current licence holders, if it is deemed necessary to do so, a licence may be revoked or suspended in the interests of protecting the public until further medical examination(s) has/have been carried out or if the licence holder is unable to demonstrate that they are medically fit to hold a drivers licence.

## **Medical Exemptions**

37. Medical exemptions involving the carriage of disabled persons and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must provide sufficient proof from their GP, or independent medical specialist, confirming that the exemption is required in order for the driver to carry out their duties. The Council reserves the right to refuse to grant a licence if sufficient medical proof is not provided and it is deemed appropriate to do so. Examples of sufficient proof include results of blood tests, skin tests and evidence of the individual's clinical history. Drivers issued with medical exemption certificates will also receive a tactile exemption card in order that visually impaired customers can confirm the validity of the exemption.

## **English speaking**

38. Applicants must be able to converse orally and in writing in English to a standard that would be reasonably expected of a person undertaking a role as a hackney carriage or private hire driver. This will be tested as part of the Knowledge Test, BTEC/NVQ qualification and interview appointment. If an applicant cannot satisfy the authorised officers of the Council that their standard of English is suitable then the application may be referred to the Public Protection Sub-Committee or authorised officers.

## **Code of Conduct**

39. All dual drivers licence holders must comply with the Code of Conduct set out at **Appendix B**. The Code of Conduct is in addition to any matters set out within the main body of the Policy.

## APPENDIX D

### HACKNEY CARRIAGE CONDITIONS OF LICENCE

These conditions are attached to the licenses issued by The Borough Council of Newcastle-under-Lyme under sections 47 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act").

The Borough Council of Newcastle-under-Lyme has carefully considered the following conditions and has decided that they are reasonably necessary.

**The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

The Conditions attached to the licence are as follows:

#### Notification

1. Change of Address - The proprietor of the vehicle ("the owner") must notify the Licensing Administration Team in writing at The Borough Council of Newcastle-under-Lyme ("the Council") within 72 hours of his/her change of address.
2. Identification – The owner must inform the Council in writing of which form of identification on the vehicle he/she wishes to adopt (see condition 22).
3. Accident damage – The owner must report any accident damage to the Council within 72 hours in writing and must be repaired as soon as possible.
4. Transfer of ownership – The owner must inform the Council within 14 days in writing if s/he transfers part or all of her/his interest in the vehicle to any other person.
5. The proprietor must give notice to the Council when any changes are made as to driver of the vehicle
6. Where the licence holder amends or changes their insurance policy for the vehicle they are driving then they must produce their amended/new insurance certificate to the Council Licensing department with 7 days.
7. Where the licence holder changes the operator that they work for they must notify the Council in writing within 7 days of that change with details of which operator they work for.

#### Vehicle Condition and Maintenance

8. Safety and good order – The vehicle must be maintained in a safe, comfortable, clean and tidy condition at all times.
9. Maintenance programme – The owner/driver must at all times ensure that the vehicle is properly and regularly maintained. The owner must have in place a programme to ensure that vehicles are inspected regularly, record this in writing and retain for a period of 12 months. The programme and vehicle history must be submitted to the Council on request and must include details of how often the vehicle is inspected, serviced and what checks are carried out.
10. Advisory Work notified during Testing – The Council's garage may, while not failing the vehicle, give advice that further works are recommended to ensure that the vehicle complies with these conditions. The Council expects that the owner of the vehicle will take account of these advisories and incorporate any recommendations into the maintenance programme required in condition 9 above.

11. Appearance of vehicle – all paintwork shall be maintained to a high standard and be free from dents, scratches and rust other than can be attributed to general wear and tear in the life of a licensed vehicle.
12. Seats - The seats of the vehicle must be properly cushioned and covered.
13. Floor – The floor of the vehicle must be provided with a properly fitted carpet, mat or other suitable covering.
14. Luggage – There must be means of carrying and securing luggage in the rear of the vehicle.
15. Spare Tyre – There must be, in or on the vehicle, a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current contract with a mobile tyre replacement specialist. In any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety
16. Safety equipment – The vehicle must carry at all times a suitable and efficient fire extinguisher and a suitable first aid kit that is marked with the registration number of the vehicle. These must be readily available to the driver. The First Aid Kit must meet the British Standard BS 8599 1 and the Fire Extinguisher may be dry powder or CO2 but must meet the British Standard EN 3-10:2009
17. Vehicle Idling - That when the vehicle is parked on the highway or in a public place during the course of their duties that the engine must be kept from idling at any time, unless there is a mitigating reason to. Drivers must turn off the engine when requested by an Authorised Officer of the Council.

#### **Alteration to vehicle**

18. No material alteration or change in the specification, design, condition or appearance of the vehicle (including its colour) shall be made without prior consent of the Council.
19. If the vehicle has CCTV fitted then the proprietor must inform the Council in writing within 7 days. The footage must be made available to authorised officers of the Council within 72 hours and the footage must be kept for a period not less than 14 days of recording. If CCTV is fitted then the proprietor must ensure that there is signage displayed notifying customers

#### **Signs and notices**

20. Licence plate – The Council will issue to each licensed vehicle two white “licence plates” particular to the vehicle, one rectangular plate to be affixed securely to the exterior of the front and one square plate to be affixed securely to the exterior of the rear of the vehicle. The licence plates for the vehicle must be displayed at all times in a clearly visible place and maintained in good order. The plate must not at any time be wholly or partially concealed from view.
21. The Council plates shall be fitted securely to the exterior of the vehicle using a bracket provided by the Council and fixed directly to the body work of the vehicle. Magnetic fixings are not permitted.
22. All parts of the licence plate remain the property of the Council and must be returned to the Council on expiry.
23. The vehicle must, at all times, have the white stripe identifying the vehicle as a Hackney Carriage permanently affixed to the exterior, in line with the vehicle licensing specifications. Magnetic stripes are not permitted.
24. The vehicle must, at all times, display the Council set tariff sheet on the dashboard of the vehicle or in a suitable location visible to all passengers.
25. Identification Sticker – The Council will issue a white “identification sticker” or “internal plate” particular to the vehicle. Such sticker/plate must be displayed at all times in a clearly visible place in the front of the vehicle in a location visible to all passengers. The sticker must not at any time be

wholly or partially concealed from view.

26. Further signs required by the Council – Each vehicle must display such notices as the Council reasonably requires and in the manner the Council prescribes. This includes the requirement to display signs, issued by the Council, on both rear passenger doors stating that vehicle is licensed as a Hackney Carriage by the Council as detailed in **Appendix L**
27. Roof sign – The vehicle must have a roof sign; that bears one of “for hire” or “taxi”. All parts of the sign must be clearly legible from a reasonable distance. The sign must be approved by the Council before use.
28. Door Signs – Where the owner chooses to adopt door signs the form, location and wording must be approved by the Council. It must have the name of the operator or proprietor. The Operator or proprietor may include their telephone number. It may have one of “for hire” or “taxi” but must not have the words “private hire” on the livery. All parts of the sign must be clearly legible from a reasonable distance.
29. Advertisements - The owner must not display any advertisements on or in the vehicle
30. No Smoking Signs – All vehicles must display a reasonable amount of no-smoking signs in the interior of the vehicle so as to be visible to all passengers.
31. Other signs – No other sign, notice, advertisement, inappropriate material, marks, or letters may be displayed on or in the vehicle (other than in accordance with the other conditions detailed above) unless the Council approves such markings or it is required under relevant legislation.
32. Taxi meter for hackney carriages – any hackney carriage must be fitted with a taximeter and this must be well maintained and clearly visible at all times. The meter must be set in accordance with the hackney carriage fare table approved by the Council and the fare table displayed prominently within the hackney carriage. The fare charged when the meter is used must be no more than that permitted by the approved tariff.

#### Insurance

33. The owner must at all times ensure that there is in force in relation to the use of the vehicle as a Hackney Carriage vehicle a policy of insurance as complies with the requirements of part VI of the Road Traffic Act 1988. Where possible the Council recommends that owners purchase a fully comprehensive insurance policy.

#### Vehicle Tests

34. MOT - The owner must at all times ensure that there is a valid MOT test certificate in force.
35. Requirement to attend vehicle test – The owner must, if requested, present the vehicle at such place and at such time as the Council may require in order for it to be tested as to whether it is suitable to be licensed as a Hackney Carriage vehicle.
36. Number of passengers – The driver must not allow the Hackney Carriage vehicle to be used for more than the number of passengers the vehicle is licensed to carry.

#### Animals

37. No animal belonging to the proprietor or driver of the vehicle shall be conveyed in the vehicle.
38. The driver may carry any animal belonging to a passenger at his/her own discretion and it is the responsibility of the driver to ensure that the animal is suitably restrained in order that it will not cause a distraction, or cause injury to you or themselves if you have to stop quickly. N.B. if you are carrying an animal in the front of the vehicle, your vehicle has an airbag and it is not lying in the footwell you must notify the owner.
39. Paragraph 38 does not in any way remove or reduce the duty placed on the driver of the hackney

carriage vehicle to carry assistance dogs in the passenger compartment with the dogs' owner under s168 Equality Act 2010 without charge unless the driver has a valid exemption certificate issue by this authority under s169. When plying for hire or attending a booked fare and the passenger has an assistance dog with them the driver must stop to carry them. Failure to do so will be treated as an illegal refusal.

**Other requirements**

40. Comply with all other relevant statutory requirements. The most common statutory requirements are set out in the Council's guidance and policy statement accompanying these conditions.
41. Licence holders must comply with any reasonable request from an authorised officer of another local authority

**The licence holder must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

**I acknowledge receipt of these conditions**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

**PLEASE NOTE THAT SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS SET OUT ABOVE THEN YOU HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT WITHIN 21 DAYS FROM THE DATE WHEN THE LICENCE IS ISSUED. YOU ALSO HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT AGAINST REFUSAL TO ISSUE A LICENCE WITHIN 21 DAYS FROM REFUSAL.**

**ADDITIONAL CONDITIONS APPLICABLE TO THE USE OF TRAILERS**

1. Any driver using a trailer must ensure they hold the appropriate DVLA (or equivalent) driving licence.
2. The use of trailers is only permitted for vehicles of the multi-passenger type (more than 4 passenger seats) and on pre-arranged journeys where passenger's luggage cannot be safely accommodated within the vehicle.
3. The licensed towing vehicle's insurance must cover the towing of a trailer.
4. Trailers must not be left unattended anywhere on the highway.
5. The speed restrictions applicable to trailers must be observed at all times.
6. A spare wheel for the trailer and adequate tools to change a wheel must be carried at all times by a licensed vehicle whilst towing a trailer.
7. The towing of a trailer by a licensed vehicle shall only permit the conveyance of luggage and belongings owned by a passenger whilst the vehicle is hired by a passenger within the vehicle, and immediately before and after the journey on the way to and from the booking.
8. The owner of the trailer must carry out periodic checks of the vehicle and be able to provide a written history of the checks and any maintenance that have been carried out,
9. The trailer must at all times comply with all Road Traffic legislation requirements, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.
10. The trailer shall not display any form of sign or advertisement not required or approved by the Council or Road Traffic legislation
11. The trailer must display a duplicate of the rear licence plate affixed to the vehicle. The proprietor must inform the Council that they use a trailer and pay an additional fee for the duplicate plate.



## APPENDIX E

### HACKNEY CARRIAGE VEHICLE SPECIFICATIONS

#### 1. Vehicle Age

Upon first application all vehicles must be a purpose built hackney carriage or wheelchair accessible, or converted to conform with European type approval, and be less than 7 years old.

