

Date of meeting Tuesday, 4th July, 2023

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

LICENSING COMMITTEE

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 - 10)

4 MINUTES OF LICENSING SUB COMMITTEE MEETINGS (Pages 11 - 12)

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

PUBLIC PROTECTION COMMITTEE

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

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

**6 FOOD SAFETY SERVICE PLAN 2023/24 & REVIEW OF
PERFORMANCE 2022/23 (Pages 13 - 32)**

7 UPDATE ON RESULTS OF TAXI LICENSING APPEALS (Pages 33 - 36)

- 8 **PROPOSED CHANGES TO FIXED PENALTY NOTICES (FPNS)** (Pages 37 - 42)
- 9 **PUBLIC SPACE PROTECTION ORDERS: PARKS AND OPEN SPACES** (Pages 43 - 60)
- 10 **MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS** (Pages 61 - 62)

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

11 URGENT BUSINESS

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

PART 2 - CLOSED AGENDA

12 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.

Members: Councillors Parker (Chair), Whieldon (Vice-Chair), S White, Barker MBE, Heesom, Sweeney, Wilkes, Skelding, Adcock, Dymond, Wright, Allport, J Williams, G Williams and 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:	Hutchison	Brockie
	Panter	Beeston
	Johnson	Fox-Hewitt
	J Tagg	D Jones
	J Waring	Richards
	Burnett-Faulkner	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.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

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Agenda Item 3

Licensing & Public Protection Committee - 10/05/23

LICENSING & PUBLIC PROTECTION COMMITTEE

Wednesday, 10th May, 2023
Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

Present: Councillor Andrew Parker (Chair)

Councillors:	Whieldon	Wilkes	Allport
	Barker MBE	Adcock	J Williams
	Heesom	Dymond	G Williams
	Sweeney	Wright	Brown

Apologies: Councillor(s) S White and Skelding

Substitutes: Councillor David Hutchison (In place of Councillor Craig Skelding)

Officers:	Matthew Burton	Licensing Administration Team Manager
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Anne-Marie Pollard	Solicitor
	Michelle Hopper	Senior Partnerships Officer
	Jason Griffiths	

Also in attendance:

1. **APOLOGIES**

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

There were no declarations of interest stated.

3. **MINUTES OF A PREVIOUS MEETING**

Resolved: That the minutes of the meeting held on 21st March 2023 be agreed as a correct record.

4. **LICENSING ACT 2003: REGULATORY EASEMENTS CONSULTATION**

The Licensing Administration Team Manager introduced a report on a Home Office consultation as to whether or not the temporary alcohol licensing provisions enacted in the Business and Planning Act 2020 should be made permanent.

As the closing date for the consultation was before the committee meeting the consultation response had already been submitted after seeking advice from the Chair and portfolio holder on matters it related to.

Comments were made and responses were provided as follows:

- Cllr Whieldon highlighted the importance of having special permissions. – It was clarified that one set of provisions should not take precedence over another as they had separate regimes.
- Cllr J. Williams wondered whether the provisions would affect premises in the town centre. – In relation to this specific consultation it didn't make any difference on whether a premise could apply for one or have one granted. The question was whether or not premises' license that would normally cover the building itself could be extended automatically so the conditions and the timings would then reflect upon the pavement license.

The Deputy Leader shared his view that the provision were an excellent idea to encourage people to come to the town centre.

Resolved: That the content of the report and consultation responses be noted.

[Watch the debate here](#)

5. MINUTES OF LICENSING SUB COMMITTEE MEETINGS

Resolved: That the minutes of the Licensing Subcommittee meeting held on 21st March 2023 be received.

6. DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS

There were no declarations of interest stated.

7. TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) ACT 2022

The Licensing Administration Team Manager provided an update on the Taxi and Private Hire Vehicles (Safeguarding & Road Safety) Act 2022 provisions in relation to recording of taxi refusals, revocations and suspensions on a central database which came into force on the 27th April 2023.

Members expressed their satisfaction over the piece of legislation and database.

Resolved: That the contents of the report be noted.

[Watch the debate here](#)

8. UPDATE ON RESULTS OF TAXI LICENSING APPEALS

The Licensing Administration Team Manager shared the results of Taxi Licensing Appeals that had been considered since last reported to the Committee.

Cllr Whieldon asked if there was a process to track related wasted costs. A process was indeed in place for administrative costs (about £100 to £150 a month) with invoices being issued to individuals by the Finance team.

The Deputy Leader wished to congratulate and thank the team for what appeared to be an efficient and successful process. Cllr J. Williams also expressed his support and the importance of putting passengers' safety first.

Resolved: That the contents of the report be noted.

[Watch the debate here](#)

9. PUBLIC SPACE PROTECTION ORDER PUBLIC CONSULTATION UPDATE

The Mobile Multi-Functional Manager presented an update report on the public consultation relating to the proposed partial and full Rights of Way's closures. There were no proposed changes following the consultation that had been conducted. The support from the committee was sought to conclude a final 6 weeks consultation.

Members commented as follows:

- Cllr Heesom expressed her support to the proposal.
- Cllr G. Williams asked about whether maintenance was undertaken and if measures were in place to prevent residents to dump rubbish in the gated areas. – It was confirmed that it was indeed the case and that a public space protection review was undertaken every three years.
- Cllr J Williams wished to know whether officers had been in contact with the Street Scene to address overhanging trees in the Park / Newcastle 143 and if signposting could be put in place for cyclists coming from May Bank. – Tree maintenance and pruning were carried out on a yearly basis and the team was liaising with land owners as required. Signposting was also being discussed.
- The Chair asked if this would apply to the two other locations mentioned in the report. – It was confirmed that overgrown vegetation from neighbouring properties was being addressed in conjunction with private properties owners.
- Cllr Whieldon asked if it was possible to have a street sweeper to go and clean the gated areas to prevent further hazard. – The Council was working closely with Aspire Housing within the framework of a joint venture. Options were notably being explored to utilise their caretaking services and linking them with street scene teams.

Resolved: - That the content of the report be noted.

- That the conduction of a final 6 week public consultation for a proposed PSPO for the borough be approved.

[Watch the debate here](#)

10. PUBLIC SPACE PROTECTION ORDERS: PARKS AND OPEN SPACES

The Mobile Multi-Functional Manager presented the report on Public Space Protection Orders advising members of options and seeking permission to consult residents on revised Public Spaces Protection Orders for parks and open spaces in relation to dog control and anti-social behaviour.

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The order was drafted to be as flexible as possible and enabled a local authority to effectively target enforcement. Options were twofold:

- take no action, which would allow the current dog control orders to cease in October 2023 and not be replaced; this would remove all controls and thus eliminate the need for investigation and enforcement with potential savings however may result in standards of public places being reduced and increase risks of conflict between dog owners and other users.
- amend proposed controls prior to the consultation: members may wish to change the proposed scope for the controls such as the requirement to carry bags or limit the number of dogs which could be walked in specific areas; including other controls proportionate to the location and evidence based may also be considered; the types of locations where the controls apply could finally be amended.

Risks associated with each option would need to be taken into consideration.

Members raised comments and responses were provided as follows:

- Cllr G. Williams expressed concerns about how many dogs one person was allowed to take out at once. – The maximum six dogs' provision was indeed one of the most controversial and members were welcome to suggest amendments to be taken to public consultation.
- Cllr Hutchison asked whether it was possible to add open spaces to the list provided in appendix B. – Yes any missed location could be suggested.
- Cllr Sweeney wondered why some of the areas were highlighted in yellow and what the LEAP code stood for. – The code was referring to the type of play areas and the yellow highlight was for a type of open spaces.
- Cllr Adcock said that doing nothing did not sound like an appropriate option considering the potential dangers relating to any dogs and wished to support the recommendation.
- Cllr Dymond asked what enforcement would be brought about for the measures. – There were currently two dog wardens in the Mobile Multi-Functional team and training was provided to other members of the team as well as town rangers to gain the required skills. Residents were also encouraged to report issues online and provide photographic evidence whenever possible.
- Cllr Whieldon suggested there could be dog parks. – This could be considered indeed and members were welcome to suggest potential suitable locations.
- The Chair asked whether options like in North Wales where dogs were only allowed to go on the beach from 1st October to 30th April could be taken into consideration; signs were displayed providing a direct phone number to report anyone bringing their dog during the summer season. – It was confirmed that seasonal access to certain locations could be looked at. Processes to make it easier for members of the public to report issues and for these to be addressed efficiently were also being reviewed.

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- Cllr J. Williams warned against the risk that measures taken against irresponsible dog owners could disproportionately affect responsible dog owners respectful of the public space. – Dog owners would be encouraged to take part in the consultation so that a balance could be found.

Resolved: That the launching of a consultation on a proposed public spaces protection order as detailed in Appendix A be approved.

[Watch the debate here](#)

11. DISCLOSURE OF EXEMPT INFORMATION

There was no disclosure of exempt information.

12. URGENT BUSINESS

There was no urgent business.

**Councillor Andrew Parker
Chair**

Meeting concluded at 8.25 pm

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Public Document Pack Agenda Item 4

Licensing Sub-Committee - 10/05/23

LICENSING SUB-COMMITTEE

Wednesday, 10th May, 2023

Time of Commencement: 10.00 am

[View the agenda here](#)

Present: Mayor - Councillor Simon White (Chair)

Councillors: Barker MBE Brockie

Officers:	Melanie Steadman	Licensing Officer
	Anne-Marie Pollard	Solicitor
	Matthew Burton	Licensing Administration Team Manager
	Karen Benson	Environmental Health Officer

1. **APPOINTMENT OF CHAIR**

Cllr White was appointed as Chair.

