

# Public Document Pack

**Date of meeting** Tuesday, 28th June, 2022  
**Time** 7.00 pm  
**Venue** Astley Room - Castle  
**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 - LICENSING**

**1 APOLOGIES**

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

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

**3 MINUTES OF A PREVIOUS MEETING (Pages 5 - 8)**

**4 MINUTES OF LICENSING SUB COMMITTEE MEETINGS (Pages 9 - 10)**

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

##### **FIVE MINUTE BREAK**

##### **PART 2 - PUBLIC PROTECTION (OPEN)**

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

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

**6 UPDATE ON TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) ACT 2022 (Pages 11 - 14)**

**7 UPDATE ON TAXIS AND PRIVATE HIRE VEHICLES (DISABLED PERSONS) ACT 2022 (Pages 15 - 18)**

**8 TAXI BEST PRACTICE GUIDANCE CONSULTATION (Pages 19 - 34)**

**9 PUBLIC SPACE PROTECTION ORDER PUBLIC CONSULTATION UPDATE (Pages 35 - 52)**

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

**10 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.

**11 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 53 - 60)**

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

**12 APPEALS UPDATE (Pages 61 - 64)**

**13 DRINK SPIKING (Pages 65 - 70)**

**14 URGENT BUSINESS**

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

**Members:** Councillors Andrew Parker (Chair), Joan Whieldon (Vice-Chair), Simon White, Lilian Barker, Gill Heesom, Stephen Sweeney, Ian Wilkes, Craig Skelding, Rupert Adcock, Sylvia Dymond, Ruth Wright, David Allport, John Williams, Gillian Williams and Jacqueline Brown

**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 :-** Where the total membership of a committee is 12 Members or less, the quorum will be 3 members....Where the total membership is more than 12 Members, the quorum will be one quarter of the total membership.

**SUBSTITUTE MEMBER SCHEME (Section B5 – Rule 2 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:	David Hutchison	Wendy Brockie
	Barry Panter	Susan Beeston
	Trevor Johnson	Andrew Fox-Hewitt
	John Tagg	Dave Jones
	Jill Waring	Lesley Richards
	Gillian Burnett	Mike Stubbs

*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)

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

**NOTE:** THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

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# Agenda Item 3

*Licensing & Public Protection Committee - 15/02/22*

## LICENSING & PUBLIC PROTECTION COMMITTEE

Tuesday, 15th February, 2022  
Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

**Present:** Councillor Simon White (Chair)

<b>Councillors:</b>	Graham Hutton	Ruth Wright	June Walklate
	Sylvia Dymond	Andrew Parker	Julie Cooper
	Mark Olszewski	Stephen Sweeney	Trevor Johnson
	Gillian Williams	Gill Heesom	
	John Williams	Jill Waring	

<b>Officers:</b>	Geoff Durham	Mayor's Secretary / Member Support Officer
	Nesta Barker	Head of Environmental Health Services
	Daniel Dickinson	Head of Legal & Governance /Monitoring Officer

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

There were no declarations of interest stated.

### 2. **MINUTES OF PREVIOUS MEETING**

**Resolved:** That the Minutes of the meeting, held on 2 November, 2021 be agreed as a correct record.

### 3. **DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS**

There were no declarations of interest stated.

### 4. **PROPOSED TAXI FEES AND CHARGES FOR 2022-23**

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

Members' attention was drawn to the table at paragraph 3.1 of the report. Column b was current fees and column d showed the proposed charges. Column c showed charges agreed for 2021/22 but those were not implemented.

Concerns were raised about drivers who were licenced by other Authorities operating in the Newcastle area which diminished the control on regulations and also some drivers were reluctant to do the training.

## **Licensing & Public Protection Committee - 15/02/22**

**Resolved:** That the proposed fees for 2022/23 be approved.

[Watch the debate here](#)

### **5. TAX CONDITIONALITY CHECKS FOR TAXI DRIVERS, OPERATORS AND SCRAP METAL DEALERS**

Consideration was given to a report informing Members of an upcoming introduction of Tax Conditionality Provisions.

Tax checks on applicants and licence holders would come into force from 4 April, 2022.

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

[Watch the debate here](#)

### **6. CONSULTATION ON TAXI POLICY AMENDMENT FOR NEW DRIVER CRITERIA**

Consideration was given to a report seeking Members' consideration as to removing or replacing the BTEC qualification requirement in relation to new taxi driver applicant eligibility.

The BTEC qualification, run by Stoke-on Trent College had been removed from their list of courses in 2021 and Members were asked to consider the Policy's eligibility criteria in respect of BTEC qualifications.

Members were advised that the majority of elements within the BTEC were covered in the Council's Knowledge Test.

- Resolved:**
- (i) That it be noted that one of the current eligibility qualification criteria for new applicants was no longer available in the local area.
  - (ii) That the BTEC requirement be removed from the current policy and that the Council's Knowledge Test, currently in place be used as a replacement, with immediate effect.
  - (iii) That there was no foreseeable detrimental impact arising from the policy change and therefore no formal consultation on this policy change was required.

[Watch the debate here](#)

### **7. DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:-** That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2 and 7 contained within Part 1 of Schedule 12A of the Local Government Act, 1972

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

**Resolved:** That, subject to Councillor John Williams being recorded as present at the 15 December meeting, the Minutes of the meetings held on 7<sup>th</sup> and 15<sup>th</sup> December, 2021 and 19th January, 2022 be received.

**9. URGENT BUSINESS**

There was no urgent business.

**Councillor Simon White  
Chair**

Meeting concluded at 7.35 pm

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# Agenda Item 4

*Licensing Sub-Committee - 10/06/22*

## LICENSING SUB-COMMITTEE

Friday, 10th June, 2022

Time of Commencement: 10.00 am

**Present:** Councillor Stephen Sweeney (Chair)

**Councillors:** Gill Heesom Trevor Johnson

**Officers:** Matthew Burton Licensing Team Manager  
Julie Moore Licensing Officer  
Aneeka Muneer Solicitor

1. **APPOINTMENT OF CHAIR**

**Resolved:** that Councillor Sweeney be appointed Chair for the meeting.

2. **APOLOGIES**

There were no apologies for absence.

3. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

1. **APPOINTMENT OF CHAIR**

**Resolved:** that Councillor Sweeney be appointed Chair for the meeting.

2. **APOLOGIES**

There were no apologies for absence.

3. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

4. **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 in Part 1 of Schedule 12A of the Local Government Act, 1972.

5. **PERSONAL LICENCE REVIEW**

The Sub Committee considered a matter relating to a current personal licence holder.

After very careful consideration of information from the Council's Licensing Officer and representations from the licence holder and their representative, the Sub-Committee agreed as follows:

***Licensing Sub-Committee - 10/06/22***

**Resolved:** that the licence be suspended for a period of six months.

**Councillor Stephen Sweeney  
Chair**

Meeting concluded at 11.30 am

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 28 June 2022

**Report Title:** Update on Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

**Submitted by:** Head of Regulatory Services

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** All

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

The update Members on a new piece of legislation that affects taxi licensing authorities

#### **Recommendation**

**That Members note the contents of the report**

#### **Reasons**

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 has recently received Royal Assent and will affect all licensing authorities within in England.

### 1. **Background**

- 1.1 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 ("the Act") received Royal Assent on 31<sup>st</sup> March 2022. It was introduced as a Private Members Bill by Peter Gibson MP.
- 1.2 The Act seeks to improve the safety of passengers in two ways. Firstly it mandates that licensing authorities must record all instances of suspensions, revocations and refusals taken against taxi drivers on a central database. Secondly it places a duty on licensing authorities that when they have certain safeguarding or road safety concerns about a driver licensed by another authority, they must provide relevant information to the authority that issued the licence, who must then consider whether to suspend or revoke that drivers' licence within a specified period.
- 1.3 The Secretary of State may issue guidance to licensing authorities in connection with these provisions and the licensing authority must have regard to it.