There is no maximum age for vehicles to be licensed. At 10 years old all vehicles will require a Council Vehicle Test prior to each renewal and at 6 monthly intervals.

#### 2. Grandfather Rights

Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this version of the policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months. The cost of the tests will be met by the vehicle owner. At each renewal test, and subsequent 6 month test will be permitted **one** retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

Current holders of Hackney Carriage licences for non-wheelchair accessible vehicles (i.e. saloons, hatchbacks and estates) will continue to benefit from existing grandfather rights allowing them to replace their current vehicle, with another non-wheelchair accessible vehicle either during the licence period or at the expiry date of the licence. However those rights will cease if the vehicle is transferred to another proprietor/s.

#### 3. Specifications

- a) Vehicles must seat not less than four (4) or more than eight (8) passengers (not including the driver) and:
- b) Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Unless licensed at the implementation of this policy, vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will not be considered suitable for licensing;
- c) To be licensed as a Hackney Carriage the vehicle must be black with an affixed four inch white stripe which runs the length of both sides of the vehicle
- d) Vehicles presented to be licensed as a Hackney Carriage for the first time must be wheelchair accessible. They may be purpose built 'London-type' taxis, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).
- e) Be fitted with a taximeter, calibrated to the Borough Council's approved tariff
- f) Be fitted with an illuminated roof sign
- g) Provide sufficient means by which any person in the carriage may communicate with the driver;
- h) All paintwork must be maintained in a uniform colour and free from dents, scratches or rust;
- i) Have a watertight roof or covering;
- j) Provide at least two windows on each side of the vehicle of which one window on one

- side must have a means of opening/closing;
- k) Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986;
  - l) Have seats that are properly cushioned and covered;
  - m) Have a floor provided with a proper carpet, mat, or other suitable covering;
  - n) Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service;
  - o) Provide means for securing luggage if the carriage is so constructed as to carry luggage;
  - p) Be fitted with an anti-lock braking system
  - q) Where tilting passenger seats are fitted **(except where these are part of the manufacturer's original vehicle specification), the seat must:-**
    - be forward facing (with the exception of the fold down seats fitted onto the bulkhead/partition of a purpose built hackney carriage);
    - be designed for use by an adult;
    - have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
  - r) Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver;
  - s) Be maintained in a sound mechanical and structural condition at all times;
  - t) Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current a contract with a mobile tyre, replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
  - u) Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
  - v) Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes
  - w) Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
  - x) Electric vehicles that are fitted with a range extension device are permitted, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that the vehicle will be licensed to carry will be the maximum number of seats, as detailed in the vehicle specification, less the number of wheelchairs that can be carried in the vehicle).

#### 4. Taximeters

Taximeters must be:

- a. certified by a recognised body in accordance with the Measuring Instruments Directive (MID) (2004/22/EC), in particular Annex 007;
- b. fitted with a device, the use/action of which will bring the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter and such a device must be capable of being locked in a position such that the machinery of the taximeter is not in action or switched off and that no fare is recorded on the face of the taximeter;

- c. calibrated against an appropriate standard to ensure the tariff charged does not exceed the maximum fares determined by the Council;
- d. calendar and time controlled;
- e. fixed to the vehicle with appropriate seals/appliances, where possible, to prevent any person from tampering with the meter except by breaking, damaging, or permanently displacing the seals/appliances;
- f. have the word 'FARE' printed on the face of the meter in plain letters so as clearly to apply to the fare recorded thereon; and

## **5. Wheelchair Accessible Vehicles**

- 5.1 Vehicles must be able to accommodate at least one wheelchair using passenger.
- 5.2 Vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.
- 5.3 Wheelchairs can be loaded from either the side or the rear of the vehicle
- 5.4 A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.
- 5.5 A suitable restraint must be available to the occupant of the wheelchair.
- 5.6 A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.
- 5.7 Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g. Lifting Operations and Lifting Regulations 1998) for such devices and maintained in good working order.

## **APPENDIX F**

### **PLYING FOR HIRE**

1. Only licensed hackney carriages are permitted to ply for hire and only in the administrative area of the Borough Council with which they are licensed. It is **ILLEGAL** for a private hire vehicle to ply for hire. This means:
  - a) Private hire vehicles **MUST NOT** carry passengers if the journey has not been pre- booked with a private hire operator by the passenger.
  - b) All private hire vehicle journeys **MUST** be pre-booked through a licensed private hire operator.
  - c) All bookings **MUST** be made by prospective passengers with a private hire operator who will dispatch the vehicle. Prospective passengers may instruct a third party, e.g. a restaurant manager or bus station marshal, to make a booking on their behalf but this third party **MUST NOT** be the private hire vehicle driver.
  - d) A driver of a private hire vehicle is **NOT** permitted to make the booking on behalf of a prospective passenger, e.g. via their radio or mobile telephone or other device.
  - e) Private hire operators **MUST NOT** accept any booking made by a driver on behalf of a passenger.
  - f) Private hire vehicle drivers are **NOT** permitted to make their vehicles available for immediate hire. This means that private hire vehicle drivers **MUST NOT** physically position their vehicles in such a way as to be waiting in any area that is on view to the public to invite custom, e.g. allowing prospective customers to approach the vehicle and ask, 'Are you free?'
  - g) In most cases, the vehicle will not be insured during a journey that has not been correctly pre-booked.
  - h) Private hire vehicles **MUST NOT** wait at any taxi rank/stand.
  - i) Private hire vehicles **MUST NOT** be hailed in the street.
2. Other circumstances may constitute unlawful 'plying for hire'; accordingly, each case of allegedly unlawful 'plying for hire' will be judged on its own facts. Nevertheless, attention is drawn to the Council's position as set out above.
3. Further information about the relevant legislation is available in the Town Police Clauses Act 1847, in particular Section 45, and in Part II of the Local Government (Miscellaneous Provisions) Act 1976, in particular Section 64.

## APPENDIX G

### PRIVATE HIRE VEHICLE CONDITIONS

These conditions are attached to the licenses issued by The Borough Council of Newcastle-under-Lyme under sections 48 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act").

The Borough Council of Newcastle-under-Lyme has carefully considered the following conditions and has decided that they are reasonably necessary.

**The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

The Conditions attached to the licence are as follows:

#### Notification

1. Change of Address - The proprietor of the vehicle ("the owner") must notify the Licensing Administration Team at The Borough Council of Newcastle-under-Lyme ("the Council") within 72 hours in writing of his/her change of address.
2. Accident damage – The owner must report any accident damage to the Council within 72 hours in writing and must be repaired as soon as possible.
3. Transfer of ownership – The owner must inform the Council in writing within 14 days if s/he transfers part or all of her/his interest in the vehicle to any other person.
4. The proprietor must give notice to the Council when any changes are made as to driver of the vehicle
5. Where the licence holder amends or changes their insurance policy for the vehicle they are driving then they must produce their amended/new insurance certificate to the Council Licensing department with 7 days.
6. Where the licence holder changes the operator that they work for they must notify the Council in writing within 7 days of that change with details of which operator they work for.

#### Vehicle Condition and Maintenance

7. Safety and good order – The vehicle must be maintained in a safe, comfortable, clean and tidy condition at all times.
8. Maintenance programme – The owner/driver must at all times ensure that the vehicle is properly and regularly maintained. The owner must have in place a programme to ensure that vehicles are inspected regularly and record this in writing. The programme must be submitted to the Council on request and must include details of how often the vehicle is inspected, serviced and what checks are carried out.
9. Advisory Work notified during Testing – The Council's garage may, while not failing the vehicle, give advice that further works are recommended to ensure that the vehicle complies with these conditions. The Council expects that the owner of the vehicle will take account of these advisories and incorporate any recommendations into the maintenance programme required in condition 7 & 8 above.
10. Appearance of vehicle – all paintwork shall be maintained to a high standard and be free from dents, scratches and rust other than can be attributed to general wear and tear in the life of a licensed vehicle.

11. Seats - The seats of the vehicle must be properly cushioned and covered.
12. Floor – The floor of the vehicle must be provided with a properly fitted carpet, mat or other suitable covering.
13. Luggage – There must be means of carrying and securing luggage in the rear of the vehicle.
14. Spare Tyre – There must be, in or on the vehicle, a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current a contract with a mobile tyre, replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety
15. Safety equipment – The vehicle must carry at all times a suitable and efficient fire extinguisher and a suitable first aid kit that is marked with the registration number of the vehicle. These must be readily available to the driver. The First Aid Kit must meet the British Standard BS 8599 1 and the Fire Extinguisher may be dry powder or CO2 but must meet the British Standard EN 3-10:2009
16. Vehicle Idling - That when the vehicle is parked on the highway or in a public place during the course of their duties that the engine must be kept from idling at any time, unless there is a mitigating reason to. Drivers must turn off the engine when requested by an Authorised Officer of the Council.

#### **Alteration to vehicle**

17. No material alteration or change in the specification, design, condition or appearance of the vehicle (including its colour) shall be made without prior consent of the Council.
18. If the vehicle has CCTV fitted then the proprietor must inform the Council in writing within 7 days. The footage must be made available to authorised officers of the Council within 72 hours and the footage must be kept for a period not less than 14 days of recording. If CCTV is fitted then the proprietor must ensure that there is signage displayed notifying customers

#### **Signs and notices**

19. Licence plate – The Council will issue to each licensed vehicle two “licence plates” particular to the vehicle, one to be affixed to the front and one to be affixed to the rear of the vehicle. The licence plates for the vehicle must be displayed at all times in a clearly visible place and maintained in good order. The plate must not at any time be wholly or partially concealed from view.
20. The Council plates shall be fitted securely to the exterior of the vehicle using a bracket provided by the Council fixed directly to the body work of the vehicle. Private Hire Vehicle Licence plates will be green and white. Magnetic fixings are not permitted.
21. All parts of the licence plate remain the property of the Council and must be returned to the Council on expiry.
22. Identification Sticker – The Council will issue an “identification sticker” or “internal plate” particular to the vehicle. Such sticker/plate must be displayed at all times in a clearly visible place in the front of the vehicle in a location visible to all passengers. The sticker must not at any time be wholly or partially concealed from view.
23. Further signs required by the Council – Each vehicle must display such notices as the Council reasonably requires and in the manner the Council reasonably requires. This includes the requirement to display signs, issued by the Council, on both rear passenger doors stating that vehicle is licensed as a Private Hire Vehicle by the Council as detailed in **Appendix L**.
24. Other Identification - Each private hire vehicle, unless granted an exemption by the Council, must

display door livery (as detailed in conditions 23 and 26).

25. Roof sign – Are not permitted to be used on Private Hire Vehicles
26. Door Livery – The form, location and wording must be approved by the Council. It must have the name of the operator and the words “private hire” or “office bookings only” on the livery. The Operator may include their telephone number. All parts of the sign must be clearly legible from a reasonable distance. The livery of any private hire vehicle must not include the words “for hire”, the word “taxi” or any derivative thereof.
27. Advertisements - The owner must not display any advertisements on or in the vehicle
28. No Smoking Signs – All vehicles must display a reasonable amount of no-smoking signs in the interior of the vehicle so as to be visible to all passengers.
29. Other signs – No other sign, notice, advertisement, marks, or letters may be displayed on or in the vehicle (other than in accordance with the other conditions detailed above) unless the Council approves such markings or it is required under relevant legislation.
30. Taxi meter for private hire vehicles – any private hire vehicles fitted with a taximeter must ensure they are well maintained and clearly visible at all times. The meter must be set in accordance with the hackney carriage fare table approved by the Council and the fare table displayed prominently within the vehicle. The fare charged when the meter is used must be no more than that permitted by the approved tariff.