2. **APOLOGIES**

3. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

4. **TEMPORARY EVENT NOTICES - 85 SECRET GARDEN, CLAYTON ROAD, NEWCASTLE. ST5 3NE**

The Sub-Committee considered the officers report and heard from the applicant's representative, the premises manager and the Environmental Health Officer. The reason that this matter was brought before the Sub-Committee was a relevant representation received from environmental health in relation to the prevention of public nuisance.

The Environmental Health Officer outlined the representation and expanded on the supporting evidence which was shared by email with all parties on the 9th May 2023. The evidence showed the concerns of the residents who were not formally consulted under the TEN process. She also outlined the World Health Organisation guidance with regard to noise nuisance and the fact that environmental health had required conditions on the licence to mitigate noise when the premises licence was varied in November 2022. She finally highlighted that under the temporary event notice the conditions attached to the premises licence and, in particular, the noise management plan would not be enacted from the end of licensable hours unless imposed by the Sub-Committee.

The applicant representative responded that there was no evidence of any complaints on record both in the report and at the premises and that it was only following action by the environmental health officer that the local residents had taken the time to make their comments. He stated that the premises planned to operate

Licensing Sub-Committee - 10/05/23

using the conditions attached to the premises licence throughout the entirety of the event even though they were not required to do so under a temporary event notice.

Following a question from members regarding the Easter event mentioned in the representation, the premises manager confirmed that over the Easter weekend they had not used the outside area due to inclement weather and the premises had closed at 9pm so he was unsure as to what had occurred to cause concern with the neighbour.

The Sub-Committee carefully considered the information that they heard from all parties and from the report and decided that it was appropriate to allow the event to occur with the addition of all the Prevention of Public Nuisance conditions from the premises licence 17523, as listed in the 'Statement of Conditions' document.

Resolved: That temporary event notices for the 20th May, 24th June and 22nd July 2023 at 85 Secret Garden, 81-85 Clayton Road, Newcastle-under-Lyme, ST5 3NE be granted with the inclusion of the Public Nuisance conditions from the premises licence 17523.

Mayor - Councillor Simon White
Chair

Meeting concluded at 11.00 am

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM **REPORT TO**

Licensing and Public Protection Committee **04 July 2023**

Report Title: Food Safety Service Plan 2023/24 and review of performance in 2022/23.

Submitted by: Service Director - Regulatory Services

Portfolios: Environment & Recycling

Ward(s) affected: All

Purpose of the Report

An information report to make the committee aware of the work planned by the Food and Safety Team in 2023/24 along with a review of last year's performance in 2022/23.

Recommendation

That the committee receive and endorse the Food Safety Service Plan for 2023/24.

Reasons

To make the Public Protection committee aware of the work carried out by the Food and Safety Team, in accordance with the Food Standards Agency framework agreement and statutory Code of Practice on official food controls by local authorities.

1. Background

1.1 The Borough Council has a statutory duty to provide a Food Safety service that:

- Maintains a register of all food businesses operating within the Borough;
- Implements a risk based programme of inspections and interventions;
- Provides advice to local businesses about how they can comply with legal requirements
- Investigates complaints about contaminated food, unhygienic premises and food poisoning outbreaks; and
- In the most serious cases takes enforcement action to protect public health.

2. Issues

2.1 The Food Standards Agency requires local authorities to produce a specific service plan for their Food Safety service using a specified format that can be reported to its' elected members.

2.2 Attached to this report in Appendix A is a Food Safety Service Plan for 2023/24 which outlines the work planned for the coming year as well as a review of last year's performance.

3. **Proposal**

3.1 It is proposed that the committee note and endorse the content of the Service Plan.

4. **Reasons for Proposed Solution**

4.1 The Service Plan is for the information of the Public Protection Committee.

5. **Options Considered**

5.1 No other options are considered, the provision of this plan is a requirement of the Food Standards Agency under their framework agreement with local authorities.

6. **Legal and Statutory Implications**

6.1 The Council has a statutory duty to provide a Food Safety service and comply with the requirements of the Food Standards Agency.

7. **Equality Impact Assessment**

7.1 There are no equality implications for this report.

8. **Financial and Resource Implications**

8.1 None, the Service Plan will be implemented within existing budgets.

9. **Major Risks**

9.1 There are no major risks with this report.

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

10.1 The report supports :



11. **Key Decision Information**

11.1 This is not a key decisions.

12. **Earlier Cabinet/Committee Resolutions**

12.1 None

13. **List of Appendices**

13.1 Attached to this report in Appendix A is a Food Safety Service Plan for 2023/24

14. **Background Papers**

14.1 No Background papers

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FOOD SAFETY

SERVICE PLAN 2023/24

This document has been developed in accordance with guidance issued by the Food Standards Agency.

Introduction

The Council has a statutory duty to carry out Official Food Controls and enforce food hygiene regulations within the Borough. This ensures that all food sold within the Borough is safe and fit for human consumption. Issues from the COVID-19 pandemic have considerably subsided, but it continues to affect the pattern in which inspections can be carried out which has caused year end pressures for officers.

Whilst highlighting achievements, this plan also sets the standard for how the service will be delivered over the next financial year. The service will strive to continue in providing a quality, customer focussed service in line with the Corporate priorities.

Nesta Barker
Service Director - Regulatory Services

July 2023

Section 1 - Service Aims and Objectives

1.1 Service Aim

The Council recognises that its food safety regulatory function plays an important role in maintaining and improving public health within the district. It is committed to ensuring that all food sold within the borough is safe and without risk to health, to this end we are prioritising our work to ensure that the borough businesses operate and remain safe for their customers.

Service Objectives

Food Safety Enforcement

The Food & Safety Team has enforcement responsibilities in a wide number of areas affecting the public and businesses within the Borough. These include:

- Ensuring that food and drink intended for sale for human consumption is produced, manufactured, stored, distributed, and handled safely and in hygienic conditions.
- Investigating complaints about food and food premises.
- Responding to notifications of food alerts.
- Control and prevention of infectious disease and food poisoning.

1.2 Links to corporate objectives and plans

The Borough's Council Plan 2022-2026 sets out the overall vision and priorities for the Council. These are then incorporated into specific service and financial plans.

The council has developed four priorities to focus delivery:

One Council delivering for local people

This underpins everything we do. We will be a council that listens to our local residents and communities and is responsive to their needs. We will work with them to deliver first-class, efficient services while keeping Council Tax low.

A successful and sustainable growing borough

We will build a strong and sustainable economy to ensure opportunities and support are available to everyone to improve their lives.

Healthy, active, and safe communities

We will ensure everyone enjoys a safe environment and access to a wide-range of facilities and activities to support and improve their health and quality of life.

Town centres for all

We will transform Newcastle and Kidsgrove town centres to ensure their future as places everyone can live, work, shop, study and spend their leisure time.

The work of the Food and Safety team can be linked to all of these priorities; however, it is perhaps more closely associated with

- **One Council delivering for local people**
- **Healthy, Active and Safe Communities**

The team report on the following key performance indicator each quarter to the Council's Cabinet:

- **Indicator 1.1 - The percentage of food premises that have a zero or one national food hygiene rating.**
- **Indicator 1.2 Percentage of category A and B food business inspections completed on time.**

Other priorities for the inspection of food premises and workplaces are prescribed in guidance issued by the Food Standards Agency. (The Food Standards Agency are considering further guidance on how they expect Local Authorities to undertake food premises interventions moving forward. When this is known, it will form part of the priorities)

2 - Background

2.1 Profile of Newcastle – under – Lyme Borough Council

Newcastle-under-Lyme borough council is a local government district with borough status in Staffordshire, England. It is named after its main settlement, Newcastle-under-Lyme, where the council is based, but includes the town of Kidsgrove, the villages of Silverdale and Keele, and the rural area surrounding Audley. The Borough of Newcastle-under-Lyme forms part of the conurbation of North Staffordshire and covers some 81 square miles with a population of around 123,000.

The traditional industrial base of mining and pottery manufacture has changed significantly over the last century. The closure of local mines, and factories has seen the growth of hi tech and research industries within the area. The Borough has areas of considerable affluence, but also includes two wards that fall into the 10% most deprived in the country

Newcastle is an ancient market town and still maintains a vibrant market culture. Stallholders set up on a part of the town locally known as the 'Stones' and this area is used on an almost daily basis for events ranging from the regular market to specialist events such as vegan markets and antique fairs. Due to the Boroughs central geographical location and the proximity to the M6 motorway, recent years have seen a significant increase in the numbers of distribution depots in the area. A large bakery supplying retailers nationally is based here, as is a large meat product manufacturer. The Borough also has the prestigious Keele University, medical school and conference facilities located within its' boundaries.