### 2. **Issues**

- 2.1 Sections 5 and 6 of the Act, which relate to the notifying another licensing authority of safeguarding or road traffic concerns about a driver licensed by them, came into force on 31<sup>st</sup> May 2022.
- 2.2 Section 5 provides that the authority that has the relevant information must share it with the driver's authority within 10 working days of becoming aware of the information.

- 2.3 Section 6 provides that the authority receiving the information must then consider whether to suspend or revoke the drivers' licence based upon the information provided to them.
- 2.4 Section 1 provides a broad definition as to what constitutes 'relevant information' that should be shared.
- 2.5 The remaining provisions, which relate to the recording of information within a central database, have not received a commencement date however the Department for Transport have indicated that their intention is to have them enacted before the end of 2022.
- 2.6 Sections 2-4 provide that where a licensing authority suspends, revokes or refuse to grant or renew a taxi driver licence they must enter that decision onto a central database along with the drivers' name, address, date of birth, national insurance number and DVLA driving licence number. They also provide that all licensing authorities must check the database for an individual's details where they have made an application for a new, or to renew a taxi driver licence. The information will be retained on the database for a period of 11 years. It is provided that there may be a fee set and charged to licensing authorities in respect of the administration of the database.
- 2.7 There is currently a voluntary register named the 'National Refusals and Revocations Database' (aka NR3 register) where authorities that are signed up to the service record all taxi driver refusals and revocations and check individuals who make applications to them. It does not currently include suspensions. The Council is signed up to this service.

### 3. **Proposal**

- 3.1 That Members note the contents of the report.

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

- 4.1 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 has recently received Royal Assent and will affect all licensing authorities within in England. It will be mandatory that the Council comply with the provisions within the Act.

### 5. **Options Considered**

- 5.1 No alternative options have been considered

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

- 6.1 The Act places a number of statutory duties upon the Council. The Council must comply with these.

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

- 7.1 N/A

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

- 8.1 It is anticipated that as the Council already use a database in a similar way to the one mandated, and that the Council regularly share information about drivers with other licensing authorities and responsible bodies such as the Police that there should not be a large implication on resources and will form part of the day to day activities of the licensing department.

8.2 There may be resource implications when the database becomes mandatory as it will require driver suspensions being added into the records. Depending on whether the NR3 register is chosen as the preferred database will determine whether just suspensions will be added, or all records of suspensions, refusals and revocations.

8.3 If a fee is levied then the Council will be liable for paying it. The NR3 register is host by an organisation called the National Anti-Fraud Network (NAFN) and the Council currently pay a fee to them for their services.

9. **Major Risks**

9.1 There are no major risks anticipated as the provision are mandating the good practice that already goes on between licensing authorities.

10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 None

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022](#)

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 28 June 2022

**Report Title:** Update on Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

**Submitted by:** Head of Regulatory Services

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** All

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

The update Members on a new piece of legislation that affects taxi licensing authorities

#### **Recommendation**

That Members note the contents of the report

#### **Reasons**

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 has recently received Royal Assent and will affect all licensing authorities within in England.

### 1. **Background**

- 1.1 The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 (“the Act”) received Royal Assent on 28<sup>th</sup> April 2022. It was introduced as a Private Members Bill by Jeremy Wright MP.
- 1.2 The Act aims to reduce discrimination against and open opportunity for disabled people, by addressing the barriers they face in accessing taxi/Private Hire Vehicle (PHV) services, preventing overcharging and ensuring disabled people are given appropriate assistance when travelling by taxi or PHV.
- 1.3 To achieve this it will amend and update sections of the Equality Act 2010 (“EA10”) that relate to the carriage of disabled persons and expand the current protections afforded to wheelchair and assistance dog users to all disabled people.

### 2. **Issues**

2.1 The Act comes into force on 28<sup>th</sup> June 2022. It amends the EA10 in five ways:

- s164A and s165A are inserted into EA10 extends the responsibilities and duties already conferred upon taxi drivers;
- s166 is amended to reduce the duties that taxi drivers can be exempted from under a medical exemption;
- s167 is amended to mandate that all licensing authorities maintain and publish a list of ‘designated vehicles’;

- s167A is inserted into EA10 creating offences for private hire operators in relation to bookings for disabled persons; and
- Minor and consequential amendments are made to various sections within EA10.

2.2 Section 164A places duties upon a driver who has been hired to transport a disabled person who is able and wants to travel in a non-wheelchair accessible vehicle, to: carry the passenger and enable them to get in and/or out of the vehicle; load the passenger's luggage, wheelchair or mobility aids into and/or out of the vehicle; and take steps to ensure the disabled passenger feels comfortable and safe while travelling. The driver must not charge any extra for fulfilling these duties.

2.3 Section 165A places a duty on a driver to assist a disabled person identify the vehicle they have hired. There is a condition that the driver has been made aware in advance that the customer will require this assistance.

2.4 Section 166 amends the operations of medical exemption certificates. Currently drivers can be granted a medical exemption certificate by the licensing authority which exempts them from the duties under s165 which relate to assisting passengers in wheelchairs. s166 provides that drivers can now only be exempted from providing '*mobility assistance*' as is reasonably required, but no longer refuse to undertake the booking or charge more for taking them. This extends the duties to all disabled persons not just those in a wheelchair. Mobility assistance means assistance:

- To enable the passenger to get into or out of the vehicle;
- if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- to load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.

2.5 Section 167 amends the existing provisions about licensing authorities maintaining and publishing a list of '*designated vehicles*'. Previously licensing authorities could do this, the amended provision mandates that all authorities must do this. Designated vehicles are licensed taxi or private hire vehicles that "*conforms to such accessibility requirements as the licensing authority thinks fit.*" Accessibility requirements are "*requirements for securing that it is possible for disabled persons in wheelchairs –*

- *to get into and out of vehicles in safety, and*
- *to travel in vehicles in safety and reasonable comfort either staying in their wheelchairs or not (depending on which they prefer).*"

2.6 Section 167A creates two offences for private hire operators. Firstly that it is an offence if the fail or refuse to accept a booking for a disabled person if the reason for failing/refusing is that the passenger is disabled, or to avoid the driver having to comply with a statutory duty. Secondly that if they make, or propose to make, an additional charge for carrying out a statutory duty they will commit an offence.

2.7 The minor and consequential amendments include extending the current provisions around not making, or proposing to make, additional charges for certain duties and changing to wording and numbering within the EA10.

### 3. **Proposal**

3.1 That Members note the contents of the report



4. **Reasons for Proposed Solution**

4.1 Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 has recently received Royal Assent and will affect all licensing authorities within in England. It will be mandatory that the Council comply with the provisions within the Act.

5. **Options Considered**

5.1 No alternative options have been considered

6. **Legal and Statutory Implications**

6.1 The Act places a number of statutory duties upon the Council. The Council must comply with these.

7. **Equality Impact Assessment**

7.1 N/A

8. **Financial and Resource Implications**

8.1 Financial and Resource Implications should be limited however the creation, publication and maintenance of the designated vehicle list will require ongoing staff resource. Any complaints and/or enforcement action that come about due to the new provisions will also need to be adequately resourced. It is anticipated that these resources will be met by the existing staffing structure and will form part of the normal duties of officers.