#### **Insurance**

31. The owner must at all times ensure that there is in force in relation to the use of the vehicle as a private hire vehicle a policy of insurance as complies with the requirements of part VI of the Road Traffic Act 1988. Where possible the Council recommends that owners purchase a fully comprehensive insurance policy.

#### **Vehicle Tests**

32. MOT - The owner must at all times ensure that there is a valid MOT test certificate in force.
33. Requirement to attend vehicle test – The owner must, if requested, present the vehicle at such place and at such time as the Council may require in order for it to be tested as to whether it is suitable to be licensed as a private hire vehicle.
34. Number of passengers – The driver must not allow the private hire vehicle to be used for more than the number of passengers the vehicle is licensed to carry.

#### **Animals**

35. No animal belonging to the proprietor or driver of the vehicle shall be conveyed in the vehicle.
36. The driver may carry any animal belonging to a passenger at his/her own discretion and it is the responsibility of the driver to ensure that the animal is suitably restrained in order that it will not cause a distraction, or cause injury to you or themselves if you have to stop quickly. N.B. if you are carrying an animal in the front of the vehicle, your vehicle has an airbag and it is not lying in the footwell you must notify the owner.
37. Paragraph 36 does not in any way remove or reduce the duty placed on the driver of the private hire vehicle to carry assistance dogs in the passenger compartment with the dogs' owner under s170 Equality Act 2010 without charge unless the driver has a valid exemption certificate issue by this authority under s171. When attending a booked fare and the passenger has an assistance dog with them the driver must stop to carry them. Failure to do so will be treated as an illegal refusal.

### Other requirements

38. Comply with all other relevant statutory requirements. The most common statutory requirements are set out in the Council's guidance and policy statement accompanying these conditions.
39. Licence holders must comply with any reasonable request from an authorised officer of another local authority

**The licence holder must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

### I acknowledge receipt of these conditions

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

**PLEASE NOTE THAT SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS SET OUT ABOVE THEN YOU HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT WITHIN 21 DAYS FROM THE DATE WHEN THE LICENCE IS ISSUED. YOU ALSO HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT AGAINST REFUSAL TO ISSUE A LICENCE WITHIN 21 DAYS FROM REFUSAL.**

### ADDITIONAL CONDITIONS APPLICABLE TO THE USE OF TRAILERS

1. Any driver using a trailer must ensure they hold the appropriate DVLA (or equivalent) driving licence.
2. The use of trailers is only permitted for vehicles of the multi-passenger type (more than 4 passenger seats) and on pre-arranged journeys where passenger's luggage cannot be safely accommodated within the vehicle.
3. The licensed towing vehicle's insurance must cover the towing of a trailer.
4. Trailers must not be left unattended anywhere on the highway.
5. The speed restrictions applicable to trailers must be observed at all times.
6. A spare wheel for the trailer and adequate tools to change a wheel must be carried at all times by a licensed vehicle whilst towing a trailer.
7. The towing of a trailer by a licensed vehicle shall only permit the conveyance of luggage and belongings owned by a passenger whilst the vehicle is hired by a passenger within the vehicle, and immediately before and after the journey on the way to and from the booking.
8. The owner of the trailer must carry out periodic checks of the vehicle and be able to provide a written history of the checks and any maintenance that have been carried out,
9. The trailer must at all times comply with all Road Traffic legislation requirements, in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.
10. The trailer shall not display any form of sign or advertisement not required or approved by the Council or Road Traffic legislation.
11. The trailer must display a duplicate of the rear licence plate affixed to the vehicle. The proprietor must inform the Council that they use a trailer and pay an additional fee for the duplicate plate.

### Additional Conditions for Vehicles with Private Hire Vehicle Exemption Certificates

1. Where a private hire vehicle licence has been issued a Private Hire Vehicle Exemption Certificate it must be retained in the boot of the vehicle at all times and produced to an authorised officer of the Council or a Police Constable upon request.
2. Where a private hire vehicle licence has been issued a Private Hire Vehicle Exemption Certificate



the driver of the vehicle must have their taxi driver licence badge in the vehicle at all times and produced to an authorised officer of the Council or a Police Constable upon request.

3. Where the Council request copies of contracts and/or client lists the proprietor shall, within 72 hours, produced them an authorised officer.
4. Any amendments to the intended use of the vehicle must be notified in writing to the Council before they take place. If the Council determine that the proposals are not suitable and/or inline with the grounds given for the original issue of the Private Hire Vehicle Exemption Certificate then the Certificate may be withdrawn.
5. Vehicles that benefit from a Private Hire Vehicle Exemption Certificate may be transferred from one proprietor to another but the Private Hire Vehicle Exemption Certificate itself is non-transferrable. The proposed new proprietor would have to submit an application for a Private Hire Vehicle Exemption Certificate at the time as the vehicle transfer. The vehicle must not be used until the Council have granted a new certificate.
6. The vehicle must remain in pristine condition, both internally and externally, at all times. Failure to do so may lead to the certificate being withdrawn.

### **ADDITIONAL LIMOUSINE CONDITIONS OF LICENCE**

These additional conditions are attached to the licenses issued by the Borough Council of Newcastle-under-Lyme under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") in relation to limousines and special event vehicles.

For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle.

The Borough Council of Newcastle-under-Lyme has carefully considered the following conditions and has decided that they are reasonably necessary.

**The licence holder (the owner of the vehicle) must meet all the conditions of this licence, including those for private hire vehicles generally. Breach of the conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

The additional conditions attached to the licence are as follows:

1. The vehicle will be presented for, and successfully complete, a garage test at the Council testing station on Knutton Lane or an alternative location authorised by the Authority every 6 months.
2. The vehicle will be licensed for a maximum number of 8 passengers.
3. The vehicle will not be subject to an age restriction for the purposes of licensing.
4. Adequate three point seat belt installations must be in place for the equivalent number of passengers and driver.
5. Must provide a certificate of compliance through the Individual Vehicle Approval Scheme (IVA, formerly known as the Single Vehicle Approval Scheme (SVA).
6. Must provide proof of manufacturer's alterations approval for the vehicle
7. Children under 135cm tall or 12 years (whichever they reach first) can not travel in a sideways facing seat
8. Standard council identification plates must be displayed.

## APPENDIX H

### PRIVATE HIRE VEHICLE SPECIFICATIONS

#### Vehicle Age

Upon first application all vehicles must be less than 7 years old

There is no maximum age for vehicles to be licensed. At 10 years old all vehicles will require a Council Vehicle Test prior to each renewal and at 6 monthly intervals.

#### Grandfather Rights

Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this version of the policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months. The cost of the tests will be met by the vehicle owner. At each renewal test, and subsequent 6 month test will be permitted **one** retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

#### Specifications

1. Vehicles must not seat less than 4 or more than eight passengers (not including the driver) and:
2. Be a Light Passenger Vehicle as defined by section 85 of the Road Traffic Act 1988 and have a minimum of 4 wheels. Vehicles converted from being light goods vehicles (registered under the N1 tax classification) to being passenger carrying vehicles will be considered subject to paragraph (e) below;
3. It must not be of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage
4. To be licensed for Private Hire the vehicle must have uniform coloured paintwork and can be any colour other than black, or a colour that closely resembles black (eg dark greys, blues may not be suitable)
5. The Council encourages vehicles presented to be licensed for Private Hire for the first time to be wheelchair accessible but they do not have to be. Where the vehicles are wheelchair accessible they may be purpose built, or specifically converted from a passenger carrying vehicle with no wheelchair access to a passenger carrying vehicle that is capable of carrying a passenger in their wheelchair (typically known as an M1 conversion). Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval).
6. Provide sufficient means by which any person in the carriage may communicate with the driver;
7. All paintwork must be maintained to a high standard and be free from dents, scratches and rust other than can be attributed to general wear and tear in the life of a licensed vehicle.
8. Have a watertight roof or covering;
9. Provide at least two windows on each side of the vehicle of which one window on one side must have a means of opening/closing;
10. Have fitted rear passenger windows that are not heavily tinted or blacked out and will allow a minimum of 35% transmission of light (tolerance of 2%) and must comply with the Road Vehicles (Construction & Use) Regulations 1986;
11. Have seats that are properly cushioned and covered;
12. Have a floor provided with a proper carpet, mat, or other suitable covering;
13. Have fittings and furniture in a clean condition and be well maintained and in every way fit for public service;
14. Provide means for securing luggage if the carriage is so constructed as to carry luggage;
15. Be fitted with an anti-lock braking system

16. Where tilting passenger seats are fitted (**except where these are part of the manufacturer's original vehicle specification**), the seat must:-
  - be forward facing (with the exception of the fold down seats fitted onto the bulkhead/partition of a purpose built hackney carriage);
  - be designed for use by an adult;
  - have a three point seatbelt - as specified in the Road Vehicle (Construction and Use) Regulations 1986 (as amended).
17. Have a minimum of four passenger doors, which may include the rear tailgate doors if they can be opened from inside the vehicle, including an entry/exit point for the driver:
18. Be maintained in a sound mechanical and structural condition at all times;
19. Have a full size spare wheel or space saver design wheel and the tools to change a wheel OR an emergency puncture repair kit OR carry details of their current a contract with a mobile tyre, replacement specialist (in any event where a spare wheel or puncture repair kit has been used, it is only to permit the current fare to be completed and any defective wheel must be replaced before taking another fare to ensure passenger safety); all pneumatic tyres, including the spare, must comply with the vehicle manufacturer's specification and any relevant legislation;
20. Be maintained in a clean and safe condition at all times from both exterior and interior perspectives.
21. Vehicles should have no damage affecting the structural safety of the vehicle and must not have been written off for insurance purposes
22. Minibuses and Multi-Purpose Vehicles (MPVs) must have a step fitted to assist passenger access through all rear passenger doors.
23. Electric vehicles that are fitted with a range extension device are acceptable, providing that it is approved by the manufacturer and fitted by a suitably qualified professional.

Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that the vehicle will be licensed to carry will be the maximum number of seats, as detailed in the vehicle specification, less the number of wheelchairs that can be carried in the vehicle).

#### **Wheelchair Accessible Vehicles**

24. Vehicles must be able to accommodate at least one wheelchair using passenger.
25. Vehicles shall have a designated space capable of accepting a reference wheelchair, of at least 1200mm by 700mm (measured front to back and side to side) with a minimum headroom of 1350mm measured from the floor of the vehicle for each passenger who uses a wheelchair. The space(s) shall be immediately adjacent to a vehicle door which is fitted with wheelchair access equipment so that the passenger using a wheelchair can board the vehicle and use the anchoring equipment with the minimum of manoeuvring.
26. Wheelchairs can be loaded from either the side or the rear of the vehicle
27. A system for the effective anchoring of wheelchairs must be provided such that they only face forwards or rearwards when the vehicle is in motion. It is best practice to secure wheelchairs in a forwarding facing position.
28. A suitable restraint must be available to the occupant of the wheelchair.
29. A ramp or ramps, or other approved lifting device must be present and available for use to enable the safe loading and unloading of any passenger using a wheelchair, and be capable of supporting a wheelchair, occupant and helper. When deployed ramps must run flush with the vehicles interior floor level.
30. Any lifting device fitted must be regularly tested in accordance with any applicable health and safety regulations (e.g. Lifting Operations and Lifting Regulations 1998) for such devices and

maintained in good working order.