2.2 Organisational Structure

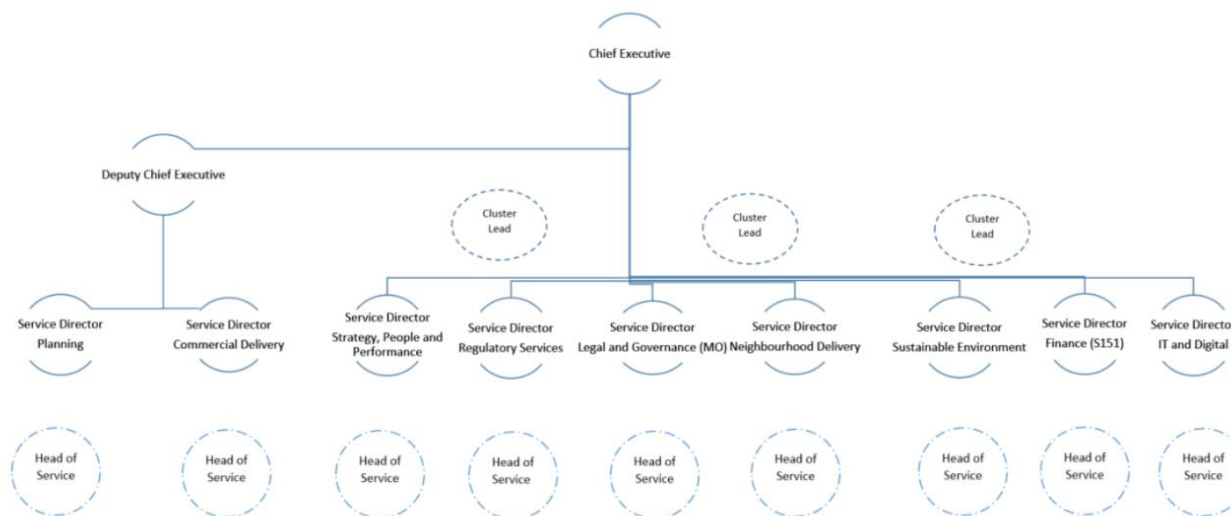
The Council is made up of 44 locally elected representatives, otherwise known as councillors or elected members.

The Council has a Leader who is elected by the members of the Council and is nominated by the largest group on the Council. The Council also has a Mayor, who presides over the Council meeting. The Mayor is a councillor who is appointed by all councillors to serve for one year as Chairman of the Council. The Council operates a Cabinet System consisting of a Leader and a Cabinet. Members of the Cabinet oversee the 'portfolios' or groups of services.

There are a number of other Council committees who have important roles to play in a variety of areas including Licensing & Public Protection Committee and Health, Wellbeing & Environment Scrutiny are relevant to the food safety service. Please refer to the Council's website for further details at: <https://moderngov.newcastle-staffs.gov.uk/mgListCommittees.aspx?bcr=1>

Executive Management

The Council's Corporate Leadership structure comprises of the Chief Executive, the Deputy Chief Executive and the Service Directors. This is shown in the organisational structure below:



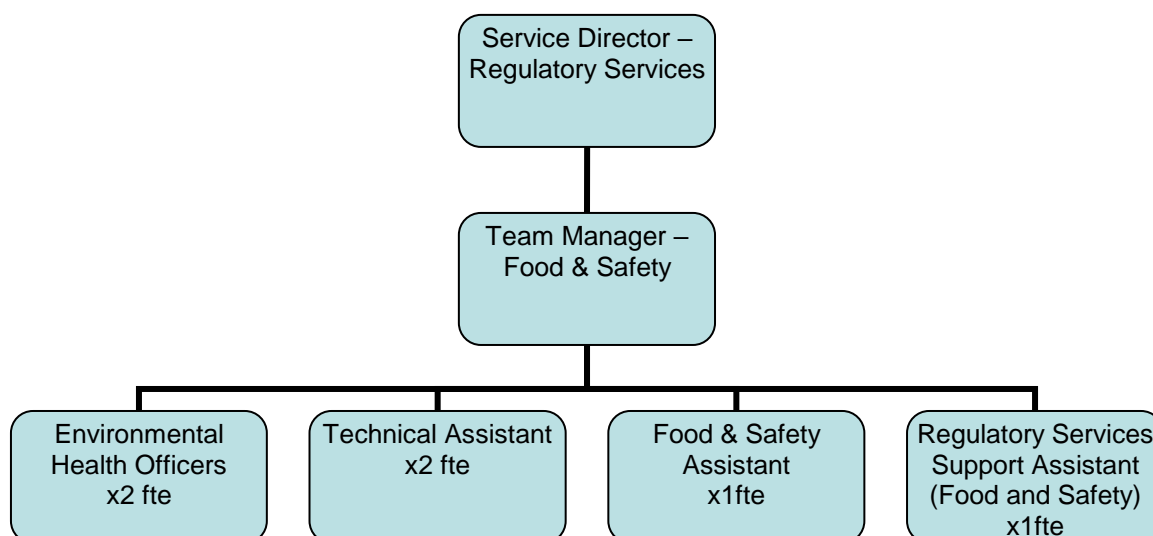
The Council operates an innovative collaborative leadership model. The Service Director of Regulatory Services report to the Chief Executive with regard to service management and operational output.

The service directors operate in within 3 clusters of their peers which offer mutual support and challenge throughout the business cycle. On a rotational basis, one service director from each cluster acts as lead.

Food and Safety Team:

The Food and Safety team operate within Regulatory Services together with the Environmental Protection, Housing & Vulnerability and Licensing Administration teams.

The Food and Safety Service structure is as follows:



These officers do not spend all of their time on food law enforcement as they are also responsible for a number of other professional functions such as health and safety enforcement and interventions, infectious disease control, registrations and licensing.

The use of outside contractors will only be considered in the future if the following criteria are met:

- There is a backlog of inspections which cannot be completed by Officers;
- There are Agency contractors meeting the requirements of the Food Safety Act Code of Practice Qualifications and Experience of Authorised Officers; and
- The cost of the work is being met within existing budgets.

Expert assistance is provided by the following outside organisations: -

- Food Examiner and Microbiology Department, UK Health Security Agency (UKHSA), London
- Consultant in Communicable Disease Control, UKHSA,

2.3 Scope of the Food and Safety Service

The food and safety team are responsible for enforcing food hygiene law within the borough. Issues relating to food standards and feed are dealt with by our colleagues in Staffordshire County Council's Trading Standards Department.

The Food and Safety team is responsible for the delivery of a number of regulatory services including:

- Food Safety and Hygiene
- Occupational health and safety (in premises where enforcement responsibility is allocated to the Local Authority)
- When necessary ensuring that COVID-19 guidance and legislation is being followed
- Prevention and control of infectious diseases.
- Public health licensing – tattooing, piercing etc.

The service is provided in order to ensure that the Council meets its' legal obligations specified in primary legislation. The team uses a range of interventions to deliver the service which can be divided into two main areas:

- **Inspection/Audit:** Inspection of food businesses at a minimum frequency laid out in the Food Law Code of Practice.
- **Demand:** Investigation of complaints regarding food and food premises, accidents and notifications of food poisoning.

The following functions are provided by the service:

- Maintenance of a food premises registration database for all food businesses located within the borough;
- Provision of advice to local businesses to assist them in complying with their legal responsibilities and to promote good practice.
- Inspections and audits of food businesses to ensure they comply with food safety legislation.
- Approval of food manufacturers handling products of animal origin.

- Sampling and analysis of food and water to check their compliance with safety requirements.
- Investigation of complaints about illegal/unfit food and unlawful food businesses;
- Investigation of food poisoning outbreaks;
- Investigation of national Food Alerts (issued by the Food Standards Agency).
- Health and safety inspections where we are the enforcing authority.
- Investigation of complaints about occupational health and safety.
- Investigation of accidents, dangerous occurrences, and occupational diseases.
- Inspection of establishments carrying out tattooing, ear piercing and electrolysis and other beauty services.
- In the most serious cases, formal enforcement action is taken to protect public health including the seizure of food, service of notices, and closure of premises and prosecution of offenders.
- Consultation with external agencies and internal services i.e. licensing, trading standards, planning;
- When necessary ensuring that COVID-19 guidance and legislation is being followed
- Enforcement of Smoke-Free legislation

Service Delivery Points

The team are based with their Regulatory Service colleagues at the Central Depot, Knutton Lane, Newcastle-under-Lyme and the service operates between 9.00 a.m. - 5.00 p.m. Monday – Friday.

Newcastle Borough has two dedicated Customer Service Centres, located in Castle House, Newcastle Monday - Friday 9am to 4:30pm and the Town Hall, Kids Grove is open Tuesday and Thursday 9am to 1pm.

The out of hours Emergency Call Centre service has been outsourced and is operated by Redditch and Bromsgrove Council. The Environmental Health Service operates an emergency stand-by rota so there is always an officer available to respond to the contact centre in the event of any emergencies or incidents.

2.4 Demands on the Food Service

In 2022/23 there were 1025 registered food businesses in the Borough with 1067 in 2021/22. These businesses were given a risk rating band between category A and E as shown in the table below.

Food Premises Risk Band	2022/23	2021/22	2020/21	2019/20	2018/19
A	1	0	0	1	1
B	27	15	13	31	37
C	145	157	152	124	169
D	387	370	369	202	365
E	443	480	565	674	527
UNRATED	14	37	81	20	19
OUTSIDE	8	8	1	1	1
TOTAL REGISTERED	1025	1067	1181	1053	1119

The risk rating awarded is generated by the inspecting officer who scores the business based on the types and quantities of food produced and their compliance with food hygiene requirements. Businesses awaiting inspection are classified as 'Unrated' and those registered with other council's and trading in our area are deemed 'outside' the inspection programme. The figures for 2020/21 were subject to Covid 19 restrictions causing an increase in the unrated total.

The risk band awarded also determines how often the food business will be inspected as detailed in the table below:

Risk band	Minimum intervention frequency
A	At least every 6 months
B	At least every 12 months
C	At least every 18 months
D	At least every 24 months
E	A programme of alternative enforcement strategies or interventions every three years

Businesses can be rated as a category A or B if they carry out a high risk activity such as food manufacturing, or if they are found to have poor compliance such as a premises awarded a zero or 1 Food Hygiene Rating.