9. **Major Risks**

9.1 There are no major risks anticipated as the Act will mandate provisions that improve Council powers in dealing with matters of discrimination and increase the duties placed upon drivers and operators to assist disabled persons.

10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 [Public Protection Committee – 19<sup>th</sup> September 2017 – The Committee agreed that The Council should publish and maintain a list of designated vehicles under s167 Equality Act 2010.](#)

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 [Taxis and Private Hire Vehicles \(Disabled Persons\) Act 2022](#)

14.2 [Equality Act 2010](#)

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO

#### Licensing and Public Protection Committee 28 June 2022

**Report Title:** Taxi Best Practice Guidance Consultation

**Submitted by:** Head of Regulatory Services

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** All

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

To inform Members of the recent consultation carried out by Department for Transport in relation to their Taxi and Private Hire Licensing Best Practice Guidance

#### **Recommendation**

**That Members note the contents of the report**

#### **Reasons**

The consultation of the Taxi and Private Hire Licensing Best Practice Guidance closed on 20<sup>th</sup> June 2022. The Department for Transport have committed to reviewing all responses to the consultation and will publish a final document in due course which the Council will then need to consider.

### 1. **Background**

- 1.1 The Department for Transport (DfT) has issued guidance on taxi and private hire vehicle licensing since 2006 to assist local authorities that have responsibility for the regulation of the taxi and private hire vehicle trades. It was most recently updated in 2010.
- 1.2 The Best Practice Guidance (BPG) issued by DfT is non-statutory and does not bind any local authority to follow the suggestions contained within. The intention is that it assists Licensing Authorities in carrying out of their duties and shaping policies.
- 1.3 Much has changed in the taxi and private hire industry since 2010 and the DfT recognised that the time had come to update the BPG to ensure it reflects new ways of working and new technology.
- 1.4 The consultation opened on 28<sup>th</sup> March 2022 and closed on 20<sup>th</sup> June 2022. It was aimed at all interested parties including the public, licencing authorities, operators, drivers and representative bodies.
- 1.5 The Council have submitted a response to the consultation having gathered views from relevant persons across the organisation in relation to the points raised by DfT.

## 2. Issues

2.1 The BPG draft document is extensive. It sets out the DfT's proposed position on many issues within the taxi licensing regime and focused the consultation upon matters that they believed to be most contentious. They did not ask questions on what they considered to be settled positions such as:

- parts simply stating the law (for example, the duration of licences)
- setting out existing government policies (for example, text that is taken from the statutory taxi and private hire vehicle standards)
- DfT's interpretation of the law (for example, the guidance on interim suspensions)
- signposting other information (for example, the community safety accreditation scheme)

2.2 The consultation questions covered a wide range of areas including vehicle accessibility, enforcement, rank provision and the documents annexes, however the focus was on five main areas of the draft BPG that DfT considered to be the most contentious. They were:

- Section 6: driver licensing – proficiency;  
The DfT proposal was that *“Licensing authorities should require taxi and private hire vehicle drivers to evidence a higher degree of driving ability as would be expected of a professional driver.”*
- Section 6: driver licensing – vocational training and assessment;  
The DfT proposal was that *“licensing authorities should not require applicants for a licence to have obtained a vocational qualification.”*
- Section 8: vehicle licensing – tinted windows;  
The DfT proposal was that *“licensing authorities should not require their (factory fitted windows) removal as part of vehicle specifications”*
- Section 8: vehicle licensing – identification and signage;  
The DfT proposals were that *“licensing authorities should seek to minimise the profile of private hire vehicles”, “should not permit roof signs of any kind on private hire vehicles”, “should not impose a livery requirement on private hire vehicles”, “licensing authorities should prevent private hire vehicles from being the same colour as its taxis”, “Licensing authorities’ private hire vehicle signage requirements should be limited to the authority licence plate or disc and a “pre-booked only” door sign”, and “should only exempt the display of a licence plate by a private hire vehicle in exceptional circumstances”*
- Section 8: vehicle licensing – age limits;  
The DfT proposal was that *“Licensing authorities should not impose age limits for the licensing of vehicles but should consider more targeted requirements to meet its policy objectives on emissions, safety rating and increasing wheelchair accessible provision where this is low.”*

2.3 The officers' view is that the sections around driver licensing are not contentious however officers were concerned with the proposals around vehicle licensing and voiced these concerns when submitting the Council's response to the consultation as all sections are contrary to the taxi licensing policy agreed by this Committee in 2019.

2.4 In the officers' view there were several other contentious proposals, or those that required further clarification, including:

- Section 4.17 Inclusive Service Plan (ISP) – The DfT proposal was that “*All licensing authorities should develop and maintain an ISP, either as a standalone document or as an integral element of their Local Transport Plan.*” However it is only upper tier and unitary authorities that have Local Transport Plans.
- Section 6.25-6.26 Intended Use - The DfT proposal was that “*Licensing authorities should require an applicant for a taxi driver licence to declare that they intend to work predominately within the licensing authority’s area.*” This only relates to drivers planning on driving Hackney Carriages carrying out pre-booked work outside of the area in which they have been licensed. There appears to be a will to stop this from happening but allowing drivers of private hire vehicles to licence at an authority other than in the area in which they intend to work.
- Section 8.25 Criteria for Tests - The DfT proposal was that “*For mechanical matters, it seems appropriate to apply the same criteria as those for the MOT test to taxis and private hire vehicles.*” The MOT standard is the lowest possible standard for normal vehicles. Taxis and Private Hire Vehicles complete a large amount of mileage and endure more wear and tear than an average vehicle.

2.5 A copy of the Council’s response to the consultation is attached as **Appendix A**.

### 3. **Proposal**

3.1 That Members note the contents of the report

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

4.1 The consultation of the Taxi and Private Hire Licensing Best Practice Guidance closed on 20th June 2022. The Department for Transport have committed to reviewing all responses to the consultation and will publish a final document in due course which the Council will then need to consider.

### 5. **Options Considered**

5.1 No other options have been considered

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

6.1 N/A – There may be implications for policy amendments in the future but that will be subject to the final Best Practice Guidance document and Committee approval.

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

7.1 N/A

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

8.1 N/A– There may be implications in the future but that will be subject to the final Best Practice Guidance document and Committee approval.

### 9. **Major Risks**

9.1 N/A

### 10. **UN Sustainable Development Goals (UNSDG)**

10.1



11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 N/A

13. **List of Appendices**

13.1 Appendix A – Consultation Response

14. **Background Papers**

14.1 [Department for Transport Draft Best Practice Guidance](#)

14.2 [Department for Transport Scope for Consultation](#)

14.3 [Taxi Licensing Policy 2021-2025](#)

# Taxi and private hire vehicle: best practice guidance

## Personal details

Q1. Your (used for contact purposes only):

**name** Matthew Burton

**email** matthew.burton@newcastle-staffs.gov.uk

Q2. Are you responding:

on behalf of an organisation?

## Organisation details

Q3. What is the name of your organisation?

Newcastle-under-Lyme Borough Council

Q4. You responding on behalf of:

a licensing authority?

## Accessibility

Q9. In your view should licensing authorities introduce Inclusive Service Plans for taxi and private hire vehicles?

Don't know

### Why?

It isn't clear from the consultation document whether this was for Borough and District Councils as well as Unitary or Upper Tier Authorities. Section 4.17 references that an ISP could be a standalone document or an element of an authority's Local Transport Plan. LTP's are only issued by Unitary and Upper Tier authorities. There are obvious benefits to service users in the creation on an ISP so if Borough/District Councils are captured by this is there a suggestion that it should be linked to the relevant Upper Tier's LTP or be a standalone document? If this section makes it into the final version of the best practice guidance I would hope that there will be associated guidance published to assist Borough and District Councils to develop an ISP.