### **Other Vehicles**

#### **Limousines, Novelty Vehicles and Vintage Vehicles**

31. For the purpose of licensing a limousine is described as a luxurious vehicle that has been stretched by the insertion of an additional section not exceeding 3048 millimetres to extend the length of the vehicle. The vehicle shall be capable of carrying up to, but not exceeding, eight passengers. Applicants are directed towards the VOSA (now DVSA) 'Guidance for Operators of Stretch Limousines' (March 2011).
32. Limousines will be licensed by the Council however, the over-riding consideration will be the safety of the vehicle. Such types of vehicle will only be licensed as private hire vehicles. They will be subject to the production of specific documents, in original form or as copies certified by the vehicle builder (uncertified photocopies will not be accepted), and to conditions as set out in **Appendix G**. These are in addition to the documents required and the conditions applicable to standard private hire vehicle licensing. Proprietors may submit an application for a Private Hire Vehicle Exemption Certificate.
33. The following documentation must be produced prior to licensing:
  - a. Evidence of compliance through the Individual Vehicle Approval Scheme (IVA) or a Qualified Vehicle Modifier (QVM) certificate; this is issued by the vehicle builder.
  - b. Public Liability Insurance documentation for a minimum of £5,000,000 and, where drivers other than the proprietor are used, Employer Liability Insurance documentation for a minimum of £10,000,000.
  - c. Documentation recording the overall weight of the vehicle (as displayed on the vehicle.)
34. In addition to stretched limousines, novelty vehicles, e.g. fire engines, and vintage vehicles will also be considered for licensing. Such vehicles do not have to comply with the European Emission Standards or the New Car Assessment Programme rating but will be dealt with by a case by case basis and referred to the Council's Public Protection Committee or Sub-Committee for determination.

#### **Private Hire Vehicle Exemption Certificates**

The Local Government (Miscellaneous Provisions) Act 1976 ("LGMPA76") prohibits a licensed private hire vehicle being used without the identification plate issued by the Council being displayed upon the vehicle. It also provides that the driver of said vehicle must wear their identity badge (referred to here as drivers badge) at all times they are driving it.

The Council may issue a written notice (referred to here as a Private Hire Vehicle Exemption Certificate) that exempts the proprietor of the vehicle from having to display the identification plates. The Private Hire Vehicle Exemption Certificate can be used to exempt a vehicle from displaying plates at specific times or can give a blanket exemption. If the Council issues a Private Hire Vehicle Exemption Certificate then the LGMPA76 provides that the driver of said vehicle does not have to wear their drivers badge.

The LGMPA76 allows the Council to attach conditions to a private hire vehicle licence including the displaying of door signs upon the vehicle, colour of the vehicle and level tint permitted in the windows.

A proprietor can request to be exempt (referred to here as Private Hire Vehicle Exemption Requests) from displaying the vehicle licence plates and wearing the drivers badge, and also to be exempt from conditions attached to private hire vehicle licences such as those detailed above.

The LGMPA76 is silent on the reasons why a Council may choose to grant such an exemption to not display signs, plates and the driver's badge.

Private Hire Vehicle exemption requests are usually made in connection with 'executive' or 'celebrity' customers who rather than requiring the security that clear identification of the vehicle and driver usually affords, instead may become more at risk (along with the driver) if their presence can be identified from use of a particular vehicle or operator.

There are currently a small number of local operators that benefit from a Private Hire Vehicle Exemption Certificate and the Council's starting position is that a Private Hire Vehicle Exemption Request will only be granted in very limited circumstances. While the legislative process is specific and a standard process for requesting and determining an exemption operates, there is an absence of criteria within the legislation to guide applicants and Members regarding if and when an exemption should be granted. Here we seek to outline the criteria that the Council will use when determine whether a request will be granted.

The Council will request copies of written contracts or client lists to support the application, and may restrict the use of an exempted vehicle to contracted work only.

Given the type of passengers to be carried exempted vehicles are expected to be prestigious models with above average appearance and levels of equipment. Suggested indicative features are:

- ***A vehicle which is above the standard model and towards the top of the range as offered by the vehicle manufacturer***
- ***Climate control, all electric windows, and central anti-intrusion locking***
- ***Front and rear headrests and above average legroom***
- ***Seats which permit direct access into and out of the vehicle without the need to move, remove or fold down any other seat***
- ***Pristine interior and external condition***

Use of the vehicle outside of the exemption is permitted by the legislation provided door signs and licence plates are reapplied, however if a vehicle has been granted an exception certificate that restricts the use of the vehicle to contract work only then a condition will be placed on the vehicle licence that it may not be used for 'general private hire bookings' such as a trip to the shops or home from a restaurant.

All exempted vehicles must carry their licence plates and the Private Hire Vehicle exemption certificate in the boot of the vehicle at all times and produce them to an authorised officer of the Council or a Police Constable upon request.

There is a prohibition on private hire vehicles being black or a similar colour. Vehicles that benefit from a Private Hire Vehicle exemption certificate will be exempt from this condition and may be any colour.

If a proprietor of an exempted vehicle applies to transfer it to another person then that person will also have to apply for a new exemption certificate. Private Hire Vehicle Exemption certificates can not be transferred from one person to another, or from one vehicle to another.

# APPENDIX I

## PRIVATE HIRE OPERATOR CONDITIONS

These conditions are attached to the licenses issued by the Borough Council of Newcastle-under-Lyme under section 55 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act").

The Borough Council of Newcastle-under-Lyme has carefully considered the following conditions and has decided that they are reasonably necessary.

These conditions set out the way in which the licence holder must act whilst acting as a private hire operator in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal ply for hire.

These conditions do not set out the detail as to what steps are required to become and remain an operator and they do not set out what factors are taken into account in deciding whether a person is a fit and proper person to be a driver. Information on these issues is set out in the Policy document above.

**Breach of these conditions may lead to the suspension of the licence and consideration of revocation of the licence or prosecution.**

The Conditions attached to the licence are as follows:

### Notification requirements

1. Change of Address - The private hire operator must notify the licensing authority ("the Council") within 72 hours in writing of his/her change of personal address.
2. Change of Vehicles – The operator must inform the Council in writing within 72 hours of operating an additional vehicle. Where an operator ceases to operate a vehicle on the Operator Vehicle Schedule (see condition 10) he/she must notify the Council within 72 hours in writing.
3. Convictions/Cautions or other enforcement action – The operator must notify the Council within 72 hours in writing of any conviction, issue of a formal caution/final warning or issue of a fixed penalty notice by the Police or a Local Authority.

The operator must also notify the Council, in writing, within 72 hours of any other enforcement action taken by another local authority under the 1976 Act or the Town Police Clauses Act 1847. If the operator is a company or partnership any action listed above taken against the company or any of the directors or partners must also be notified to the Council. **For the avoidance of doubt this condition also applies to any driving convictions.**

4. Where the operator is required to notify the Council under condition 3, they must provide the Council with details of:
  - The offence / mischief;
  - The date of conviction / enforcement action;
  - The sanction imposed;
  - The imposing authority / place;

### Record Keeping

5. Booking records - Each operator must keep a record of the particulars of every booking invited

or accepted by him, including the name of the staff member that took the booking. Such records must be kept for 12 months. **Each record must be fully completed before the dispatch of any vehicle or any part of the journey is undertaken.**

Records must also be maintained for any regular contract work that the operator may undertake such as school contracts. The records must specify the following:

- Date and time of booking;
- Client's first name and surname;
- Origin of journey;
- Time of journey;
- Destination of journey;
- Identification of both driver and the vehicle allocated to the booking;
- the name of the individual that responded to the booking request
- the name of the individual that dispatched the vehicle
- The agreed fare.

6. Booking records must be kept at the base recorded on the Operator's licence.

7. The operator must ensure that they use appropriate staff to carry out their bookings. The Operator must use a Fit and Proper test, similar to the one the Council use for determining whether to grant an operator's licence, for each member of staff that they employ. The operator should not employ any individual that falls below that test.

8. Sub-contracted Bookings – Each operator must keep a record of the particulars of each journey that is either subject to sub-contracting. The record must specify:

- Date and time of booking;
- Operator received from (or passed to);
- Client's first name and surname;
- Origin of journey;
- Time and date of journey;
- Destination of journey;
- Identification of both driver and the vehicle allocated to the booking;
- The agreed fare;
- Confirmation that the customer has been advised that the journey has been sub-contracted.

### Complaints Procedure

9. Each operator must have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a complaint.

10. The complaints procedure and complaint records must be made available to the licensing authority or Staffordshire Police on request and will be audited and checked by an authorised officer of the Council as appropriate on a risk based approach. Where a complaint is received about one of the below matters the operator must notify the Council in writing within 72 hours, including the name and contact details of the complainant, the nature of the complaint and the name of the driver involved:

- A driver's behaviour or conduct towards a vulnerable passenger;
- Inappropriate sexual comments towards a passenger;
- Report of poor and/or dangerous driving;
- A driver being under the influence of alcohol and/or any other drug (illegal or medicinal);
- A refusal of a passenger with a wheelchair or an assistance dog.

11. The records may be kept in hard copy or on computer. If kept in hard copy they must be in a bound book with consecutively numbered pages.

#### **Operator Vehicle Schedule**

12. The operator must keep a schedule of all vehicles they operate ("the Operator Vehicle Schedule"). The Operator Vehicle Schedule must record the make, model, registration number, private hire number and the date of expiry of the private hire plate, insurance, road tax and MOT (where applicable) on the Operator Vehicle Schedule. The Operator Vehicle Schedule must be kept up to date by the operator.
13. The operator must not operate any private hire vehicle other than those which have been listed on the Operator Vehicle Schedule. All vehicles on the Operator Vehicle Schedule must have a valid private hire licence with the Council.

#### **Operator Driver Schedule**

14. The operator must keep a schedule of all drivers s/he employs or uses ("the Operator Driver Schedule"). The Operator Driver Schedule must record the name, address, contact details together with the date of expiry of his private hire licence and the date when his driving licence expires on the Operator Driver Schedule. The Operator Driver Schedule must be kept up to date.
15. The operator must not use or employ any private hire driver other than those listed by the Operator on the Operator Driver Schedule.

#### **Operator to keep Drivers' Licences**

16. It is the operator's responsibility to check that all drivers are licensed as private hire drivers. The operator should ensure that when a driver has made themselves available for private hire work that the driver has deposited her/his licence with the operator whilst s/he is available for work.

#### **Standard of Service**

17. General standards - The operator must provide a prompt, efficient, safe and reliable service to members of the public.
18. Punctuality – The operator must ensure that when a private hire vehicle has been hired to be at an appointment at a certain time and place that the vehicle attends punctually unless delayed for reasons beyond the reasonable control of the operator.
19. Standard of Premises accessible to public – Where the operator has premises accessible by the public whether for booking or waiting they must be kept clean and adequately heated, ventilated and lit. They must also have adequate seating facilities. Premises accessible to the public must also have public liability insurance cover of at least £5,000,000.

#### **Operator Base**

20. Limit on operation – The operator must only operate from the base or bases identified on the operator's licence.
21. Licence for radio equipment – The operator must hold the necessary permission from OFCOM where they operate radio equipment requiring such permission.



### Insurance

22. Insurance - The operator must ensure that there is in force in relation to the use of the vehicle as a private hire vehicle a policy of insurance as complies with the requirements of part VI of the Road Traffic Act 1988. A copy of the original certificate of insurance or cover note relating to each vehicle which shows those persons entitled to drive must be retained by the operator on the premises specified on the licence. Where the policy is a fleet policy confirmation that the vehicle is included on the schedule of vehicles will also be required in addition to the insurance certificate.
23. MOT – The operator must at all times ensure that each vehicle has a valid MOT test certificate if required by law.