A number of specialist and complex food manufacturers are located within the district including:

- **3 Meat product manufacturers**

Officers responsible for inspecting/auditing these premises have received specialist training in the relevant fields.

2.5 Enforcement Policy

The Council has approved an Enforcement Policy and carries out its' regulatory functions in accordance with the Regulators Compliance Code. The importance of achieving a fair and consistent approach to enforcement is recognised by the council. The Enforcement Policy is followed for all enforcement action undertaken by the food service and is available on the council's Webpage at <https://www.newcastle-staffs.gov.uk/directory-record/28/environmental-health-enforcement-policy>

3. Service Delivery

3.1 Interventions at Food Establishments

An annual risk-prioritised programme of inspections will be undertaken in accordance with the Food Safety Act 1990 Code of Practice. The Service will use the full range of interventions and enforcement options available to ensure that the highest standards of food hygiene and safety are achieved and maintained.

In 2023/24 there are 380 food premises due for a Food Hygiene Inspection shown in the table below:

Food premises risk band	Total due in 2023-24	Total due in 2022-23	Total due in 2021-22
A – Highest 'risk'	1	0	0
B	27	10	8
C	82	89	75
D	219	83	163

E – Lowest ‘risk’	28	170	114
OUTSIDE	8	8	2
UNRATED	15	37	81
Grand Total	380	397	443

In 2023/24 the Service aims to achieve:

- 100% of inspections with regard to High Risk food premises (categories A – B).
- 100% of category C premises using full inspections/audits.
- 90% of category D premises using full inspections/audits.
- 100% of category E premises will be subject to an inspection or alternative enforcement strategy such as a self-inspection questionnaire.
- 100% of Unrated premises using full inspections/audits.

In 2022/23 the service completed the following inspections:

Food premises risk band	Completed in 2022/2023
A – Highest ‘risk’	1
B	29
C	120
D	193
E – Lowest ‘risk’	228
OTHER (Includes ceased trading visit)	16
Grand Total	587

It will be seen that the number of inspections completed far exceeded the number due, this is because of the carry-over of premises during the Covid-19 pandemic.

We received 113 new food premise registration forms in 2022/23 notifying us of new food businesses or changes in ownership. This area of work places a significant demand on our Service as these inspections should be carried out within 28 days. We have no control over this reactive type of work and will aim to achieve 100% of these inspections. However, if demand becomes excessive, then resources will be diverted away from lower risk category E and D inspections.

National Food Hygiene Rating Scheme

Newcastle-under-Lyme Borough Council launched the national Food Hygiene Rating Scheme in June 2011. This has allowed residents and visitors the opportunity to make an informed choice about where they eat based on the premises last Food Hygiene inspection.

After each inspection all food premises are given a score based on their compliance with food hygiene law and confidence in management. These scores are then converted into a Food Hygiene Rating based on the FSA’s ‘Brand Standard’. Businesses can receive a Rating between zero and five.

On 1st April 2023 the following profile of Food Hygiene Ratings were published:

FHRS	Total Premises April 2023
5 – Very Good	757
4 – Good	78
3 – Generally Satisfactory	28
2 – Improvement Necessary	3
1 – Major improvement necessary	1
0 – Urgent Improvement Necessary	None
Grand Total	867

The Food and Safety Team plan to target any premises rated 3 or below to try and improve hygiene standards and protect public health. These premises will be subject to an enhanced number of revisits with the aim of improving standards. However where very serious hygiene offences are identified these premises may also be subject to enforcement action.

Please note, certain categories of food businesses are exempt from the scheme if they do not sell direct to the public or are handling low risk food only.

FHRS Re-score Visit

FHRS Re-score Visits are undertaken at the request of the food proprietor following payment of a fee because they wish to improve their FHRS before the next routine inspection. Last year 7 enquiries for Food Hygiene re-score were made which resulted in 4 re-score visits being carried out.

Alternative Inspection/ Intervention Strategies

The Service uses an alternative enforcement strategy to deal with lower risk category E food premises. This approach is advocated by the Food Standards Agency as a means to target limited resources towards areas of greatest risk.

The strategy involves sending a food safety questionnaire to those low-risk businesses rated as an E. Proprietors must then self-assess the food safety risk posed by the business and return the questionnaire. Responses are assessed to determine whether any further action is required and non-respondents are targeted with follow up actions and visits if necessary.

Inland control of Imported food

Officers routinely check the traceability of all food during their interventions and this includes food that has been imported from outside the EU ('Third' countries). Officers within the team have received specialist training in Imported Food Control from the Food Standards Agency and support materials are available on the FSA website. Officers also monitor the microbiological quality of imported food as part of national and cross-regional sampling programmes.

3.2 Food Complaints

Food complaints received and investigated by the service fall into one of the following categories of Service Request:

- Food contamination
- Complaints about Hygiene of food businesses (hygiene, pests etc.)

Year	Food Complaints	Hygiene of Food Premises
2022/23	50	67
2021/22	33	49
2020/21	35	27

2019/20	52	251
2018/19	29	161

We have no control over this reactive area of workload and will aim to respond to all service requests within the necessary timescales. Where the service receives excessive numbers of service requests then the Team Manager and Service Director will make a decision on how these should be prioritised and whether resources need to be re-allocated.

Service requests are investigated in accordance with established procedures and policies. The initial response to complaints will be within five working days depending on the severity of the complaint, with more serious complaints receiving a more urgent response. Covid 19 lockdowns have reduced customer visits and purchases during 20/ 21 which is reflected in the totals above.

3.3 Home Authority Principle and Primary Authority Scheme

The Home Authority Principle is an arrangement where multi-national food businesses can enter into a formal arrangement with a single local authority (known as their Home Authority), to agree on common standards and interpretation of the Regulations in their many premises with the aim of ensuring consistency of enforcement. Local Authorities dealing with these businesses are then expected to have regard to any arrangement agreed by the Home Authority before taking enforcement action.

Primary Authority Scheme

Regulatory Delivery's Primary Authority Scheme is the gateway to simpler, more successful local regulation. It gives businesses the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

Newcastle Borough Council is not currently acting as a Primary or Home Authority for any businesses within the borough. All of our officers are aware of the schemes and prior to any inspection of a food business that has a Primary Authority, our officers will check the Primary Authority website to review documentation and inspection plans.

3.4 Advice to Business

Wherever possible, our officers will try and work with new and existing food businesses to help them comply with the legislation. Officers will offer advice when requested, and will encourage food business operators through an educative approach to adopt good practice. This is achieved through a number of measures:

- On request, Business support and advice ;
- Advisory visits to new and existing businesses who require guidance;
- Advice is routinely given during inspections and other visits to premises;
- Provision of information leaflets and signposting;
- Responding to service requests and enquiries;
- The Council's website;

3.5 Food Inspection and Sampling Programme

Our food sampling activities play an important role in monitoring the microbiological quality of food sold locally which helps us verify that the food business operators have effective food hygiene controls in place. Food is sampled according to a programme co-ordinated through the Staffordshire and Shropshire Food Liaison Group, together with colleagues at the regional UKHSA laboratory at in London. Members of the group implement national, cross-regional and local sampling initiatives based on national intelligence and incidents.

Additional food sampling is carried out as necessary to support food hygiene inspections, the investigation of food complaints and outbreaks of food borne disease.

Samples are currently sent for microbiological examination to the UKHSA, UKAS accredited laboratory in London. The laboratory send a courier to collect samples from the Council offices on Tuesdays and Thursdays.

Samples requiring analysis for chemical or physical parameters are sent to the Public Analyst.

The following table outlines the number of food samples taken from food premises for microbiological examination in the last 5 years, (from 2020 to 2022 the sampling program was paused due to Covid-19):

Year	Microbiological Food Samples
2022/23	29
2021/22	0
2020/21	0
2019/20	104
2018/19	113

3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease

The Food and Safety team investigates all reported cases and outbreaks of food poisoning occurring within the borough in liaison with our colleagues at UKHSA.

The objectives of this service are to:

- Fulfil the Council's statutory responsibilities relating to the control of infectious disease;
- Identify the source and cause of reported infection;
- Implement measures to prevent further spread;
- Protect public health by providing cases and members of the public with advice on personal hygiene, safe food handling and control of infection;
- Exclude food handlers and people working with high-risk groups in consultation with the Consultant in Communicable Disease Control (CCDC);

Large outbreaks are resource intensive and place significant demands on the Service. In the event of a significant outbreak, the Team Manager and Head of Service will monitor the situation and re-allocate resources and staff from other areas as necessary.

During 2022/23 the Council received 264 reported cases of infectious disease. Control of food related infectious disease is a priority area due to the possible health consequences for the individual and the risk of infection spreading within the community. This area of the service will therefore receive whatever resources are required to fulfil these duties.

3.7 Food Safety Incidents

Food Alerts, product withdrawals and recalls

The FSA issues information about product withdrawals and recalls to inform consumers and local authorities know about problems associated with food. A 'Product Withdrawal Information Notice' or a 'Product Recall Information Notice' is issued where a solution to the problem has been put in place – the product has been, or is being, withdrawn from sale or recalled from consumers, for

example. A 'Food Alert for Action' is issued where intervention by enforcement authorities is required. These notices and alerts are often issued in conjunction with a product withdrawal or recall by a manufacturer, retailer or distributor.

When a Food Alert for Action is issued, the Council must carry out the specified actions within the alert which may include visiting food premises and removing contaminated food from sale.

The FSA also sometimes issues Allergy Alerts which are normally dealt with by our colleagues in Staffordshire County Council's Trading Standards department.