Q10. Do you agree that licensing authorities should introduce the accessibility measures proposed in the best practice guidance?

Yes

### Why?

Sections 4.8, 4.10 and 4.13 refer to actions that authorities could introduce to assist with making the provision of taxi and private hire more accessible to all. The Council agree that where possible authorities should seek to improve the accessibility of the service to the public.

Q11. In your view are there any other measures licensing authorities should take to improve accessibility of taxis and private hire vehicles?

No

## Points-based enforcement systems

Q13. Do you agree that any points incurred through a points-based enforcement regime should remain on the record for 3 years for drivers from the date of the incident?

Yes

## Driver enforcement

Q14. Why, providing any relevant information to support your view or alternative proposals?

**Comments:**

Where authorities use a points based system I see the benefit of retaining the points for a set period. However there would need to be consistency across authorities, perhaps with a model points system for recording infractions. We use a simpler '3 warnings' for lower level matters before an individual would have their licence considered. With the caveat that more serious infractions could be escalated without the need to the individual to have collected 3 warnings first.

## Private hire vehicle operator

Q15. Do you agree that any points incurred though a points-based enforcement regime should remain on the record for 5 years for private hire vehicle operators from the date of the incident?

Yes

## Private hire operator enforcement

Q16. Why, providing any relevant information to support your view or alternative proposals?

**Comments:**

Where authorities use a points based system I see the benefit of retaining the points for a set period. However there would need to be consistency across authorities, perhaps with a model points system for recording infractions. We use a simpler '3 warnings' for lower level matters before an individual would have their licence considered. With the caveat that more serious infractions could be escalated without the need to the individual to have collected 3 warnings first.

## Driver licensing: driver proficiency



Q17. Do you agree licensing authorities should require taxi and private hire vehicle drivers, as professional drivers, to evidence a higher degree of driving ability than is required for a private motorist?

Yes

## Driver proficiency viewpoint

Q18. Why, providing any relevant information to support your view or alternative proposals?

**Comments:**

Taxi and PHV drivers are professional drivers who spend a lot of time in their vehicles. They have a duty of care to themselves, their passengers and the other road users. It would be of benefit for the guidance document to identify a suitable qualification or standard that could be widely adopted and help in standardising the regime across the country. The Driving Standards Agency test for taxi drivers was abolished several years ago

## Driver licensing: vocational training and assessment

Q19. Do you agree that licensing authorities should not require drivers to obtain a vocational qualification?

Yes

## Vocational qualification

Q20. Why, providing any relevant information to support your view or alternative proposals?

**Comments:**

For the reasons outlined in the consultation document. It is more important that drivers undertake specific training to relevant areas of the role and on a regular basis, such as Safeguarding and Disability Equality. These can be updated continually and repeated whereas a vocational qualification only provides a 'snapshot' of the learners knowledge at a particular point in time.

## Topographical knowledge tests

Q21. In your view should a private hire vehicle driver be required to pass some form of topographical knowledge test?

Yes

## Topographical knowledge tests view

Q22. If a PHV driver is required to pass a topographical test do you think the topographical knowledge test requirement for private hire vehicle drivers should be:

to pass the same topographical test as taxi drivers?

Q23. Why, providing any relevant information to support your view or alternative proposals?

**Comments:**

Many authorities do not distinguish between taxi and PHV drivers as they issue 'dual driver' licences. The criteria should be consistent as it is unknown as to what type of vehicle they may driver and they may choose to switch between the two.

## Driver licensing: vehicle condition check

Q24. Do you agree licensing authorities should require drivers to conduct daily checks on their vehicle similar to the checklist provided?

Yes

## Daily vehicle check

Q25. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Vehicle condition is paramount to the safety of passengers and other road users.

Q26. What, if any, comments do you have on the vehicle condition checklist?

I'd suggest some minor amendments to the proposed checklist to make it more consistent. There should be individual rows for each check and it may be beneficial to add explanatory notes or use more layman instructions on certain sections e.g. excess travel in the brakes, what 'warnings lamps work correctly' means etc

## Vehicle licensing: vehicle safety ratings

Q27. Do you agree licensing authorities should consider the safety benefits to passengers, drivers and pedestrians of vehicles which have received a higher Euro NCAP rating (where these have been assessed) when setting its vehicle requirements?

Yes

## Euro NCAP

Q28. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Vehicle condition and associated in-built safety measures are paramount to ensuring the safety of passengers and other road users.

## Page 26 Vehicle licensing: seating capacity

Q29. Do you agree that each person, regardless of age, should be counted as a passenger?

Yes

## Passenger count

Q30. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

It would lessen the number or children travelling in taxis using unsuitable, or no, belt or restraint. It is a clear definitive statement

## Vehicle licensing: seating capacity

Q31. Do you agree taxis and private hire vehicles should not be licensed to carry more people than the number of seats and seatbelts available?

Yes

## Seating capacity

Q32. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

It would lessen the number or children travelling in taxis using unsuitable, or no, belt or restraint. It is a clear definitive statement

## Vehicle licensing: tinted windows

Q33. Do you agree that licensing authorities should only require the removal of 'factory fitted' tinted windows as part of vehicle specifications if it can evidence that this is necessary and proportionate?

No

## Tinted windows

Q34. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Officers feel strongly that very dark tinted windows pose a potential risk to safety in that no-one, whether that is Council officers, Police, members of the public or anyone else, can see what may be happening in that vehicle. It is possible as an officer, but unusual, to open passenger doors when a vehicle stationary to view the inside of the vehicle but it is impossible to do when a vehicle is in motion.

## Vehicle licensing: vehicle testing

Q35. Do you agree licensing authorities should, where possible, obtain details of vehicle tests, including failures?

Yes

### Details of vehicle tests

Q36. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Authorities should want to know if a vehicle has failed or received advisories and not just whether it has eventually passed. Otherwise vehicles may be carrying public and not to the desired standard until they are repaired

## Vehicle licensing: vehicle testing

Q37. Do you agree licensing authorities should require testing stations to provide the outcomes of all examinations carried out, including where vehicles were subject to advisory notices?

Yes

### Testing stations to provide outcomes

Q38. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Authorities should want to know if a vehicle has failed or received advisories and not just whether it has eventually passed. Otherwise vehicles may be carrying public and not to the desired standard until they are repaired

## Vehicle licensing: vehicle age limits

Q39. Do you agree licensing authorities should not impose age limits for the licensing of vehicles?

No

### Vehicle age limits

Q40. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Evaluation of our vehicle fleet and testing regime revealed that generally speaking the older vehicles failed tests more frequently than younger vehicles. Whilst age should not be the only criteria it can be a good baseline providing that it is not too onerous. Policy is always a starting point with the ability to be departed from where the application merits it

## Vehicle licensing: vehicle identification and signage

Q41. Do you agree licensing authorities should not permit roof signs of any kind on private hire vehicles?

Yes

## Roof signs

Q42. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

In an effort to distinguish between HCVs and PHVs.

## Private hire vehicle livery

Q43. Do you agree that licensing authorities should not impose a livery requirement on private hire vehicles?

No

## Livery requirement

Q44. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

In an effort to distinguish between HCVs and PHVs. Not all HCVs work for an operator and therefore do not have signage in that respect. HCVs have a roof sign, particular vehicle type and colour scheme. PHVs all work for an operator. Customers need to be able to identify the vehicle they have booked. If not booked via an APP they may not have a description, registration, plate number etc of which vehicle is theirs. The only way they may be able to readily identify which one is booked for them is the door livery stating which operator they work for. Additionally it is important for licensing authority officers and public alike to be able to identify which company a vehicle works for if they see dangerous driving or wish to make a complaint about the conduct of the vehicle they have witnessed.