### Fares

24. Agreed fare- Where the fee is agreed in advance, the operator shall ensure that no more than the agreed fare is paid.

### Other requirements

25. The Operator must comply with all other relevant statutory requirements. The Operator must also take all reasonable steps to ensure that any drivers they employ or uses comply with relevant statutory requirements. The most common statutory requirements are set out in the Council's guidance and policy statement accompanying these conditions.
26. The Operator must allow Police Officers and authorised officers of the Council access to the business address, at any time the business is in operation, for the purpose of carrying out inspections and obtaining copies of relevant records.

**The licence holder must meet all the conditions of this licence. Breach of these conditions may lead to the suspension of the operator's licence and consideration of revocation of the licence and/or where appropriate prosecution.**

### I acknowledge receipt of these conditions

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

PLEASE NOTE THAT SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS SET OUT ABOVE THEN YOU HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT WITHIN 21 DAYS FROM THE DATE WHEN THE LICENCE IS ISSUED. YOU ALSO HAVE A RIGHT OF APPEAL TO THE MAGISTRATES COURT AGAINST REFUSAL TO ISSUE A LICENCE WITHIN 21 DAYS FROM REFUSAL.

## APPENDIX J

### Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades

1. There is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
2. Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) will be persons of the highest integrity.
3. The purpose of this document is to specify how Newcastle-Under Lyme Borough Council will determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence.
4. In certain circumstances these guidelines say never to a licence being granted, but each case will be considered on its own merits

#### Pre-application requirements

5. The Council is entitled to set its own pre-application requirements and these are outlined in the Policy and relevant appendices.
6. In relation to all Hackney Carriage and Private Hire licences, the Council has discretion as to whether or not to grant the licence.
7. Drivers and operators cannot be granted a licence unless the Council is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
8. There are no statutory criteria for vehicle licences, therefore the Council has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor's licence.
9. "Fit and proper" means that the individual (or in the case of a private hire operator's licence, the limited company together with its directors and secretary, or all members of a partnership) is "safe and suitable" to hold the licence.
10. In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.
11. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
12. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
13. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, the Council will decide what action to take in the light of these guidelines.
14. In all cases, the Council will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
15. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

16. As the Council will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
17. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
18. Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
19. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
20. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution or other enforcement action being taken.
21. As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
22. Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The Council is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
23. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the Council will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
24. These guidelines do not replace the duty of the Council to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the Council will consider the matter from first principles and determine the fitness and propriety of the individual.

#### **Drivers**

25. As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
26. A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle.
27. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
28. As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
29. In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### **Crimes resulting in death**

30. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### **Exploitation**

31. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes

slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

32. Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

33. Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

34. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
35. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

36. Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

37. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
38. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

39. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

40. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

41. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
42. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

43. A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in

injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. The 5 year period remains in place even when penalty points expire and are removed from the DVLA licence.

44. A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. The 7 year period remains in place even when penalty points expire and are removed from the DVLA licence.

#### Hackney carriage and private hire offences

45. Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Vehicle use offences

46. Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Private Hire Operators

47. A private hire operator ("an operator") does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
48. As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
49. Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the Council's overall criteria, that will lead to the operator's licence being revoked.
50. As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

#### Vehicle proprietors

51. Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
52. Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
53. Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
54. As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
55. As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## APPENDIX K

### CODE OF CONDUCT WHEN WORKING WITH VULNERABLE PASSENGERS

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be, for example, a child, an elderly person or somebody with learning difficulties. In addition, an individual should be considered vulnerable if they do not fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol or drugs).

This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice:

- Drivers must carry photo ID at all times, and wear it in accordance with the conditions of licence.
- A vulnerable passenger must not be transported in the front passenger seat of the vehicle unless the booking being carried out is under a Staffordshire County Council, or other relevant body, contract for carrying vulnerable persons, in which case the vulnerable passenger may be carried in the front passenger compartment of the vehicle.
- The driver / operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver / operator is responsible for the provision of appropriate measures, however if appropriate measures are not in place then the driver / operator must not undertake the journey.
- When making a journey with vulnerable passengers and there is a carer/responsible person present, then photo-identification should be produced to the driver by the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is no chaperone.
- If a vulnerable passenger is refused service a responsible person, such as their carer, family member, parent or guardian should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.
- Drivers should always ask if a vulnerable passenger needs assistance, and should not make assumptions.
- Drivers must remain professional at all times and should not:
  - Touch a person inappropriately
  - Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
  - Behave in a way that may make a passenger feel intimidated or threatened
  - Attempt to misuse personal details obtained via the business about a person

These standards are equally applicable when working with vulnerable and non-vulnerable passengers.

- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents occurring / actions taken or refusals of service.

- Drivers and operators must remain alert to issues around the safeguarding of children and adults at risk. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the Police by telephoning 101 (or in an emergency by calling 999).
- If a driver/operator is concerned about someone else's conduct, they should report such concerns to the council's licensing department (01782 717717), Police (101 or in an emergency by calling 999) or Crimestoppers (0800 555111).

## APPENDIX L

### Vehicle Door Signage – Agreed 22.10.2019

HCV:



PHV:





## **NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

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

**12 October 2020**

#### **PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2021/2022**

**Submitted by:** **Head of Environmental Health & Licensing Administration Team Manager**

**Portfolio:** **Finance & Efficiency**

**Ward(s) affected:** **All**

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

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to consultation, as referred to in the report.

#### **Recommendations**

- a) That the Public Protection Committee considers the proposed fees.
- b) That the proposed fees be sent out for consultation.
- c) That following consultation a further report is brought to Committee.

#### **Reasons**

The setting of Private Hire and Hackney carriage fees is a Council function

#### **1. Background**

- 1.1 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

(1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;

- (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

- 1.2 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Driver licence fees:

(2) Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

- 1.3 The Deregulation Act 2015 amended the Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences for hackney carriage and private hire drivers and private hire operators.

Section 10, subsection 2 of the Deregulation Act 2015 changed the law in such a way as to establish a standard duration of three years for hackney carriage and private hire driver licences. The section specifies that a licence may be granted for a period of less than three year but only in circumstances of an individual case, not because of a blanket policy.

Subsection 3 of the Act changed the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section specifies that a licence may

be granted for a period of less than five years but only in the circumstances of an individual case, not because of blanket policy.

## 2. **Proposal:**

2.1 The proposed fees and charges for 2021-22 are:

<b>Private Hire/Hackney Carriage (subject to consultation)</b>	<b>Fee/Charge 2020-21 (£)</b>	<b>Proposed Fee/Charge 2021-22 (£)</b>	<b>% Change</b>
<b><u>OPERATORS</u></b>			
PHO Application fee	£250.00	£266.00	6%
Add/Remove Director	£38.00	£41.00	8%
Copy/Replacement Licence	£6.00	£7.00	17%
Basic DBS	£23.00 (set by DBS)	£23.00	0%
<b><u>DRIVERS</u></b>			
Dual Driver Badge - 3 years	£257.00	£273.00	6%
Change of address	£16.00	£17.00	6%
Replacement badge	£12.00	£13.00	8%
Replacement vehicle badge	£12.00	£13.00	8%
Reissue/replacement badge (with amended details)	£26.00	£28.00	8%
DBS (CRB check)	£40.00 (set by DBS)	£40.00	0%
DBS (CRB check) online	£60.34 (set by DBS and provider)	£60.34	0%
Safeguarding training	£38.00	£39.00	3%
Fail to attend Safeguarding Training	£38.00	£39.00	3%
Exemption certificates	£12.00	£12.00	0%
Knowledge test	£25.00	£27.00	8%
Fail to attend Knowledge Test	£25.00	£27.00	8%
Replacement Safeguarding training certificate	£6.00	£7.00	17%
Change of Name	£16.00	£17.00	6%
Replacement vehicle badge holder	£5.00	£5.00	0%
Disability Training	£35.00+VAT	35.00+VAT	0%
Disability Training (fail to attend)	£35.00+VAT	35.00+VAT	0%
DE Training replacement cert	£0.00 (met by provider)	0.00 (met by provider)	0%
Copy of Paper Licence	£6.00	£7.00	17%
<b><u>VEHICLES</u></b>			
Transfer of vehicle	£38.00	£41.00	8%
Change of vehicle registration	£43.00	£46.00	7%
Failure to attend for vehicle test	£104.00	£104.00	0%
Retest	£42.00	£42.00	0%
Replacement plate carrier – front	£8.00	£9.00	13%

Replacement plate carrier – rear	£10.00	£11.00	10%
Replacement vehicle plate - front	£7.00	£7.00	0%
Replacement vehicle plate - rear	£10.00	£10.00	0%
Replacement vehicle sticker signage	£5.00	£5.00	0%
Copy of paper part of licence	£6.00	£7.00	17%
Change of Vehicle Colour	£43.00	£46.00	7%
HCV test	£108.00	£109.00	1%
HCV test 10yrs+	£108.00	£109.00	1%
PHV test	£108.00	£109.00	1%
PHV test 10yrs+	£108.00	£109.00	1%
HCV application fee	£230.00	£242.00	5%
PHV application fee	£228.00	£240.00	5%
Basic DBS	£23.00 (set by DBS)	£23.00	0%
Change of Name/Address	£38.00	£41.00	8%
Spot check	£25.00	£26.00	4%
Replacement Internal Plate	£7.00	£8.00	14%

2.2 It is recommended that the fees are set in line with the provisions of the 1976 Act, the Local Government Association Guidance on setting fees, the Council's newly implemented taxi licensing policy and the principles outlined in section 4.3 below. A number of new fees were introduced in 2020-21 to ensure that the Council was recovering costs for all applications that can be made.

2.3 The majority of the fees have increased but not substantially. This is primarily down to two factors, firstly that staffing costs have increased across the authority and secondly that the total number of licences have decreased.

### 3. **Reason for Proposed**

3.1 a) That the Public Protection Committee considers the proposed fees.

b) That the proposed fees be sent out for consultation.

c) That following consultation a further report is brought to Committee

### 4. **Options Considered**

4.1 The Council is required to set fees for private hire and hackney carriage licenses.

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

5.1 The Local Government (Miscellaneous Provisions) Act 1976 contains the legal provisions and process relating to the setting of fees, this is detailed in sections 1.1 and 1.2 of this report.

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

6.1 Not applicable

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

- 7.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70.
- 7.2 There will be financial implications for the Council if full cost recovery is not achieved.
- 7.3 The fees can be used to cover the cost of the following:

**Administration** – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

**Initial visit/s** – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include 'on-costs' in this calculation. Councils will need to consider whether 'on-costs' include travel costs and management time.

**Third party costs** – Some licensing processes will require third party input from experts.

**Liaison with interested parties** – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

**Management costs** – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the 'on-costs' attached to officer time referenced below.

**Local democracy costs** – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

**On costs** – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

**Development, determination and production of licensing policies** – The cost of consultation and publishing policies can be fully recovered.

**Advice and guidance** – This includes advice in person, production of leaflets or promotional tools, and online advice.