Food Alerts are sent to the Council via a designated e-mail address which are auto-forwarded to members of the Food and Safety team for their prompt attention. Outside normal working hours the Team Manager subscribes to the FSA's Food Alert text messaging service to alert them to any significant Food Alerts: For Action. The Environmental Health Service also operates an emergency out of hours standby rota so there is always an Officer available to respond in an emergency.

Given the reactive nature of Food Alerts it is not possible to predict the likely resources required. A 'Food Alert: For Action' can have large resource implications as they sometimes involve the need for us visit a large number of food businesses. However due to the risk to Public Health, it is essential that adequate resources are provided to action these Alerts and this area of the service will receive whatever resources are required to fulfil these duties. In serious cases the Team Manager and Service Director will reallocate, or obtain additional resources to deal with the incident and maintain other high risk workload.

In 2022/23 we received:

Food alert for action	5
Food alert for information	90
Food allergy alert	49
Food recall information notice	52

3.8 Liaison with Other Organisations

The Council is committed to ensuring that the enforcement approach it adopts is consistent with other enforcing authorities.

This is achieved through regular meetings of the Central Food Group North (Staffordshire & Shropshire) Food Liaison Group, which is attended by the Regulatory Services Team Manager - Food and Safety. This group comprises of representatives from each of the 9 district and borough councils in the county, alongside Shropshire and Telford and Wrekin Council's, the County Council Trading Standards Department and the UKHSA laboratory and Health Protection teams. However during the covid outbreak the meetings were replaced by Covid liaison meetings and were then resumed as food liaison during 2022.

This forum provides an opportunity for the authorities to discuss consistency issues both in their approach to enforcement and in the operation of the Food Hygiene Rating Scheme. The group holds regular training and consistency events and has also implements an inter-authority auditing programme. The group also considers centrally issued guidance and consultations from the Food Standards Agency.

The Council also sends a representative to regular meetings with the Health protection team at UKHSA in Birmingham, where communicable disease issues are discussed. These meetings are

also attended by the Consultant in Communicable Disease Control (CCDC), local Water companies, DEFRA, AHVLA, Public Health nurses and the Microbiology department.

3.9 Food Safety Promotion

Officers routinely promote food safety issues during their day to day contact with Food Business Operators. We will also be participating in campaigns to promote awareness of the Food Hygiene Rating scheme as part of national Food Safety week.

4. Resources

4.1 Financial Allocation

The Food Safety and Regulatory Services budget is published separately on the Council's website at <https://www.newcastle-staffs.gov.uk/finance/spending-plans/2>

4.2 Staffing Allocation

The Food and Safety Team within the Council, employs the following officers:

Regulatory Services Team Manager – Food and Safety
2 FTE Environmental Health Officers
2 Technical Assistant
1 Food and Safety Assistant
1 Support Assistant (Support staff)

These officers do not spend all of their time on Food Law enforcement as they are also responsible for a number of other professional functions such as Health and Safety enforcement, Infectious disease control, Licensing etc. One of the Technical Assistants does not undertake routine food safety work.

4.3 Staff Development Plan

The council is committed to providing each officer responsible for Food Law enforcement with a minimum of 20 hours Continuing Professional Development (CPD) training each year.

All officers undertaking food safety work meet the qualifications and experience requirements detailed in the Food Safety Act Code of Practice.

Officers responsible for inspecting complex manufacturing and formally approved processes have previously received specialist training.

Professional and technical competence is also supported by:

- The council's annual Performance Appraisal system which helps identify training and development needs;
- Membership of the Staffordshire and Shropshire Food Safety Liaison Group;
- In-house training sessions/team briefings;

5. Quality Assessment

The Environmental Health service has systems in place to help ensure that food hygiene interventions are carried out consistently and in accordance with the Food Law Code of Practice. To assist this process a number of procedure notes and templates have been created that are available electronically to all Officers.

A procedure relating specifically to quality monitoring of inspections has been developed and this is further reinforced by:-

- The Food and Safety Manager carrying out a regular review of the paperwork, notices, and reports produced by officers following inspections;
- Consistency exercises
- Internal and inter-authority audits;
- Monthly team meetings;
- Monthly management meetings;
- Annual Performance Appraisal;

5.1 Conflicts of Interest

Article 4(2b) of [Regulation 882/2004](#) requires that staff carrying out official controls are free from any conflict of interest.

All officers are aware of potential conflicts of interest that may arise in an enforcement situation through promotion of the Food Authority's services. Officers do not provide their own services, e.g. training, in their own time within the borough. We also ensure that potential or actual conflicts of interest do not arise as a result of Home or Originating Authority responsibilities and contracting in services for enforcement purposes.

Our officers do not promote the Borough Council's services exclusively if other providers of those services exist in the area. Pest control is an example of a Council service that may be provided in competition with those supplied by other organisations. In such circumstances customers will be made aware of the availability of alternative service providers.

5.2 Enforcement within local authority-run establishments

The Service has arrangements in place for ensuring compliance with food law in establishments where the Authority is itself the food business operator, and that steps are taken to ensure enforcement decisions are free from any conflict of interest.

If serious breaches of food law are detected in borough Council establishments, this will be brought to the attention of the Chief Executive, without delay.

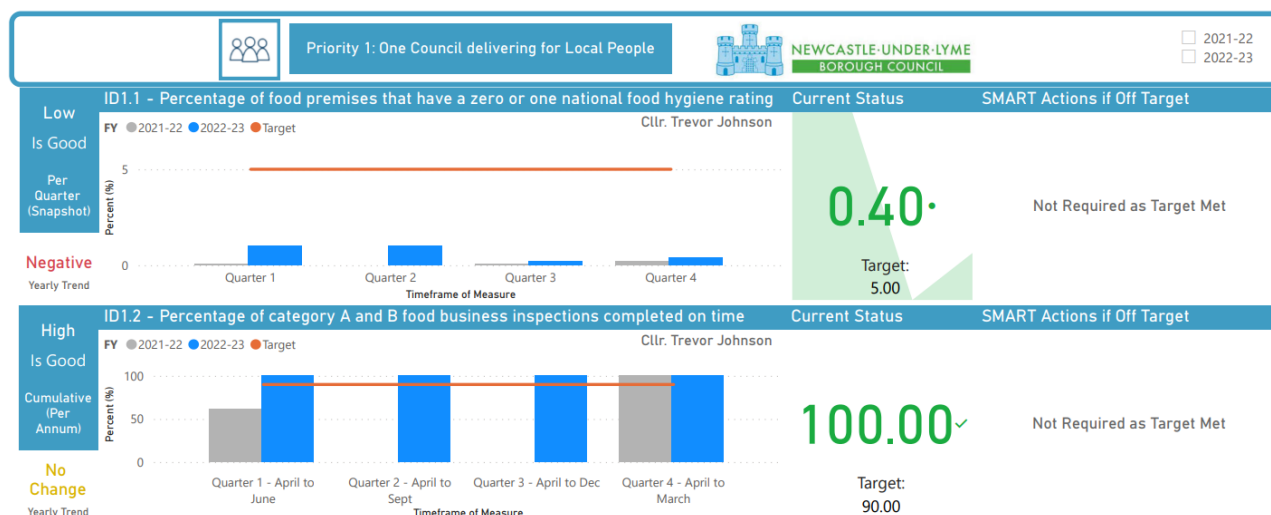
Contract caterers that operate within local authority establishments will be registered and inspected in the normal way. In some Council buildings, café's and vending machines are provided by outside contractors who register their businesses independently.

In some Council buildings small amounts of confectionary and ice cream are occasionally sold. In such circumstances the relevant Service Manager is responsible for registering the operation with the Food and Safety team and the operation will receive an inspection in the usual way.

6 Review

6.1 Review against the Service Plan

Each quarter performance data on key performance indicators is reported to Cabinet, data for 2022/23 is detailed below:



The first indicator measures the percentage of food premises that have a zero or one national food hygiene rating, where following each Food Hygiene Inspection, a food business is awarded a rating of between zero (Urgent improvement necessary) and Five (Very good). These ratings are published on the website at <https://www.food.gov.uk/> and <http://ratings.food.gov.uk/>. Those premises that are rated zero (urgent improvement necessary) or one (major improvement necessary) have been found to be not complying with Food Hygiene Regulations and will be subjected to enhanced business support visits/revisits (and in the most serious cases enforcement action) to help them raise their compliance and protect public health.

The second indicator measures our performance in meeting the inspection timescales for the highest risk premises (ie those which are category A or B). This shows that these were all inspected within the appropriate timescales.

6.2 Local Authority Enforcement Monitoring System (LAEMS)

Each year we submit performance data to the Food Standards Agency via an online LAEMS return which is reviewed by the food standards agency. The return for 2022/23 was amended to reflect Covid 19 matters and to produce a recovery plan. The data submitted will not be published on the food standards agency website.

6.3 Identification of any variation from the Service Plan

Key performance indicators listed in the above tables are reviewed on a regular basis. Results are reported to the Head of Service along with reasons for any significant variation, and where necessary an action plan is agreed to prioritise workload.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM'S REPORT TO

Licensing and Public Protection Committee 04 July 2023

Report Title: Update on results of Taxi Licensing Appeals

Submitted by: Service Director - Regulatory Services

Portfolios: Finance, Town Centres and Growth

Ward(s) affected: All

Purpose of the Report

To update Members on the results of all Taxi Licensing Appeals that have been considered since last reported to Committee.

Recommendation

That Members note the contents of the report

Reasons

To inform Members of the results of appeals made to the Court following decisions made by the licensing authority.