## Vehicle licensing: door sign

Q45. Do you agree that private hire vehicle signage requirements should be limited to the authority licence plate or disc and a "pre-booked only" door sign?

No

## Door sign

Q46. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Having signage that states the vehicle is 'pre-booked only' in addition to the operator door livery makes it more obvious that it is a PHV and distinguishes it from a HCV which is what the Government are trying to achieve

## Displaying private hire vehicle operator details

Q47. Do you agree that licensing authorities should not require the displaying of private hire vehicle operator details on vehicle?

No

## Displaying operator details

Q48. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

The only way a member of the public may be able to readily identify which PHV is booked for them is the door livery stating which operator they work for. Additionally it is important for licensing authority officers and public alike to be able to identify which company a vehicle works for if they see dangerous driving or wish to make a complaint about the conduct of the vehicle they have witnessed.

## Displaying private hire vehicle operator details

Q49. Do you agree that when an exclusive relationship exists between the vehicle proprietor, driver and operator, licensing authorities should permit the display of private hire vehicle operator details in a discreet manner?

Yes

## Vehicle operator details

Q50. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

This would be similar to smaller 'executive' type companies. For larger companies I would still expect the same livery as to all other PHVs

## Using the term 'taxi' on private hire vehicles

Q51. Do you agree with our suggested practice regarding the use of the words "taxi" or "cab", as well as similar meaning words, for display on private hire vehicles?

Yes

## 'Taxi' display

Q52. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

It is another way to attempt to distinguish between HCVs and PHVs

## Vehicle licensing: environmental considerations

Q53. Do you agree that taxis and private hire vehicle with internal combustion engines should be tested more frequently than annually?

Yes

## Environmental considerations

Q54. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Internal combustion engine vehicles have more moving parts, more wear and tear and opportunities for issues to arise, However I believe that all HCVs and PHVs should be tested more than once annually due to the number of miles and journeys they undertake as well as to ensure that they continue to be operated at a safe standard

## Taxi rank provision

Q55. Do you agree that taxi rank provision should be reviewed every 3 years?

No

## Renewal reasoning

Q56. Why providing any relevant information to support your view or alternative proposals?

**Comments:**

Every 3 years seems too regular

## Model Byelaws for Hackney Carriages

Q57. What, if any, comments do you have on the model byelaws?

They seem unnecessary when the matters can be covered by policy conditions instead which are easier to administer

## Sample notices between taxi, private hire vehicle driver and passenger

Q58. What, if any, comments do you have on the sample notices?

Clear and succinct although there is nothing in the guidance to suggested how or where they should be displayed.

## Staying safe: guidance for taxi drivers

Q59. What, if any, comments do you have on the staying safe guidance for taxi drivers?

It mentions 'drunk people' as a threat but not other substance users, or any other category of possibly perpetrator. There is no mentioned in the HCV guidance (whereas is does in the PHV driver guidance in Annex H)

## Staying safe: guidance for the private hire vehicle trade

Q60. What, if any, comments do you have on the staying safe guidance for the private hire vehicle trade?

It mentions 'drunk people' as a threat but not other substance users, or any other category of possibly perpetrator.

## Useful questions when assessing taxi quantity controls

Q61. What, if any, comments do you have on the questions for assessing taxi quantity controls?

No comments. Limits should be removed where there is not clear evidence to the contrary

## Final comments



**Q62. Any other comments?**

- The guidance document does not give much guidance as to vehicle proprietors. It is primarily concerned with drivers and operators;
- In section 6: driver licensing proficiency it would be beneficial to give an indication of what sort of test might be considered suitable for car drivers, as you have suggested one for motorcycle PHVs;
- There is no proposal or suggestion that licensing authorities should operate a points system for enforcement against licence holders, only what time limits should points be kept relevant for if there is a policy. If the guidance does recommend the use of such a system it would be useful to have an Annex with a template of a policy and how to administer it;
- There is no proposal or suggestion that licensing authorities should operate multiple testing stations, just an inference in the questioning as to whether the authority should receive all results of all tests;
- Bullet point of section 4.9 suggests that disabled passengers sometimes find it difficult to identify the vehicle booked for them. Seeking to minimise the profile of PHVs would exacerbate that issue. The matter has also been addressed in the recent Taxi and PHV (Disabled Persons) Act 2022;
- There is no consultation question on intended use. This is a very contentious issue across the country as it is linked to cross-border hiring which does not appear at all in the guidance document. There is a difference between an individual being licensed by an authority 100 miles away from where they work (e.g. a HCV driver working as a pre-booked vehicle away from where they were originally licensed) and an individual working where they live but being licensed by an authority 100 miles from there (e.g. a driver working and living in area A but travelling to area X to get a licence). Whilst both are legal they are undesirable and not what the legislation intended so should be looked at together;
- There is nothing in the guidance document around private hire operators and booking records. There is in the Statutory Standards and in other areas of this guidance you have replicated the Standards but not for this. It seems like an oversight;
- There is nothing in the guidance document around private hire operators and their responsibilities when subcontracting;
- At 8.25 of the guidance it suggests that MOT standards should be used to test taxis and PHVs. This seems to be contrary to the position that taxi and PHV drivers should be expected to reach a higher standard than an 'average' driver. By the very nature of the work these vehicles undertake they carry out greater mileage and have more wear and tear than your 'average' vehicle. Passing an MOT is the lowest possible legal standard so taxis and PHVs should be held to a much higher standard. There should have been consultation on this proposal.

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### Report for Public Protection and Licensing Committee – June 2022

**Title:** Public Space Protection Order Public Consultation Update

**Submitted by:** Michelle Hopper Senior Partnerships Officer

**Portfolios:** **Community Safety and Wellbeing**

**Ward(s) affected:** All

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

This report is to;

- Provide a draft copy of the two revised Public Space Protection Order (PSPO) for the Town Centre and Queen Elizabeth Park and to gain support from the committee to initiate a 6 week public consultation.

#### **Recommendations**

That the Public Protection and Licensing Committee considers the content of this report and gives approval for Officers at the Council to initiate public consultation for the two proposed PSPO's at the below locations;

1. Newcastle Town Centre PSPO(see Appendix 1)
2. Queen Elizabeth Park PSPO (see Appendix 2).

#### **Reasons**

- Following ongoing reports of anti-social behaviour in these locations, the Borough Council is seeking to use its powers to impose prohibitions to tackle incidents of anti-social behaviour. Please refer to Appendix 1 and 2 for further information.
- The Committee is required to consider agreeing to the conditions of the order so that a formal consultation can be initiated.

## **1 Background**

- 1.1 A Public Space Protection Order is an order made under the Anti-Social Behaviour, Crime and Policing Act 2014 whereby this legislation allows for an order to identify a particular space or area to which it will be applied; and can make requirements, or prohibitions, or both within that space or area. This means that the Local Authority can, by virtue of the order, require people to do, or not to do specific things in that space or area. The Local Authority has the powers to grant the prohibitions/requirements where it believes that they are reasonable in order to reduce or prevent the unwanted issues. The order can be applied to specific people or everyone within an area and can apply at all times or within specific times. The order can apply for a maximum of 3 years upon which the process of reviews and consultation must be repeated to check whether the issues are still occurring and the order is having the required effect. After the initial 3 years, the order can be extended for a further 3 years, and upon further reviews and consultation, can be extended more than once for further periods of 3 years.