**Setting and reviewing fees** – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

## 8. **Major Risks**

- 8.1 The Council will be open to challenge should the calculation of the fees and charges prove to be contrary to the Act.
- 8.2 Judicial Review of a decision may be made on the following grounds:
- Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
  - Wednesbury rules – decision was unreasonable or irrational

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**

12.1 Not applicable

13. **Background Papers**

13.1 LGA Guidance on Local Fee Setting

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

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

12 October 2020

**REPORT TITLE** Dog Controls PSPO Renewal

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

**Portfolios:** Environment & Recycling

**Ward(s) affected:** ALL

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

To request Members approval to extend current Dog Control Public Spaces Protection Order for a period of a further three years, commencing 21<sup>st</sup> October 2020

#### **Recommendation**

Members are recommended to agree the extension of current controls by the making of a further Public Spaces Protection Order as drafted at Appendix Two

#### **Reasons**

Responses to public consultation, together with feedback from staff directly involved with their enforcement, indicates continued high level of support for the present controls. The controls remain necessary. Should Members wish to look again at the 'Maximum Six Dogs' rule, further consultation can be undertaken and a variation process followed at a future date.

#### 1. **Background**

- 1.1 Dog Control Orders set the 'rules' which dog owners must follow, when walking their dogs in public places. The current rules have been in force for approaching three years. At a meeting of Public Protection Committee on 4<sup>th</sup> August 2020 Members agreed to seek residents' views, before considering if the rules should be extended for a further period.
- 1.2 Dogs are the most popular pet in the UK with 23% of households owning one or more dogs. Within Newcastle-under-Lyme there are an estimated 17,000 dogs.
- 1.3 Between 5<sup>th</sup> August and 16<sup>th</sup> September 2020 comments were sought from dog owners who either live in, or regularly visit, the borough through an online survey. This was promoted with 300 posters placed across the borough at entrances to parks, cemeteries, and areas well used by dog walkers. A council officer also spent time each day in larger parks and gave out almost 500 leaflets to dog walkers advising of the review and seeking feedback. In total 64 online responses were received.
- 1.4 The Sentinel (14<sup>th</sup> August) included almost a full page in its 'The Big Issue' feature, asking readers "*What rules should there be for walking dogs in public spaces*" and encouraged them to have their say. The newspaper received five comments on its website.

## 2. **Issues**

2.1 Dog Control Orders can only have a maximum term of three years. The order currently in force expires on 21<sup>st</sup> October 2020. 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 affected 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 . There are currently six controls in force

- a. Dog Fouling: This control requires dog walkers to remove fouling if their dog defecates whilst in a public place. The control applies across all of the borough.
- b. Means to Pick-up: This control requires dog walkers to ensure they always have a bag with them, so that they have a 'means to pick-up' if their dog fouls.
- c. Dogs on Leads: We require dogs to be on leads in a number of locations either to ensure the safety of the dog, others in that area, or to protect wildlife.
- d. Dogs on Lead by Direction: An authorised council officer can require or 'direct' a dog owner to place and keep their dog on a lead, whilst in other areas, if they have safety concerns. The officer will explain what is required and why.
- e. Dog Exclusions: Owners are not permitted to take their dogs into a small number of places. Exclusions apply where a dog could cause damage, disrupt the use of the area by others, injure wildlife, or become injured themselves.
- f. Maximum six dogs: First introduced in 2017 the control limits the number of dogs any one person can exercise to a maximum of six. The control applies in most of our larger parks.

2.4 Responses to the survey showed strong support for all the current controls to continue for a further term. Additionally, 35 comments were made through the survey, five online in response to a newspaper feature, and two direct to Environmental Health. These can be summarised as follows (in order of most commented):

- Max number should be reduced (23 responses) [generally 3-4 was thought to be the maximum]
- Greater enforcement (6)
- Littering from incorrect disposal of bagged dogs waste (4)
- Requirements for dogs to be on leads should apply more widely (3)
- Improved signage where restrictions apply (3)
- Request for a designated 'dogs park' (2)
- Allow dogs to be exercised, off the lead when no one else present, in more areas
- More fouling bins needed

2.5 Responses were received from a number of Parish Councils, but not from Staffordshire Police or Staffordshire County Council.

2.6 Full analysis of survey responses, and comments received are detailed in **Appendix One**



- 2.7 Whilst a significant number of respondents indicated that they would wish to see the maximum number of dogs any one person can walk in a number of locations reduced, current guidance from DEFRA remains that where a maximum number is set it should be six. DEFRA recognises that a lower number could be set, but guides that this would only generally be justified where children frequently use the area, or if the park is heavily populated. The majority of our parks are not intensively used, and other controls already apply to protect children using fenced play areas. Given that a reduction from six would be a significant change, and that over the last three years there have been very few complaints that this number needs review, it is not recommended to alter this number at this time. Should Members wish to see this number lowered it would be best practice to undertake further public consultation and vary this element of the controls in the future.
- 2.8 Officers are aware that residents welcome enforcement of dog controls. The cleanliness of open spaces is a priority and targeted patrols will continue to be undertaken where there is evidence that dog owners are failing to act responsibly and follow the rules.
- 2.9 Littering from inappropriately placed dog bags and availability of fouling bins is a regularly reported concern. The current controls required that fouling is collected and removed, accordingly the authority can issue penalties where bags not responsibly disposed of. The number and location of fouling bins is constantly reviewed to match the needs of residents with the resources of the council.
- 2.10 Whilst there are no current plans to extend the areas where all dogs need to be on a lead, the council reserves the power through the 'On Leads by Direction' control to require individuals to place and keep their dog on a lead in specific areas, if there are either multiple complaints that their dog is posing problems, or officers consider this to be appropriate the dogs safety. Officers ensure that this extra restriction is used proportionately and consistently, to ensure that residents are both protected and treated fairly.
- 2.11 The council has no current plans to install a considerable number of new signs, but will continue to ensure that dog control requirements feature on park signage when it is refreshed, and that clear information about the controls and where they apply remains available on its website.
- 2.12 Officers regularly review how best use can be made of public places, and the option to provide dog only spaces will be considered further.

3. **Proposal**

- 3.1 Members are recommended to agree the extension of current controls by the making of a further Public Spaces Protection Order as drafted at **Appendix Two**

4. **Reasons for Proposed Solution**

- 4.1 The results of public consultation (Appendix One) show that the currently controls remain widely supported.
- 4.2 Officers consider that the controls are relatively straight forward, understood and respected by most dog owners. They remain necessary to fairly balance the needs of dog owners and those of others using public places across the borough. They provide a tool to address antisocial behaviour.
- 4.3 Members can approve further specific consultation to establish if the 'Maximum Six Dogs'

control should be reduced in number, or the areas where it applies extended, through a variation process, as a separate process if they feel this worthy of further investigation.

5. **Options Considered**

There are three potential options:

- a) Do not renew Dog Controls when the Order lapses on 20<sup>th</sup> October 2020
- b) Make a further Order to renew current controls as proposed
- c) Undertake additional consultation to establish if changes, indicated in residents responses, are required and would be supported

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**

The continuing of current controls creates no additional resource demands or savings

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 agreed the current controls on 21<sup>st</sup> September 2017
- Cleaner Greener Safer Overview and Scrutiny Committee reviewed Dog Controls and associated matters on 28th February 2018
- Approval to undertake a review of Dog Control was given by Public Protection on 4<sup>th</sup> August 2020

13. **List of Appendices**

Appendix One: Survey Responses / Residents' Feedback  
Appendix Two: DRAFT Order

14. **Background Papers**

None

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**Appendix One: Survey Responses / Residents' Feedback**


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# Online Consultation on Dog Control Orders, August to September 2020

## Analysis

Note that, in the following tables, totals might not add up to exactly 100 per cent due to rounding.

	Agree	Don't know	Disagree
<b>Q1) Dog Fouling Controls: Should we...</b>			
Continue to require a person in charge of a dog to clean up its faeces if their dog fouls in any public place.	97%	3%	0%
Continue to require dog owners to have the means to pick up dog fouling, such as a bag with them whenever they walk their dog.	97%	3%	0%

	Agree	Don't know	Disagree
<b>Q2) Should we continue to require a dog to be on the lead at...</b>			
Borough Council Crematorium, churchyards and cemeteries, and closed churchyards	98%	2%	0%
Formal gardens (such as Queens Gardens, Queen Elizabeth Park)	95%	2%	3%
Marked out sports pitches	89%	3%	8%
Unfenced children's play equipment and a portion of the surrounding area, extending 20 metres in all directions from it.	87%	5%	8%
Fenced / enclosed portions of Apedale Country Park which are designated for wildlife conservation	95%	2%	3%
Parts of Bathpool park from the car park, across the reservoir dam, and along the side of the reservoir next to the railway line	73%	16%	11%
Fishing Pools managed by angling clubs as per their signs [NEW]	89%	3%	8%
Open space owned by parish and town councils as per their signs	74%	10%	16%

	Agree	Don't know	Disagree
<b>Q3) Dogs on leads, when directed. Do you agree that we should.....</b>			
Continue to require owners to place their dog(s) on a lead(s) when directed	95%	3%	2%

	Agree	Don't know	Disagree
Q4) Dog Exclusions: Do you agree that we should continue to require dogs to be excluded from:			
Fenced or enclosed children's play areas which are designated and marked for children's play	95%	2%	3%
Fenced or enclosed games areas, such as tennis and ball courts, multisport areas, skate parks	94%	3%	3%
The grassed portion of all bowling greens	94%	3%	3%
Fenced or enclosed portions of Apedale Country Park which are designated for wildlife conservation	94%	3%	3%
Fishing Pools managed by angling clubs as per their signs [NEW]	86%	5%	10%
Open space owned by parish and town councils – as per their signs	75%	8%	16%

	Agree	Don't know	Disagree
Q5) Maximum six dogs. Do you agree that we should continue to set a maximum that no more than six dogs can be taken by any one person, into the following locations:			
Apedale Country Park	76%	8%	16%
Bateswood Country Park	76%	8%	16%
Bathpool Park	78%	8%	14%
Clough Hall Park	78%	8%	14%
Silverdale Country Park	77%	7%	16%
Lyme Valley Parkway	78%	8%	14%
Birchenwood Country Park	75%	8%	16%

**Are there any additional controls you think are required, or any other locations where specific controls need to be set - if so please tell us here....(note that these comments have been included exactly as they were submitted)**

- To require owners to correctly dispose of their waste bags as they are often thrown over hedges or just dropped I would like to see controls requiring dogs to be on leads on Wolstanton Marsh. this area has marked football pitches and is used a lot by children and young families Would it be possible to have designated 'dog parks' where people can take their dogs and let them run off lead etc?
- Rules requiring 'a person in charge of a dog to clean up its faeces if their dog fouls in any public place and to have the means to pick up dog fouling, such as a bag with them whenever they walk their dog' need extending to include 'and dispose of it in a designated bin or take it home'. So many country areas, for some inexplicable reason, have 'dog bags' hanging in the trees. Strictly, under the current wording, the owners have complied - they have cleaned up from the pavement, verge etc and put it in a bag! It shouldn't really need explaining, and I can't understand the mentality of those who do it, but I would love to stop this disgusting habit. Please can we make it an offence to leave the bag behind anywhere but in a proper bin.