1. **Background**

- 1.1 Following any Council decision to suspend, revoke, refuse to grant or refuse to renew a taxi driver, vehicle or operator licence there is the statutory right of appeal. For nearly all matters, the right of appeal is to the Magistrates' Court in the first instance and then an opportunity for an onward appeal to be made to the Crown Court. In limited instances, particularly the refusal to grant a new hackney carriage vehicle licence, the right of appeal is straight to the Crown Court.
- 1.2 Upon receipt of any appeal the Council seeks to defend its position. If successful we apply to the Court for the full costs incurred defending the appeal.

2. **Issues**

- 2.1 Since 10th May 2023 the Council has been involved in one Magistrates' Court appeal. The matter related to a Sub-Committee decision to grant a taxi driver licence with the condition that he first pass the Council's taxi knowledge test. The driver appealed and the matter was due to be heard on 27th February 2023. They had stated that they needed an interpreter and would bring a friend. He was informed in advance that he must inform the court in order that they appoint an independent interpreter. They did not act on this advice and as such the hearing could not go ahead on the day. The Court stated that they would be liable for the costs of this wasted hearing, and relisted the matter for 26th May 2023. At the hearing on 26th May the Court determined to dismiss the appeal and awarded costs of £2000.00 to the Council.
- 2.2 The Council were also due to be involved in three Crown Court appeals since the last report was drafted. The first and second matters related to the same individual but two separate Sub-Committee decisions to refuse to renew a Taxi Driver Licence and Hackney Carriage

Vehicle licence respectively. Prior to the date of the hearing the individual withdrew both appeals which mean the Costs order awarded in the Magistrates' Court, totalling £2422.00, came into effect.

2.3 The third matter relates to a Sub-Committee decision to refuse to grant a taxi driver licence to an individual due to concerns over their conduct and behaviour. This appeal was also withdrawn prior to the hearing and the Costs order awarded in the Magistrates' Court, totalling £1000.00, came into effect.

2.4 At the time of the report being written the Council have seven outstanding appeals to defend in the Magistrates' Court and none in the Crown Court.

3. **Proposal**

3.1 The Members note the contents of the report

4. **Reasons for Proposed Solution**

4.1 The purpose of the report is to bring Members up to date on recent taxi licensing appeals

5. **Options Considered**

5.1 No other options have been considered

6. **Legal and Statutory Implications**

6.1 Set out in the body of the report.

7. **Equality Impact Assessment**

7.1 N/A

8. **Financial and Resource Implications**

8.1 To defend licensing appeals there is a large resource implication on officers acting as witnesses or assisting with the casework. The successful party can apply to the Court for the full costs incurred in relation to the appeal, however the discretion lies with the Magistrates or Judge as to what proportion is awarded. In the event that the appeal is upheld then the starting point is that costs will not be awarded against the Council unless the Court finds that the decision taken was unreasonable, irrational or wrong.

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 None

14. **Background Papers**

14.1 Various notices from Sub-Committee and Officer Decisions to suspend, revoke or refuse to renew licences.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Report for Public Protection and Licensing Committee – 4 July 2023

HEADING **Proposed Changes to Fixed Penalty Notices (FPNs) for Section 34(2A) Environmental Protection Act 1990 and Proposed Introduction of Powers under Section 46A Environmental Protection Act 1990.**

Submitted by: **Michelle Hopper - Mobile Multi-Functional Manager**

Portfolio: **Sustainable Environment and Operations**

Ward(s) affected: **All**

Purpose of the Report

To inform members of the proposals of the review of the penalty for Section 34(2A) of the Environmental Protection Act 1990 (EPA 1990) and Section 33 of the EPA 1990 and to seek approval for the proposals.

To inform members of the proposals to implement the use of Section 46A of the Environmental Protection Act 1990 and to seek approval for this implementation.

Recommendations

That members approve in principle the review of the FPN's and support the implementation of Section 46A EPA 1990.

Reasons

The Council wishes to review the current FPN's for Section 34(2A) and Section 33 of the EPA 1990 to ensure that failure to comply with these is a deterrent to those who do not comply with the law. The Council wishes to implement the use of Section 46A to deal with a long standing issue of household refuse and recycling bins being left on streets. The Council will create a policy to deal with abandoned and nuisance bins which will incorporate the use of the Section 46A.

1. Background

- 1.1. The Council has long been utilising powers under Section 34(2A) of the EPA 1990 to ensure that people understand the importance of their 'Duty of Care' obligations when it comes to disposing of their waste. Section 34 (2A) requires all occupiers of a domestic property to take all reasonable measures to ensure that waste produced on their property is only transferred to an authorised person. An authorised person includes:

- The local authority that provides your normal waste collection service.
- Someone who has a valid registration as a carrier, broker or dealer of waste
- An operator of a waste site with an appropriate environmental permit or registration exemption.

Reasonable measures are:

- Ask if the person or company taking the waste away is a registered carrier
- Ask to see a copy of their registration certificate
- Make a note of the registration number or take a copy of photography of it

- Take a note of the name of the collector and details of the vehicle used
- Ask for a receipt which should have all business details on.
- Check their details with the Environment Agency.

The current FPN for Section 34 (2A) of the EPA 1990 is set in the Scale of Fees and Charges 2023/2024. This is split as follows:

Household waste duty of care fixed penalty notices. Environmental Protection Act 1990 Section 34 (2A) (paid within 10 days) = £120.

Household waste duty of care fixed penalty notices. Environmental Protection Act 1990 Section 34 (2A) (paid within 14 days) = £200

A scoping exercise has been completed with a number of local authorities to understand how FPN's are used and to streamline the Council's FPNs in line with others. FPNs for Section 34 (2A) ranged in authorities from £400 to a minimum of £120 in accordance with the legislation. The recommend penalty is £200 with a reduction to £120 which is where the Council's penalty is currently set. Due to the increase in problems in Stoke-on-Trent the City Council adopted the upper end of this penalty. The Council is therefore proposing a review on the current FPN limits and proposing this to be increased to £400 with a reduction to £350 if paid within 10 days, to align with Stoke-on-Trent City Council.

1.2 Fly-tipping is defined as the 'illegal deposit of any waste onto land that does not have a licence to accept it'. Uncontrolled illegal waste disposal can be hazardous to the public, especially if it contains toxic material or asbestos. There could be a risk of damage to watercourses and soil quality from the dumped waste. The legislation that refers to this is Section 33ZA of the EPA 1990.

In 2016/17 more than one million incidences of fly-tipping were dealt with by councils in England. The estimated cost of clearing up this waste was over £58 million.

In 2019 the Government introduced new penalties for fly-tipping which could result in a penalty of up to £400. The FPN for Section 33ZA as set in the Scale of Fees and Charges for 2023/2024 is £400 if paid within 14 days reduced to £350 if paid within 10 days.

In January 2023, the government published new proposals on the Anti-social Behaviour Action Plan. In this document it highlights the proposal to raise the limits for on the spot fines in regards to fly tipping to £1,000 and increase the FPN for littering and graffiti to £500. It has also been encouraged that an invoice should be issued for the removal of the waste (where evidence is present) on top of the FPN. Further information is awaited from government in regards to the timescales to be expected for these changes to be implemented.

Fly tipping continues to be on the increase with 740 incidents reported in 2021/2022 and 775 in 2022/2023 throughout the Borough.

The Council intends to update the policy for fly-tipping with the suggestion of issuing an invoice for the removal of fly-tipping to perpetrators. The Council will also update the penalty for fly-tipping in accordance with government guidance.

1.3 Section 46A of the EPA 1990 relates to residents who fail to comply with the wheeled bin and recycling scheme. The notice has instructions on how to store, dispose and present waste for collect.

Failure to comply with a notice may result in a Fixed Penalty notice of £60.

Stoke-on-Trent City Council and Cheshire East Council currently have policies in place to assist with tackling matters in relation to poor domestic waste management. The Council intends to replicate this response in order to address problems in hotspot locations throughout the Borough. The enforcement process proposed would require officers to notify residents that a problem has been identified and provide opportunities for residents to explain the circumstances and ask for support. The Council would only issue fixed penalties for persistent cases where a resident refuses to manage their waste properly. By adopting this method, it is intended to tackle problems that have been persistent in some locations for a long period of time.

2. The Evidence base for these proposals

- 2.1. Fly tipping is continuing to increase on an annual basis. Government is currently reviewing the penalty limits for such offences which greater reflects the environmental impact that fly tipping has on our communities. An increase in FPN would be a greater deterrent for fly tippers and proactively encourage individuals to dispose of their waste responsibly and in accordance with the law. There were 740 reports logged in 2021/2022 and 775 in 2022/2023 across the Borough.
- 2.2. Issues in relation waste are continuing to make the headlines with some neighbouring authorities now adopting the powers conferred under Section 46 of the EPA 1990. There will be a period of monitoring to be completed alongside the introduction of this method to ensure that it is being used correctly. A policy will be put in place to ensure that there is a clear process in regards to advising residents of what is required of them before any enforcement action is taken. Officers will work closely with members to ensure that this message is pushed out to our residents and ensure a clear communication package accompanies this.
- 2.3. Duty of Care – the Council intends to mirror the penalty that has been adopted by Stoke-on-Trent City Council in relation to approaches to dealing with Duty of Care offences. Due to the close proximity between the two authorities and the successful implementation work that the City have had with dealing with fly tipping, Duty of Care and Section 46 the Council intends to mirror this approach to ensure that the Borough does not see an increase in problems as a result of the work that is being done in the City.