In 2019 the Committee agreed to adopt two PSPO's that covered Newcastle Town Centre and Queen Elizabeth Park. On the 26<sup>th</sup> May 2022 those orders lapsed and we now need to consider the importance of having such like orders in place, the benefits of such orders, and whether the conditions included in Appendix 1 and 2 of this report are of the agreement of the committee.

Since the previous PSPO's were adopted in the town centre, we have been hit with a global pandemic. Therefore we need to consider this when we look at the number of breaches below:

- 2 in 2019
- 3 in 2020
- 3 in 2021
- 0 in 2022

From consultations that have been undertaken with Staffordshire Police we are able to provide the following statistics for in and around the town centre.

- Decrease of 1% in anti-social behaviour
- Increase of 15% in fireworks nuisance
- Increase of 33% in Begging and Vagrancy
- Increase of 35.5% in Rowdy and inconsiderate behaviour
- Decrease of 21% street drinking
- Decrease of 18% for drug related offences.
- Increase in public order offences by 69%
- Increase in violent crime by 72%
- Increase in Criminal Damage by 49%

ASB statistics from the Borough Council –

- 2018/2019 – Total ASB cases 456 – town centre related ASB 109
- 2019/2020 – total ASB cases 342 – town centre related ASB 67
- 2020/2021 – total ASB cases 461 – town centre related cases 254
- 2021/2022 – total ASB cases 587 – town centre 254
- 2022/2023 to date ASB cases 279 – town centre 198

The conditions in Appendix 1 and 2 will look to cover a range of behavioural issues that we believe are impacting on the town centre and Queen Elizabeth park. We are looking for support to conduct a 6 week consultation period on the proposed conditions. A report will then be drafted to be returned to committee with any necessary changes to be made with the draft order. We will then look to undertake a further 6 week consultation for the final proposal for the PSPO's. This will be followed with a return to the committee to express the results of the second consultation whereby a decision will be made whether to adopt the proposed Order's at this point.

1.2 Failure to comply with either a prohibition, or requirement stated within the order is a Level 3 offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine. The defendant cannot be found guilty of an offence under a prohibition/requirement where the Local Authority did not have the power to include it in the order. The authority has the option to either prosecute or issue an FPN to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing act). To coincide with this, we are currently looking at the legal frame work to extend the authorisations of those who will be able to enforce the PSPO to include the Mobile Multi Function Team and PCSO's from Staffordshire Police.

1.3 The main issues in Newcastle-under-Lyme Town Centre have previously been highlighted as street drinking, drug taking, aggressive and/or persistent begging,

general anti-social behaviour and vandalism/defacement of property. We are now looking to reintroduce prohibitions to take this behaviour.

- 1.4 The boundaries for the exclusion zones whereby the proposed PSPO's will be situated will remain the same as the former PSPO's in place. This included the Newcastle Town centre and Queen Elizabeth Park areas as shown in Appendix 1 and 2.

## **2. Proposed Prohibitions**

The proposed prohibitions for the 'Town Centre' and 'Queen Elizabeth Park' PSPOs are:

1. Possessing or using of an aerosol and/or any item intended to cause defacement within the Exclusion Zone.
2. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
  - a. Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
  - b. Being verbally abusive to any other person within the Exclusion Zone.
  - c. Using or threatening to use violence against any other person within the Exclusion Zone.
  - d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
  - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.
3. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
4. Not to consume alcohol within the exclusion zone unless within a licenced premises or within a designated area subject to a street traders licence.
5. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
6. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.
7. Failing to deposit litter of any form in any area other than in a designated receptacle.
8. Not to urinate / defecate in public view.

## **4. Recommendations**

- 4.1 It is recommended that the Public Protection and Licensing Committee approve the draft Public Space Protection Orders for both Newcastle Town Centre and Queen Elizabeth Park to allow us to undertake a formal public consultation.

## **5. Outcomes Linked to Corporate Priorities**

- 5.1 The Council Plan outlines a priority to create two vibrant town centres in Newcastle and Kidsgrove where everyone can live, work, shop, study and spend their leisure time.

We want our town centres in Newcastle and Kidsgrove to be the vibrant and successful centres of life in the borough. We want to ensure that they have the right retail, public service, leisure, cultural, business and residential facilities that work for local residents and attract visitors and businesses to the town centres.

To achieve the Council's priorities PSPO's can be utilised in building on our work with Police and partners to reduce anti-social behaviour and fear of crime in our communities.

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

- 6.1 PSPO's can be challenged on the grounds that the Local Authority, under the legislation, did not have the power either to make or vary the Order or include particular prohibitions or requirements, or that proper processes had not been followed (as prescribed by the legislation). Challenges must be made to the High Courts within 6 weeks of the Order being made/varied and by an individual who lives in, regularly works in, or visits the restricted area. The High Court can quash, uphold or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.
- 6.2 PSPO's can be challenged on the grounds that the Local Authority, under the legislation, did not have the power either to make or vary the Order or include particular prohibitions or requirements, or that proper processes had not been followed (as prescribed by the legislation). Challenges must be made to the High Courts within 6 weeks of the Order being made/varied and by an individual who lives in, regularly works in, or visits the restricted area. The High Court can quash, uphold or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.

## **7. Equality Impact Assessment**

- 7.1 An Equality Risk Assessment has been refreshed detailing how PSPO's will affect disadvantaged and vulnerable individuals such as dependent street drinkers, rough sleepers and beggars.

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

- 8.1 The two PSPO's will be managed under existing Council resources in Town Centre and Community management, Legal, Finance Teams with assistance from partners such as the Police who will be identifying breaches of the PSPO, issuing FPNs and as authorised persons on behalf of the Council as outlined in the PSPO Order.
- 8.2 There may be an additional staffing resource required to support the management of FPN's, including income recovery when non-payment occurs. This depends on how many FPNs are issued and how many occurrences there are of non-payments. Also, the level of resulting income cannot be accurately predicted but is not expected to be significant. It will be monitored on a regular basis and managed using existing resources.

## **9. Key Decision Information**

- 9.1 This report can be considered key because it requires the Borough Council to commit existing and additional resources for the function to which the decision relates.

- 10.1 In June 2018 the Anti-Social Behaviour Policy report was approved by Cabinet.
- 10.2 In July 2018 the report 'Public Space Protection Orders review' was approved by Cabinet.
- 10.3 In July 2018 the report 'Public Space Protection Orders variation' was approved in principle by the Public Protection and Licensing Committee.
- 10.4 In January 2019 the report 'Public Space Protection Order Public Consultation Update' was approved by the Public Protection and Licensing Committee.

## **11. List of Appendices**

- 11.1 Appendix 1: Public Space Protection Order Newcastle Town Centre (draft Order)
- 11.2 Appendix 2: Public Space Protection Order Queen Elizabeth Park (Draft Order)

## **12. Background Papers**

- 12.1 None

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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**  
**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**  
**PUBLIC SPACE PROTECTION ORDER NUMBER 1 OF 2022 (the “ORDER”)**  
**AREA OF NEWCASTLE-UNDER-LYME TOWN CENTRE**

THIS ORDER may be cited as Newcastle-under-Lyme Borough Council, Public Spaces Protection Order Number of 2022.