- Depending on the area (for example enclosed tennis courts) if you and the dog are the only one's there, then there is no requirement to have the dog on a lead AS LONG AS and faeces are cleaned up. At the end of the day, sensible owners will comply.
- More than 3 dogs is excessive. As an average man I would struggle to control even 3 determined dogs. My black lab could pull pretty hard if he wanted to, more than 3 would be impossible. More enforcement is required for dogs not wearing collars, lots of people use leads that don't clip to a collar. Specific offence of not disposing of used poo bags e.g. thrown in hedges. More dog poo bins/bins that accept dog waste required. Maybe this would meet people half way and encourage them to either pick up, or not litter by throwing used bags in hedges etc.
- I think six dogs held by one person at ANY TIME is too many. The maximum number should be reduced to FOUR..it is very difficult to pick and bag poop and control six dogs..It might be possible that six small dogs can be a possibility but for the sake of clarity the number should be set at SIX maximum
- look to license dog licensing businesses - not just hope they're abiding by the 6-dog limit. be more active.
- Dogs on leads in fenced area adjacent to Maybank Infants School. Clear Signage required as "dog owners believe it is an area for dogs to be allowed off lead"! It is not, and I have been the victim of a dog attack (Off lead) from this specific area, I was advised by a councillor that signage was on order, but as this was almost 12 months ago and still there is no clear signage in place,
- I have disagreed with the above because I think it should be a maximum of three per person. As a dog owner myself, I believe 3 is the largest number to have total control over. 6 is very generous and dangerous!
- I live opposite QE park and it isn't the dog owners who cause issues it the intravenous drug takers and alcoholics the amount of broken glass and mess that is left behind is far more upsetting than dogs - there is very little dog mess so clearly its not the dig owners that you need to sort out - what is the point of the exclusion zones for drinking etc
- Dogs should also be kept on a lead on Alsagers Bank road where the dog walkers park cars before going into Silverdale country park off High Lane, Alsagers Bank. Many People park and just let their dogs out of the car to run up and down the fairly quiet road out of control. They should be on a lead until they walk onto the park and vice versa they should be back on the lead before leaving the park to go back to their car instead of just allowing them to run back unsupervised back onto the road! (This is the road passed the 5 cottages on the old blackbank road leading to the country park) It's a nightmare sometimes with out of control dogs running about off the lead and extremely inconsiderate! I hope this can be included in the rules and enforced. Thank you
- I think the maximum number of dogs for one person to be in control of is four dogs. In my view (as a professional behavioural dog trainer) six dogs for the majority of the population is FAR too many for one person to be adequately in control of. Given the number of unwanted incidents where one dog or more runs over to another dog or owner or overt acts of aggression, I think there should be an order brought in at all the areas above that unless consent is given by both parties that when passing another dog that all dogs should be kept under close control. During the lockdown period where control of dogs was MUCH more widely accepted and adopted it was a much more pleasant experience walking my dogs knowing that the other parties would call their dogs back and pop them on the lead as we passed each other.

- Feel bags should be at least 3 required Feel 6 maximum of dogs is too generous - should be less  
Would like to see spot checks on dog walkers
- Six dogs being walked is TOO MANY.. in all these areas there many types of "users" and other dog walkers.. there is a danger that the six dogs could be provoked into unmanageable reactions. If they were bigger than terrier size.. this is even more likely Additionally I have serious doubts that picking up and bagging dog poo is unfeasible with six on leads Please reduce the number allowed to FOUR on a lead sat any one time
- I think one person should only be allowed a maximum of 4 dogs at a time.
- I think 6 dogs to one person is 2 to many
- There should be more signs in Lyme Valley about Dogs on Leads, people do not keep them on leads throughout the Valley and some run at you and jump up and you end up falling out with their owners dogs should be on leads
- Should be no more than 2 or 3 dogs. 6 cannot be under control.
- 1 person cannot possibly walk 6 dogs AND pick up their mess! Needs reducing to 3 and even this isn't too many dogs for one person to manage properly
- Muzzles to be worn by certain breeds of dogs
- These are not controls but rules. If you fail to actively enforce the rules then you're not controlling the situation. You can have as many rules as you want but if you don't enact / enforce them then they are purely anecdotal. Whilst existing rules are in place and regularly flouted I see very little evidence of anyone being prosecuted. The Council lacks the funds to resource enforcement so it's really all smoke, mirrors and rhetoric. It probably cost the taxpayer more to officiate these new 'controls' that is spent on subsequent enforcement.
- Bunny Hill area. Seabridge walkways. Three Parks Westlands.
- Dogs should be on a leash at all times when off the owners own property. No more than two dogs at any one time should be walked per adult over 21 years old.
- Children should be accompanied by an adult if walking with a dog.
- Six dogs are too many. I have seen Dog Walkers unable to control FOUR dogs comfortably, especially when other dogs are nearby. Thus SIX dogs are an accident waiting to happen. SUGGEST FOUR DOGS, SETTLE FOR FIVE.
- As a long time dog owner, retired dog breeder and trainer I consider six dogs being exercised by one person as far too many to control in ANY area. It would be a hopeless situation if the dog handler had problems with other dogs, dog fights etc. I also feel that any person in control of two or more dogs should not let them off leash where there are other dog walkers who for whatever reason keep their dogs leashed. "The Lines" Bignall End is used by many walkers, cyclists, children. Most of the dog owners are very responsible but a good few do not pick up after their dogs, have no understanding about keeping their dogs under control and a nightmare to meet up with.
- This number should be reduced to a maximum of three, Due to the ever increasing number of dog walking businesses operating in and around the Apedale country park who have a large number of dogs off lead. I feel intimidated by these businesses and question whether they operate in a public space with or without public liability insurance. They also block the space close to the disabled access gate along with other drivers close to the Loomer road entrance and make it difficult to walk around this area. Within the Apedale country park there is no signage to enforce these rules or to ensure social distancing is carried out. There is little or no challenge to

poor dog owners from the ranger services or as far as I have seen no enforcement of any Covid regulations. Dog owners with off lead dogs have regularly encroached into my 2 meter social distance space. I feel that the Apedale country park is left to manage itself and at times is totally out of control. People park wherever that want causing ever increasing issues without challenge.

- The above sound sensible. Some seemed geared to deter the least responsible dog owners re controlling their dogs. There seems to be a current practice whereby dog owners are picking up after their dogs, placing the faeces in a black polythene bag then throwing the bag down rather than putting it in a bin. This seems to be worse than just leaving the faeces on the ground. Perhaps this phenomenon can be addressed somehow?
- Needs enforcement in Newcastle Cemetery as dogs are running about off their leads. Although this survey is regarding dog controls there are cyclists riding through Newcastle cemetery also. As a regular visitor to the cemetery I find it totally disrespectful that notices are not adhered to.
- I am a dog owner of more than one dog, i know from personal experience how challenging it is to effectively pick up dog matter and not be able to see the other dogs also defecating at the same time, i also know that even as an owner myself how intimidating a group of dogs can be as they come towards me, often the idea of having so many dogs at one time is to let them have a good run, however i personally would feel the max amount of dogs with one owner should be 3 or 4, in order for proper and safe control to be maintained, and to respect others who love the open places but feel insecure to go there with their children.
- Relating to q2 - dogs should be on a lead on all public pavements. Could the council please provide an area for dogs to be exercised in Clough Hall Park, there is much space (the bowling greens not currently used. Two tennis courts, one used occasionally. The old skate board area). The Trees in the area behind the pavilion are used as toilets, which is disgusting. It's an open space to let dogs exercise but It is intimidating if you are alone with the dog. Many dog walkers use the Park. Thank you.
- Six dogs is far too many, the handlers can't effectively control this many dogs. I suggest reducing this to a maximum of four dogs.
- 6 dogs for one person is too many, especially as i have witnessed up to 5 dogs in one group running off leads in Bathpool Park on more than one occasion. I believe the law states that ,Dogs should be on a lead at all times in public spaces. With regard to Bathpool Park in particular as a regular walker there,, I think Dogs should be on a lead at all times. I speak as a dog lover.
- The maximum number of dogs for one person should be 3 - more than this is dangerous Bateswood is not a Country Park it is a designated Local Nature Reserve. Dog walkers are of course welcome but during the breeding season ( late Feb/ March until July) need to be on leads and dogs should be banned from going into the lake. This summer I witnessed many people allowing their dogs to swim in the lake and encouraging them to chase wildfowl. For the first time ever no young ducks, moorhens, coot etc have survived and very few were born on the lake - even a pair of swans ( absent for several years after many years of breeding) which attempted to stay on the lake left after large dogs chased them whilst the owners laughed. Several owners had their dogs swimming in the area most protected where angling is forbidden. Council notices reminding owners to keep dogs on leads have been obliterated or destroyed. Tighter controls are essential to maintain the biodiversity of this valuable nature reserve. I know that talking to responsible dog owners that they would fully agree.



- Are there any additional controls you think are required, or any other locations where specific controls need to be set and why - if so please tell us here in the box provided. (Further controls)  
I and my family cycle regularly along the cycle/walking path through Newcastle onto Silverdale community park. We are forever being obstructed on our rides along the Greenway by dogs not on a lead and fully controlled by their owners. we have been confronted by as many as 4 dogs off the lead being supervised by one person. Ridiculous and anti-social. my son was bitten by a dog off a lead as he rode along the path and was greeted by foul language and the threat of violence by its owners when he suggested the dog should be on a lead if it was not trained to obey commands. We should have informed the police but did not. We will in future and take photographs. this is a designated cycle path and we should be able to ride it in safety without hindrance from dog owners who think they have sole rights of ownership of the path. We feel that all dogs should be on a lead along this cycle route.

### **Respondents living, working or visiting the borough**

Respondents were then asked if they lived or worked in the borough of Newcastle-under-Lyme or visited it regularly. The vast majority of respondents said that they both lived in the borough (78 per cent) and visited it regularly (93 per cent), with a little over half (51 per cent) saying that they worked here.

	Live	Work	Regularly visit
Yes	97%	58%	77%
No	3%	43%	24%

### **Contact details and representation**

Respondents were asked for their contact details and they have been provided separately. They were also asked if they were representing an organisation or residents group and responses were as follows:

- Keele Conservation Group \*2
- Brian whitehead
- Dawn Dobson
- Betley Parish Council
- Whitmore Parish Council
- Chair of Thistleberry Residents Association
- Loggerheads Parish Council \*2
- Linda Bronowski

## **Responses to feature published by The Sentinel, 14<sup>th</sup> August 2020**

- Laws like this are meaningless if there is no one to enforce them. It's just a box ticking exercise.

- It depends on the size of the dogs. No one should be walking six Rottweilers but six miniature Dachshunds are less likely to cause harm.
- How can anyone have six dogs? They need protecting from themselves.
- This is more likely to apply to professional dog walkers.
- Seems perfectly reasonable.

## **Comments about Dog Controls sent direct to Environmental Health 11<sup>th</sup> August – 16<sup>th</sup> September 2020**

- When visiting relative's graves there are dogs not on leads freely running across graves whilst their owners amble along the pathway. Totally disrespectful! If these dogs foul graves or gravestones, their owners are not near them to clean up their mess. The sign on the gates clearly states that ALL dogs must be on a lead. Also on Werburgh Drive there has been an increase in people walking dogs not on leads too. Visible dog wardens please!
- The Grange Park in Porthill. The majority of dog owners ignore the signage informing them to keep their dogs on a lead in the park and some of the dogs attack and injure the ducks (one has already been killed) More signage required and a warden patrols the park

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**Appendix Two: DRAFT Public Spaces Protection Order**

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**The Anti-Social Behaviour, Crime and Policing Act 2014**  
**Public Spaces Protection Order (The Borough Council of Newcastle-under-Lyme) 2020 – Dog Controls**

The Borough Council of Newcastle-under-Lyme (in this order called “the Authority”) in exercise of its powers under Section 59, 64 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby makes the following Order:-

This Order comes into force on 21<sup>st</sup> October 2020 for a period of 3 years.