Finance & Resources

- 2.4. The use of this legislation predominantly sits within the Mobile Multi Functional team – a newly designed team, created to address Neighbourhood issues from anti-social behaviour to environmental enforcement. The team is currently in its infancy and work is in progress to ensure that Officers have the powers and tools needed to address matters that have been longstanding issues in our community.
- 2.5. The Council will continue to utilise and develop the skills of the team and will monitor any changes in legislation that enable them to take swift and proactive action for our communities.

Residents' Expectations & Authority's Priorities

- 2.6. It may be necessary to manage residents expectations in relation to the use of Section 46 as this will be a new tool used by the authority that will prompt an increase in demand. This will continue to be monitored and residents will be referred to the Council's

website in the first instance which will guide them through the process of what the Council will and will not do.

- 2.7. Key corporate priorities are currently:
Priority 1: One Council delivering for local people
Priority 3: Healthy, Active and Safe Communities

3. Proposal and Reasons for Preferred Solution

3.1 That members approve in principle the review of the FPN's and support the implementation of Section 46A EPA 1990.

3.2 The Council wishes to review the current FPN's for Section 34(2A) and Section 33 of the EPA 1990 to ensure that failure to comply with these is a deterrent to those who do not comply with the law. The Council wishes to implement the use of Section 46A to deal with a long standing issue of household refuse and recycling bins being left on streets. The Council will create a policy to deal with abandoned and nuisance bins which will incorporate the use of the Section 46A.

- Implementation of Section 46A 1990 – to tackle domestic waste issues.
- Section 33Za of the EPA 1990 (Fly-tipping) – remove the reduced payment of £350 for this offence. Increase the penalty for this in line with government guidance pending the implementation of the new ASB action plan.
- Section 34(2A) – current penalty is set at £200 reduced to £120. Increase this to £400 in line with Stoke-on-Trent City Council reduced to £350 if paid within 10 days.

4. Legal and Statutory Implications

- 4.1. The Council has enforcement powers under the Environmental Protection Act 1990 to issue Fixed Penalty Notices for specified offences. A policy will be drawn up for the implementation of Section 46.

5. Equality Impact Assessment

- 5.1. The recommendations in this report do not adversely affect any protected groups.
- 5.2. Those who the Council discovers are vulnerable and need support will be engaged with via the Vulnerability Hub and other partnership groups in order to address those issues.

6. Financial and Resource Implications

- 6.1. The staff resource implications of these proposals will be absorbed within the duties of the Mobile Multi-Functional Team.
- 6.2. There are no financial implications associated with this report.

7. Major Risks

- 7.1. Whilst the majority of residents are likely to support pragmatic and practical controls, there is a risk that some may choose to disregard controls if they feel they are unfair. This risk will be mitigated by communicating and publicising the proposed changes.

8. Key Decision Information

8.1. This is not a key decision.

9. Earlier Cabinet/Committee Resolutions

10. List of Appendices

10.1. None

11. Background Papers

- | | |
|------|---|
| 12.1 | https://www.newcastle-staffs.gov.uk/directory-record/30/fees-and-charges |
| 12.2 | https://www.newcastle-staffs.gov.uk/policies-1/environmental-health-enforcement-policy |
| 12.3 | https://www.newcastle-staffs.gov.uk/fixed-penalty-notices/fixed-penalty-notice-can-issued/5 |
| 12.4 | |

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Report for Public Protection and Licensing Committee – July 2023

<u>HEADING</u>	Public Space Protection Orders: Parks and Open Spaces
<u>Submitted by:</u>	Michelle Hopper, Mobile Multi Functional Manager
<u>Portfolio:</u>	Sustainable Environment and Operations
<u>Ward(s) affected:</u>	All

Purpose of the Report

To update members with the provisional results of the 6 week consultation, any recommendations that should be considered and for permission to conduct a further 6 week consultation.

Recommendations

Members are asked to approve the final consultation on a proposed public spaces protection order, as detailed in Appendix A.

Reasons

The order is currently drafted to be as flexible as possible and enable the Authority to effectively target enforcement. The proposed controls are considered suitable for our current needs and for up to three years when they must be reviewed again.

1. Background

- 1.1. Since November 2017 a number of 'Dog Control' orders have been in force, which apply in a variety of locations across the borough. These were then reviewed in 2020. The current orders are due to expire in November 2023 and we are now looking to review those in place. We are also using this 'review' as an opportunity to scope and develop the Public Space Protection Order to cover a number of community safety and anti-social behaviour related controls as these are often specific to our parks and open spaces.
- 1.2. A PSPO are intended to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.
- 1.3. Alcohol Prohibition Zones have been previously introduced on parks and open spaces to help reduce anti-social behaviour. However, these were now renewed as part of the legislative changes in 2014 and therefore we no longer have any alcohol prohibition zones in our parks and open spaces. The drafted PSPO as shown in appendix A hope to include controls for behaviours that are problematic for our parks and open spaces and assist with ensuring that these spaces are used in the correct manner.

1.4. ASB statistics:

71 reports of alcohol related asb
242 relate to youth and intoxicating substances
38 incidents relate to parks and open spaces.

- 1.5. The Council can make a PSPO on any public space within its own area but before doing so it must consult with the Local Police. The Council must also consult whatever community representatives it thinks appropriate. This could relate to a specific group, (for instance a residents' association), or an individual or group of individuals, (for instance, regular users of a park).
- 1.6. Before making a PSPO, the Council also has to publish the draft order in accordance with regulations made by the Secretary of State. An interested person can challenge the validity of a PSPO in the High Court on two grounds: (1) that the Council did not have the powers to make the order or to include prohibitions or requirements, or (2) that one of the requirements (for instance, consultation) had not been complied with. An 'interested person' means an individual who lives in the restricted area or who works or regularly visits that area.
- 1.7. If adopted a PSPO can operate for a maximum of three years. It may be refreshed for a further period, but only after a review and consultation exercise confirms there remains a need for the control.

2. Issues

- 2.1. Key considerations will be:
- 2.1.1. The Evidence Base for Making a PSPO.
 - 2.1.2. Finance & Resources.
 - 2.1.3. Residents' Expectations & Authority's Priorities / Capacity.

The Evidence Base for Making a PSPO

- 2.2. The Authority is obliged to make proportionate and reasonable use of its powers and should reflect if there is the need to introduce a control. Our current evidence is that although there is generally a high level of compliance with present controls, dog related complaints still represent a considerable caseload for the authority with 362 complaints passed to the Council's dog wardens and 78 relating to dog fouling. In addition to this Streetscene have had 84 reports in regards to the removal of dog fouling. We also know that there are ongoing concerns around anti-social behaviour in our parks and open spaces, including graffiti, underage drinking and other types of behaviours that are likely to cause alarm, harassment and distress to users of the park. The proposed consultation will help clarify if our residents believe there is an issue which needs to be addressed.

Finance & Resources

- 2.3. Permanent signage cost is dependent upon which controls are adopted and where they are applied. Signage must contain the date the Order becomes effective, so would have a maximum life of three years. The typical cost of placing an A5 sized permanent sign would cost £30-£35 (excluding installation)¹. The cost of adding new signs purely relating to dog controls at each entrance to the key locations listed for exclusions or dogs on leads controls is to be scoped and options considered i.e.; permanent signs,

¹ Price based on
composite signs attached with metal clips.

temporary signs. There is an option for this information to be contained on other signage at these locations e.g. park notice boards, and officers will look if there is a more cost effective way to promote controls at these locations.

- 2.4. The level of signage required will depend on public support for proposals. Costed options in respect of signage will be produced for CLT & Members in a future report.
- 2.5. The annual cost of sign replacement will depend on the resilience of signs initially placed and the level of vandalism. Signs may need to be replaced if damaged.
- 2.6. If controls cease, there is a risk that with the removal of potential penalties, some currently compliant dog owners may adversely change their behaviour – for example opting not to remove fouling. Whilst savings on enforcement could be made, there is likely to be a net cost to the Authority with increased numbers of complaints and action needed to maintain the cleanliness of public places.

Residents' Expectations & Authority's Priorities

- 2.7. Whenever any form of dog related control is considered the Authority receives considerable feedback from its residents and animal welfare charities and needs to balance the needs of its dog owning residents with the expectations of the broader community. As part of this review the PSPO's will also cover some community safety elements again taking into consideration complaints received from members of the public. Either adopting or ceasing controls will initially be contentious.
- 2.8. Key corporate priorities are currently:
 - Priority Three: healthy, active and safe communities
- 2.9. Setting and policing rules in relation to any adopted order in regards to compliance will encourage residents to make full use of them – running, walking, cycling, using play equipment etc. which aligns to priority three.
- 2.10. Rules in relation to dog control, specifically fouling and the failure to remove dog faeces also relate to priority three.

3. Proposal and Reasons for Preferred Solution

- 3.1. Members are asked to approve a final 6 week consultation to be started on a public spaces protection order for Parks and Open Spaces, as proposed in Appendix A.
- 3.2. Members will be requested to consider an updated proposal, taking into account representations made through the consultation process, with a view to new controls becoming operational from November 2023.
- 3.3. The proposals, as currently drafted, best match current dog controls and will benefit from additional controls in relation to community safety. Additional elements within the proposals in respect of maximum numbers of dogs in specific locations and the new requirement to carry a bag reflect complaints / pressure from residents.
- 3.4. The controls are currently drafted to be as flexible as possible and enable the Authority to effectively target enforcement. The proposed controls are considered suitable for our current needs and for up to three years when they must be reviewed again.
- 3.5. This is considered an 'invest to save' project, which should improve the cleanliness and safety of public places.

4. Consultation results

4.1. A full copy of the consultation results is attached to this report and can be found on Appendix C.

4.2. Headline findings are as follows:

There were 22 response to the consultation.
Not all respondents answered each question.