Newcastle-under-Lyme Borough Council exercises its powers under Section 59, 64 and 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and under all other enabling powers, hereby makes the following order:

1. This Order shall come into operation on DATE and shall have an effect for 3 years thereafter, unless extended by further order under the Councils statutory powers.
2. This Order relates to the part of Newcastle-under-Lyme Borough Council, area of Newcastle Town Centre as shown edged red on Appendix 1 (“the Exclusion Zone”).
3. The Council is satisfied that the conditions set out in Section 59 (2) of the Act have been met. Namely, that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone. These activities have had a detrimental effect on the quality of life of those in the locality, and it is likely that the activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59 (3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

**PROHIBITIONS:**

1. Possessing or using of an aerosol and/or any item intended to cause defacement within the Exclusion Zone.
2. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
  - a. Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
  - b. Being verbally abusive to any other person within the Exclusion Zone.
  - c. Using or threatening to use violence against any other person within the Exclusion Zone.
  - d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
  - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.

## APPENDIX 1

3. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
4. Not to consume alcohol within the exclusion zone unless within a licenced premises or within a designated area subject to a street traders licence.
5. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
6. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.
7. Failing to deposit litter of any form in any area other than in a designated receptacle.
8. Not to urinate / defecate in public view.

### **FIXED PENALTY NOTICES AND OFFENCES:**

1. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 2 fine or to a Fixed Penalty Notice..
3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 3 fine or to a Fixed Penalty Notice..

### **APPEALS**

1. In accordance with section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

### **DEFINITION AND EXEMPTIONS:**

1. Order may be cited as the '*Newcastle-under-Lyme Town Centre Anti-social Behaviour Public Spaces Protection Order*'.
2. '*Authorised Person*' a person authorised by the Newcastle-under-Lyme Borough Council including employees, partnership agency or contractor. Such authorised person must produce their authorisation upon request.
3. '*Intoxicating substances*' means substances with the capacity to stimulate or depress the central nervous system but does not include tobacco, alcohol or vaporisers.
4. '*Persistent and aggressive*' in the context of begging means sitting or loitering in a public space with any receptacle used to contain monies for the purpose of begging, soliciting payment, harassing and threatening such that could cause intimidation.

## APPENDIX 1

5. Consuming alcohol in breach of a PSPO is not an offence under S.67 of the Act. However, under S.63 of the Act it is an offence to fail to comply with a request by a Police Officer or an Authorised Person to cease drinking or surrender alcohol that a person has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

### **RESTRICTIONS AND PENALTY:**

1. 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 Activities within the Exclusion Zone. 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.
2. It is an offence for a person without reasonable excuse to engage in Activities which are prohibited by this Order.
3. 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;
4. 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.

### **APPENDIX:**

A street plan of Newcastle-under-Lyme Borough Council, Area of Newcastle Town Centre showing the Exclusion Zone edged in red.

Given under the Common Seal of  
Newcastle-under-Lyme Borough Council  
On the

.....day of .....2019

**THE COMMON SEAL** of the  
**COUNCIL**

Was hereunto affixed  
In the presence of:

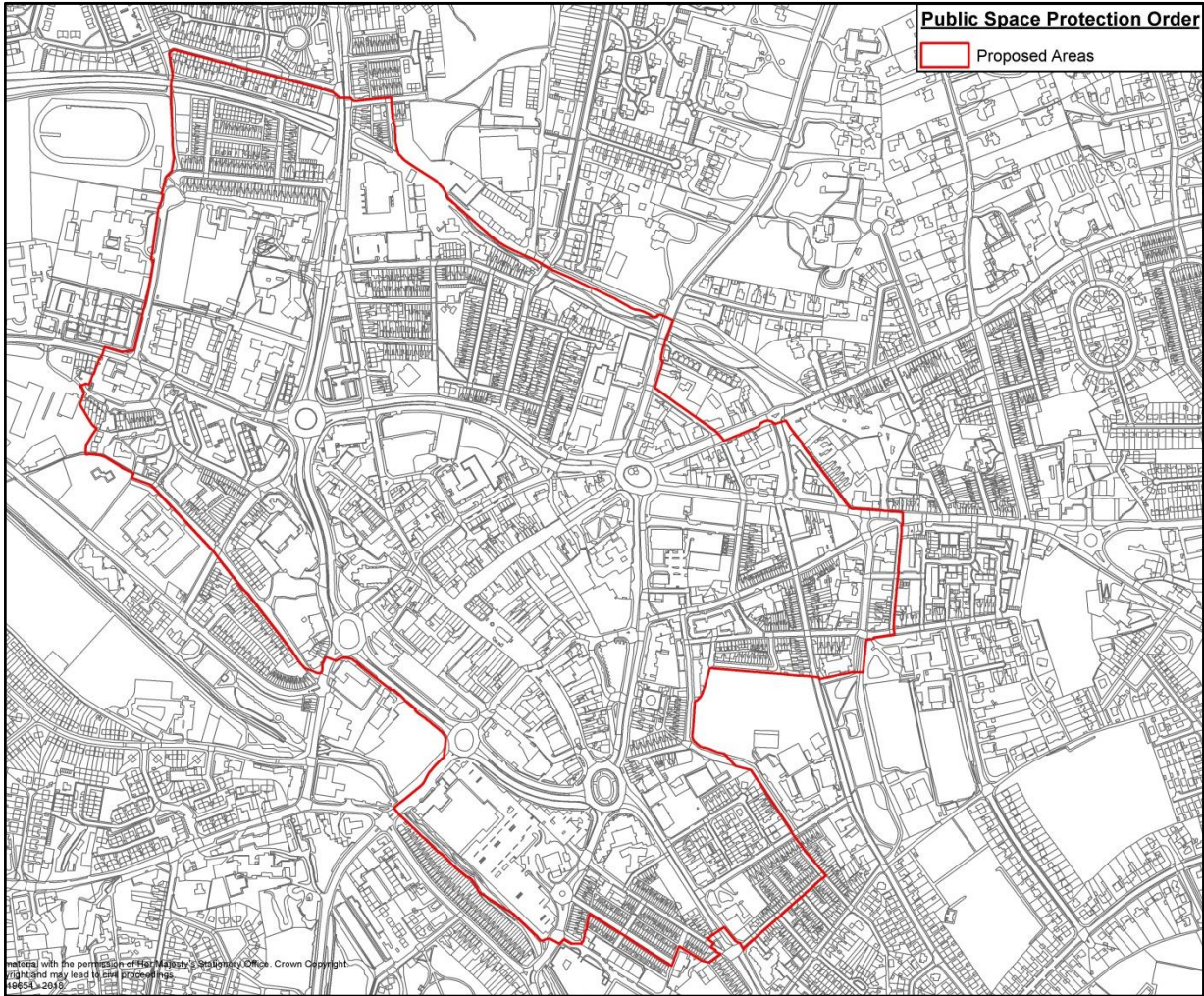
..... Authorised Officer

..... Designation

DRAFT

**APPENDIX 1**  
**PUBLIC SPACE PROTECTION ORDER NUMBER 1 of 2022 (the “ORDER”)**  
**AREA OF NEWCASTLE-UNDER-LYME TOWN CENTRE (“the Exclusion Zone”)**

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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

**PUBLIC SPACE PROTECTION ORDER NUMBER 1 OF 2022 (the "ORDER")**

**AREA OF QUEEN ELIZABETH PARK (off SILVERDALE ROAD)**

THIS ORDER may be cited as Newcastle-under-Lyme Borough Council, Public Spaces Protection Order Number 2 of 2022.