## **Offences**

### **1. Fouling-failure to remove dog faeces**

If within the administrative area of the Authority a dog defecates at any time on land to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless

(a) he has reasonable excuse for failing to do so;

or

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

### **2. Dogs on Leads by Direction**

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not comply with a direction given to him by an authorised officer of the authority to put and keep the dog on a lead unless

(a) he has reasonable excuse for failing to do so;

or

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

An authorised officer may only give a direction under this order if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or another animal (including pets or wildlife).

### **3. Dogs on Leads Requirements**

A person in charge of a dog shall be guilty of an offence if, at any time, on land detailed in **Schedule 1** below, he does not keep the dog on a lead unless

(a) he has reasonable excuse for failing to do so;

or

- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

#### **4. Dog Exclusions**

A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land detailed in **Schedule 2** below, unless

- (a) he has reasonable excuse for failing to do so;  
or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

#### **5. Maximum of Six Dogs**

A person in charge of a dog shall be guilty of an offence if, at any time, he takes more than six dogs onto, or permits more than six dogs to enter or to remain on, any land detailed in **Schedule 3** below unless

- (a) he has reasonable excuse for failing to do so;  
or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

#### **6. Means to Pick Up Dog Fouling**

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not have with him an appropriate means to pick up dog faeces deposited by that dog unless:

- (a) he has reasonable excuse for failing to do so;  
or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

The person shall not be guilty of an offence if, on request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

#### **Exemptions & Definitions**

- i) Nothing in part 1 or part 4 of this order shall apply to a person who –
  - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
  - (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or

- (c) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- ii) For the purpose of this order –
- (a) A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
- (c) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces
- (d) “an authorised officer of the Authority” means an employee, partner agency or contractor of Newcastle-under-Lyme Borough Council who is authorised in writing by Newcastle-under-Lyme Borough Council for the purposes of giving directions under the Order.
- (e) Each of the following is a "prescribed charity" -
- Dogs for the Disabled (registered charity number 700454)
  - Support Dogs Limited (registered charity number 1088281)
  - Canine Partners for Independence (registered charity number (803680)
  - Dog A.I.D (Registered Charity Number 1124533)
  - Medical Detection Dogs (Registered Charity 1124533)

## **Restrictions & Penalty**

- i) The Council is satisfied that the conditions set out in Sections 59, 64 and 72 of the Act have been satisfied and that it is in all the circumstances expedient to make this Order for the purposes of prohibiting the above activities. The effect or likely effect of this is, or is likely to be, of a persistent or continuing nature, such as to make this unreasonable, and justifies the restrictions imposed by this Order.
- ii) It is an offence for a person without reasonable excuse to engage in activity which is prohibited by this Order.
- iii) No person shall:
- a. obstruct any authorised officer in the proper execution of their duties;
  - b. obstruct any other person carrying out an act which is necessary to the proper execution of any contract associated with this order;
- iv) A person found to be in breach of this Order shall be liable on summary conviction to a maximum penalty of level 3 on the standard scale or a Fixed Penalty Notice of £100.

By resolution of The Borough Council of Newcastle-under-Lyme dated .....

The Common Seal of the  
Borough of Newcastle-under-Lyme  
hereunto affixed this....day of .....2017  
in the presence of

Councillor

Authorised Signatory

## **SCHEDULE 1 (Dogs on Leads)**

This order applies to all:

- Borough Council Crematorium, churchyards and cemeteries, and closed church yards
- Formal gardens
- Gated / enclosed public parks with wildlife pool
- Marked out sports pitches
- Unfenced children's play equipment and a portion of the surrounding area, extending 20 metres in all directions from it.
- Fenced / enclosed portions of Apedale Country Park which are designated for wildlife conservation
- The northern portion of Bathpool Park, from its entrance and car park at Boathorse Road, along the main access path which runs from the car park at Boathorse Road, adjacent to the children's play area - and rugby pitches to its junction with footpath 146 which crosses the dam wall.
- Paths which adjoin Bathpool Reservoir Main Fishing Pool and continues on along the eastern side of Bathpool reservoir.
- Public Rights of Way: Kidsgrove 130 to the reservoir embankment 144, 146 & 182
- Fishing Pools managed by angling clubs as per their signs
- Open space owned by parish and town councils as per their signs

## **SCHEDULE 2 (Dog Exclusions)**

This order applies to:

- Fenced or enclosed children's play areas which are designated and marked for children's play
- Fenced or enclosed games areas, such as. tennis and ball courts, multisport areas, skate parks
- The grassed portion of all bowling greens
- Fenced or enclosed portions of Apedale Country Park which are designated for wildlife conservation
- Fishing Pools managed by angling clubs as per their signs
- Open space owned by parish and town councils – as per their signs.

## **SCHEDULE 3 (Maximum Six Dogs)**

- This order applies to: Apedale Country Park, Bateswood Country Park, Bathpool Park, Clough Hall Park, Silverdale Country Park, Lyme Valley Parkway, Birchenwood Country Park

## **Explanatory Note**

Further information in respect of this order is published at [www.newcastle-staffs.gov.uk/dogcontrols](http://www.newcastle-staffs.gov.uk/dogcontrols)

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 12 October 2020

**Report Title:** Public Protection Sub-Committee Arrangements

**Submitted by:** Head of Environmental Health

**Portfolios:** Finance & Efficiency

**Ward(s) affected:** All

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

To inform Members of the future rota of attendance at the Public Protection Sub-Committee meetings

#### **Recommendation**

**That**

1. That Members receive the report and note the date and time that their proposed attendance at sub-committee is necessary.
2. Should members be unable to attend the sub-committee that they notify Democratic Services of an available substitute.

#### **Reasons**

Following amendments to the Licensing and Public Protection Committee constitutional arrangements in 2018 to delegate decisions to the Public Protection sub-committee a programme of meetings was agreed and included Member attendance. This report is to notify Members of the dates and times they have been scheduled to attend future Public Protection sub-committee. The programme agreed in April 2020 has been amended to reflect the change in Membership of the Committee.

#### **1. Background**

- 1.1 In May 2018 the Committee arrangements for the creation of a joint Licensing and Public Protection Committee and a Public Protection Sub-Committee was approved and subsequently implemented.
- 1.2 At Public Protection's July 2018 meeting members requested a review of the Sub-committee arrangements, as member availability during the daytime was limited, in order to run the committees.
- 1.3 At the September meeting members agreed to make amendments to the Sub-Committee arrangements some of which required Council approval.
- 1.4 On 21<sup>st</sup> November Council approved the changes to the constitution to enable the changes to be implemented.

- 1.5 On 11<sup>th</sup> December a report on the proposed arrangements was presented to Committee, this was agreed in principal but officers were asked to amend to avoid meeting clashes.
- 1.6 At the 22<sup>nd</sup> January 2019 meeting an updated programme was approved.
- 1.7 Following the change in members for the committee in 2019 the programme was updated to take into account of these changes.
- 1.8 At the 27<sup>th</sup> April 2020 meeting an updated programme was approved.
- 1.9 The Membership of the Committee changed on 23<sup>rd</sup> September 2020 and as such the programme has been amended to reflect the changes.

## 2. **Issues**

- 2.1 Members have previously agreed the following public protection sub-committee arrangements:
- Meeting will be held on a Wednesday, alternating between 2pm and 6pm start times.
  - Committees will be held about every 3 weeks.
  - 5 reports/cases will be on the agenda, unless agreed with chair.
  - Further meetings may be programmed, if needed.
  - A programme of meetings and nominated members will be developed and reported to public protection committee. This will include 4 members per sub-committee to ensure a quorum of 3 members attendance.
  - The sub-committee chair to be agreed between the sub-committee members.
  - Should members be unable to attend the sub-committee that they notify Democratic Services of an available substitute.
- 2.2 Members have previously selected a preference for their availability and this has been taken into account when developing a programme of meetings. In order to develop the programme in accordance with the committee decision, it has meant that members that were able to attend both daytime and evening meetings have been scheduled to support more daytime than evening meetings.
- 2.3 The programme includes the remaining meetings under the current agreed programme, with the changes in Membership reflected. Councillor Gary White has been replaced by Councillor Simon White, and Councillor Kyle Robinson has been replaced by Councillor Dave Jones. No other changes have been made.
- 2.4 An updated programme of meeting would be as follows:

Date	Time (pm)	Member 1	Member 2	Member 3	Member 4
21/10/2020	6	Cllr Anthony Kearon	Cllr Mark Olszewski	Cllr Stephen Sweeney	Cllr Gill Heesom
11/11/2020	2	Cllr John Cooper	Cllr Ruth Wright	Cllr Andrew Parker	Cllr Gill Williams
2/12/2020	6	Cllr Simon White	Cllr Jill Waring	Cllr Sylvia Dymond	Cllr Graham Hutton
16/12/2020	2	Cllr Gill Williams	Cllr June Walklate	Cllr Dave Jones	Cllr John Williams

Date	Time	Member 1	Member 2	Member 3	Member 4
20/1/2021	6	Cllr Gill Heesom	Cllr Jill Waring	Cllr Mark Olszewski	Cllr Anthony Kearon
10/2/2021	2	Cllr Andrew Parker	Cllr John Cooper	Cllr Ruth Wright	Cllr Gill Williams
3/3/2021	6	Cllr Stephen Sweeney	Cllr Jill Waring	Cllr Simon White	Cllr Gill Heesom
24/3/2021	2	Cllr John Williams	Cllr John Cooper	Cllr Dave Jones	Cllr June Walklate
14/4/2021	6	Cllr Sylvia Dymond	Cllr Anthony Kearon	Cllr Mark Olszewski	Cllr Stephen Sweeney
5/5/2021	2	Cllr Ruth Wright	Cllr John Williams	Cllr Graham Hutton	Cllr Andrew Parker

### 3. **Proposal**

- 3.1 That Members receive the report and note the date and time that their proposed attendance at sub-committee is necessary;  
 And  
 Should members be unable to attend the sub-committee that they notify Democratic Services

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

- 4.1 To enable Committee to determine applications in the most efficient, effective and practical manner.
- 4.2 To enable Committee to determine applications in the most efficient, effective and practical manner.

### 5. **Options Considered**

- 5.1 In line with the Council's objectives –
- Local services that work for local people
  - A healthy, active and safe Borough
  - A town Centre for all.

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

- 6.1 The Local Government Act 1972, section 101 allows the Council to arrange for a Committee, Sub-Committee or an officer or another local authority to carry out its powers and duties.

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

- 7.1 The applications will be undertaken to accord with the Human Rights Act 1988, Article 6(1) guarantees an applicant a fair hearing and Article 14 guarantees no discrimination. If the applicant disagrees with the Members decision they have the right to appeal.

8. **Financial and Resource Implications**

8.1 There will be resource implication including Member participation in the sub-committees and officer support from Environmental Health, Legal and Democratic services.

9. **Major Risks**

9.1 There are no major risks associated with this report.

10. **Sustainability and Climate Change Implications**

10.1 Not applicable

11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Cabinet/Committee Resolutions**

Council Meeting 16<sup>th</sup> May 2018  
Licensing & Public Protection Meeting 27<sup>th</sup> June 2018  
Licensing & Public Protection meeting 18<sup>th</sup> September 2018  
Council Meeting 21<sup>st</sup> November 2018  
Licensing & Public Protection meeting 11<sup>th</sup> December 2018  
Licensing & Public Protection meeting 22<sup>nd</sup> January 2019  
Licensing & Public Protection meeting 27<sup>th</sup> April 2020

13. **List of Appendices**

13.1 Not applicable

14. **Background Papers**

14.1 Not applicable