Newcastle-under-Lyme Borough Council exercises its powers under Section 59, 64 and 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and under all other enabling powers, hereby makes the following order:

1. This Order shall come into operation on DATE and shall have an effect for 3 years thereafter, unless extended by further order under the Councils statutory powers.
2. This Order relates to the part of Newcastle-under-Lyme Borough Council, area of Queen Elizabeth Park as shown edged red on Appendix 1 ("the Exclusion Zone").
3. The Council is satisfied that the conditions set out in Section 59 (2) of the Act have been met. Namely, that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone. These activities have had a detrimental effect on the quality of life of those in the locality, and it is likely that the activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59 (3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

**PROHIBITIONS:**

1. Possessing or using of an aerosol and/or any item intended to cause defacement within the Exclusion Zone.
2. Engaging in behaviour likely to cause harassment, alarm or distress within the Exclusion Zone. Examples include, but are not limited to the following activities:
  - a. Congregating in a group of three or more persons within the Exclusion Zone following a request from an Authorised Person that such group must disperse.
  - b. Being verbally abusive to any other person within the Exclusion Zone.
  - c. Using or threatening to use violence against any other person within the Exclusion Zone.
  - d. Having in their possession open cans, bottles or other unsealed receptacles containing alcoholic beverages (including empty receptacles) within the Exclusion Zone.
  - e. Carrying out any form of graffiti on any surface within the Exclusion Zone.

## APPENDIX 2

3. Failing to cease to consume alcohol and/or surrender alcohol when requested to do so by a police officer or other authorised person.
4. Not to consume alcohol within the exclusion zone unless within a licenced premises or within a designated area subject to a street traders licence.
5. Ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances including novel psychoactive substances within the Exclusion Zone.
6. Persistent and aggressive begging, causing obstruction, harassment and threatening behaviour, which could cause intimidation.
7. Failing to deposit litter of any form in any area other than in a designated receptacle.
8. Not to urinate / defecate in public view.

### **FIXED PENALTY NOTICES AND OFFENCES:**

1. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 2 fine or to a Fixed Penalty Notice..
3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a level 3 fine or to a Fixed Penalty Notice..

### **APPEALS**

1. In accordance with section 66 of the Act, any interested person who wishes to challenge the validity of this Order on the grounds that the Council did not have the power to make the Order or that a requirement under the Act has not been complied with may apply to the High Court within six weeks from the date upon which the Order is made.

### **DEFINITION AND EXEMPTIONS:**

1. Order may be cited as the '*Queen Elizabeth Park Anti-social Behaviour Public Spaces Protection Order*'
2. "*Authorised Person*" a person authorised by the Newcastle-under-Lyme Borough Council including employees, partnership agency or contractor. Such authorised person must produce their authorisation upon request.
3. '*Intoxicating substances*' means substances with the capacity to stimulate or depress the central nervous system but does not include tobacco, alcohol or vaporisers
4. '*Persistent and aggressive*' in the context of begging means sitting or loitering in a public space with any receptacle used to contain monies for the purpose of begging, soliciting payment, harassing and threatening such that could cause intimidation



## APPENDIX 2

5. Consuming alcohol in breach of a PSPO is not an offence under S.67 of the Act. However, under S.63 of the Act it is an offence to fail to comply with a request by a Police Officer or an Authorised Person to cease drinking or surrender alcohol that a person has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

### **RESTRICTIONS AND PENALTY:**

1. 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 Activities within the Exclusion Zone. 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.
2. It is an offence for a person without reasonable excuse to engage in Activities which are prohibited by this Order.
3. 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;
4. 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.

### **APPENDIX:**

A street plan of Newcastle-under-Lyme Borough Council, Area of Queen Elizabeth Park showing the Exclusion Zone edged in red.

Given under the Common Seal of  
Newcastle-under-Lyme Borough Council  
On the

.....day of .....2019

**THE COMMON SEAL** of the  
**COUNCIL**

Was hereunto affixed  
In the presence of:

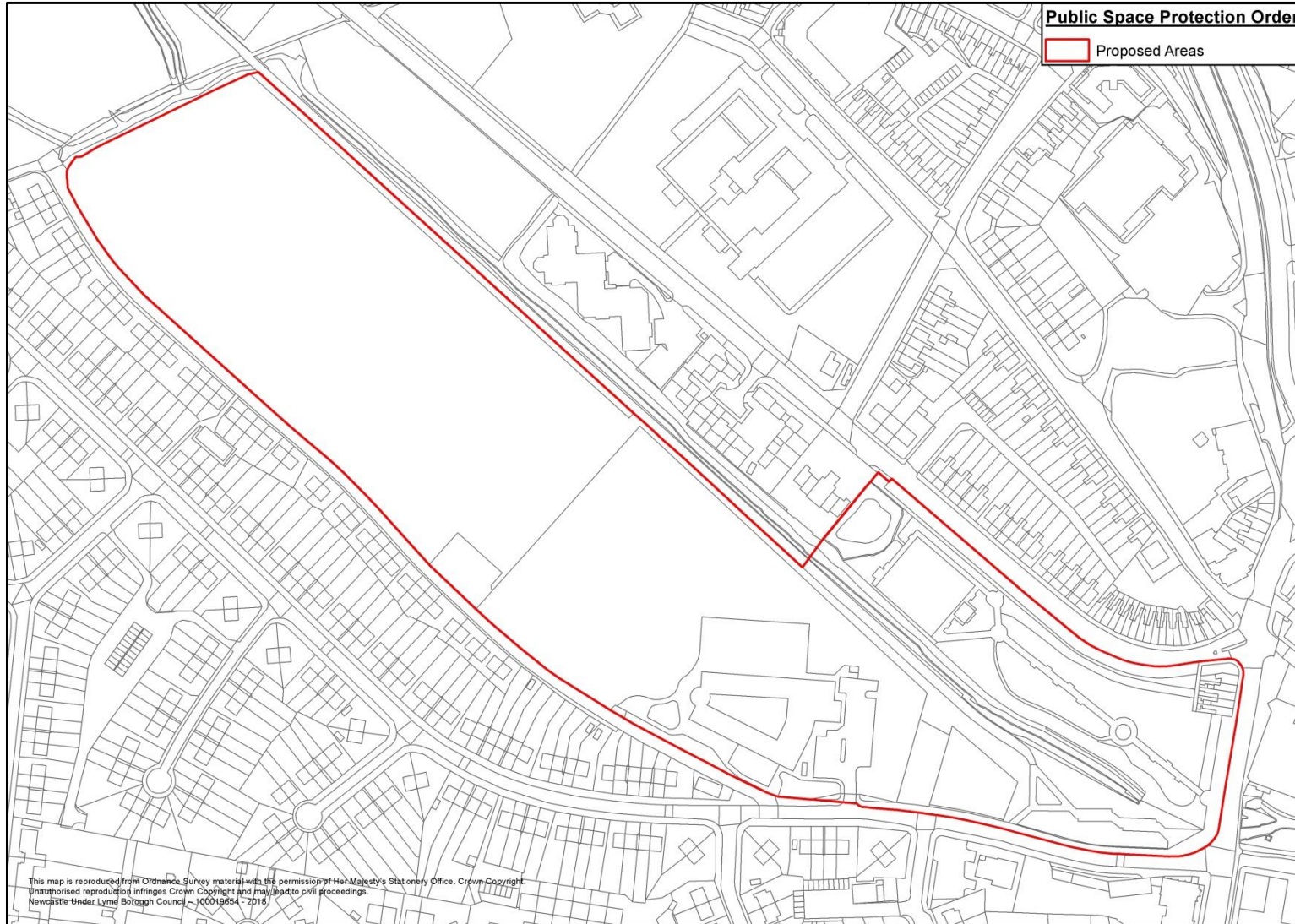
..... Authorised Officer

..... Designation

DRAFT

**APPENDIX 1**  
**PUBLIC SPACE PROTECTION ORDER NUMBER 2 of 2022 (the “ORDER”)**  
**AREA OF QUEEN ELIZABETH PARK (“the Exclusion Zone”)**

DRAFT



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

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of the Local Government Act 1972.

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