On the whole there was support for the proposals with 100% of respondents in agreements for continuing to require dog owners to clean up and have means to pick up after their dog.

Approximately 82% of respondents were in favour of no more than six dogs in each named location.

The lowest support seemed to be in regards to requirements to keep a dog on lead in particular at Bathpool Park – with only 55% being in agreement and on space owned by parish and town councils (again 55% in agreement)

Some additional notes to consider from the consultation.

- 2 respondents commented that the maximum number of dogs should be lower than 6.

4.3. Members have further opportunity to amend proposals following the consultation results. The recommendations are that the proposals remain the same as per Appendix A

5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

5.1. The proposed PSPO sets 'rules' so that all residents can see what the Council expects

5.2. Controls of this nature are necessary if the Authority wishes to maintain the safety and cleanliness of its public places

6. Legal and Statutory Implications

6.1. The Authority is not obliged to adopt a PSPO. If it chooses to do so it has full control over their scope. The Authority is obliged to consult on any proposals and needs to be able to defend its controls if challenged.

6.2. PSPOs can be challenged through the High Court if their creation is not in accordance with Statute and Regulation and due process has not been followed.

7. Equality Impact Assessment

7.1. The recommendations in this report do not adversely affect any protected groups.

7.2. Those needing an assistance dog are defined in the Antisocial Behaviour, Crime and Policing Act 2014 as exempted from the PSPO requirements.

8. Financial and Resource Implications

8.1. The Authority is obliged to publicise controls and to ensure that appropriate signs are displayed. Signage would have a maximum life of 3 years. It is envisaged that signs in some locations may need regular replacement as a result of removal or vandalism.

- 8.2. The workload of initially adding signs would be considerable. If existing staff were used this would impact on their ability to deliver normal services and therefore sites may need to be prioritised on this basis.
- 8.3. Any changes to dog related controls are likely to generate considerable interest with an increased volume of calls, emails and visits requiring a response from staff this would be dealt with by the Customer Hub.
- 8.4. There is an expectation that enhanced enforcement would follow the implementation of revised controls. This work will be undertaken under the Mobile Multi- Function Team although there would be support from Staffordshire Police in relation to the Alcohol Prohibition locations.
- 8.5. Financial implications need to be considered for the purchase and installation of signage to promote the PSPO. Options are being scoped as to what will work best including communications promotion, temporary signage and permanent signage.

9. Major Risks

- 9.1. There is a risk of legal challenge if the Authority does not follow the correct process to devise, consult and adopt a PSPO, with associated reputational damage.
- 9.2. Whilst the majority of residents are likely to support pragmatic and practical controls, there is a risk that some may choose to disregard controls if they feel they are unfair.

10. Key Decision Information

- 10.1. This report can be considered key in the following ways:
 - a. It requires the Council to commit existing and additional resources for the function to which the decision relates and;
 - b. It impacts on communities living or working in an area comprising two or more electoral wards in the Borough.

11. Earlier Cabinet/Committee Resolutions

- 11.1. Public Protection Committee agreed the current set of Dog Control Orders on 4th February, 2013.
- 11.2. Cabinet agreed amendment to the Council's scheme of delegation adding provisions in respect of the Anti-Social Behaviour, Crime & Policing Act 2014 on 15th October 2014. This decision delegated the power to make, extend, vary and discharge public space protection orders to Public Protection Committee

12. List of Appendices

- 12.1. Appendix A: Draft PSPO
- 12.2. Appendix B : List of parks and open spaces.
- 12.3. Appendix C: Copy of the consultation results

13. Background Papers

- 13.1. Antisocial Behaviour Crime & Policing Act 2014
<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>
- 13.2. Guidance in respect of PSPOs
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

- 13.3. Further details on proposals and frequently asked questions
www.newcastle-staffs.gov.uk/dogcontrols
- 13.4. Requirements in respect of publicising public space protection orders
http://www.legislation.gov.uk/uksi/2014/2591/pdfs/ukxi_20142591_en.pdf
- 13.5. Amendment to scheme of delegation granting Public Protection Committee power to make public space protection orders.
<http://moderngov.newcastle-staffs.gov.uk/documents/s13554/Cabinet%20Report%20-%20ASB%20Legislative%20changes%20-%20Oct%202014%20v18%20021014.pdf>

The Anti-Social Behaviour, Crime and Policing Act 2014
Public Spaces Protection Order
(The Borough Council of Newcastle-under-Lyme) 2023 – No. 4 of 2023

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:

1. This Order comes into force on 16th November 2023 and shall have effect for a period of three years from the date thereof (unless it is extended pursuant to Section 60 of the Act).
2. This Order applies to the areas within the Borough of Newcastle as specified in the Schedule to this Order being public spaces in the Council’s area to which the Act applies (‘the Restricted Areas’).

BY THIS ORDER

3. The effect of this Order is to impose the following prohibitions and/or requirements in the Restricted Areas at all times: -

3.1 Alcohol

- Any person is prohibited from having an open alcohol container in their possession;
- Any person is required to surrender any open alcohol container in their possession when required to do so by an Authorised Officer of the Council or Staffordshire Police.

3.2 Dog 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:

- he has reasonable excuse for failing to do so;
- or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

3.3 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).

3.4 Dogs on Leads

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.

3.5 Dog Exclusion Areas

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

3.6 Maximum 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.

3.7 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 and Definitions

- i) Part 3.2 – 3.7 of this order shall not 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/she relies for assistance; or
 - (c) has a disability which affects his/her 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/she 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 and 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 16th November 2023

The Common Seal of the
Borough of Newcastle-under-Lyme
hereunto affixed this....day of2023
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

DRAFT

Location Name	District	Type	Control	Signs
Alsager Road,	Audley	Children's Play Equipment	Dog Exclusion	
Signal End Road Tibb Street	Audley	Children's Play Equipment	Dog Exclusion	
Queen Street / Deans View	Audley	Children's Play Equipment	Dogs on Leads	
Birchenwood County Park - Marked Pitches	Birchenwood	Ball Games Pitch	Dogs on Leads	
Mount Road, Birchenwood - Bowling Green	Birchenwood	Bowling	Dog Exclusion	
Mount Road, Birchenwood - Tennis Courts	Birchenwood	Tennis Court	Dog Exclusion	
Mount Road, Birchenwood- playground	Birchenwood	Children's Play Equipment	Dog Exclusion	
Arnold Grove - Children's Play	Bradwell	Children's Play Equipment	Dog Exclusion	
Cheswardine Drive	Bradwell	Children's Play Equipment	Dog Exclusion	
Newcastle Crematorium, Chatterley Drive	Bradwell	Cemetery	Dog Exclusion	
Oldcastle Avenue	Bradwell	Ball Park	Dog Exclusion	
Oldcastle Avenue - play equipment and fences games area	Bradwell	Children's Play Equipment	Dog Exclusion	
Apedale Community County Park - Lapwing, & Hornbeam Paddocks	Chesterton	Amenity Space	Dog Exclusion	
Apedale Community County Park - Pond Dipping Pools (Heritage & Energy Centres)	Chesterton	Amenity Space	Dogs on Leads	
Apedale Community County Park - White Barn Paddock & Nature Area	Chesterton	Amenity Space	Dogs on Leads	
Bamber Place	Chesterton	Children's Play Equipment	Dog Exclusion	
Checkley Road, Waterhayes	Chesterton	Children's Play Equipment	Dog Exclusion	
Chesterton Park - Ball Games	Chesterton	Ball Games Pitch	Dog Exclusion	
Chesterton Park - Children's Play	Chesterton	Children's Play Equipment	Dog Exclusion	
Chesterton Park - Tennis	Chesterton	Tennis Court	Dog Exclusion	
Loomer Road	Chesterton	Cemetery	Dog Exclusion	
Loomer Road	Chesterton	Children's Play Equipment	Dog Exclusion	
Loomer Road - ball court	Chesterton	Multi Use Games / Ball Park	Dog Exclusion	
Romney Avenue	Chesterton	Children's Play Equipment	Dog Exclusion	
Lyme Valley (Buckmaster)	Clayton	Children's Play Equipment	Dog Exclusion	
Newcastle Cemetery, Lymewood Grove	Clayton	Cemetery	Dog Exclusion	
Northwood Lane, Clayton	Clayton	Ball Games Pitch	Dogs on Leads	
Rydal Way	Clayton	Children's Play Equipment	Dog Exclusion	
Beech Drive / Hollins Playing Fields, Clough Hall	Clough Hall	Ball Games Pitch	Dogs on Leads	
Clough Hall Park - Bowls	Clough Hall	Bowling Green	Dog Exclusion	
Clough Hall Park - Children's Play	Clough Hall	Children's Play Equipment	Dog Exclusion	
Clough Hall Park - grassed areas	Clough Hall	Amenity Space	Dogs on Leads	
Clough Hall Park - Multi-use Court & Skate Ramp	Clough Hall	Multi Use Games / Ball Park	Dog Exclusion	
Clough Hall Park - Tennis	Clough Hall	Tennis Court	Dog Exclusion	
Birch House Road (Crackley Fields)	Crackley	Ball Games Pitch	Dog Exclusion	
Douglas Road	Cross Heath	Multi Use Games / Ball Park	Dog Exclusion	
Douglas Road	Cross Heath	Children's Play Equipment	Dog Exclusion	
Meadow Lane	Cross Heath	Children's Play Equipment	Dogs on Leads	
Alsagers Bank	Halmerend	Ball Games Pitch	Dogs on Leads	
Alsagers Bank - play equipment	Halmerend	Children's Play Equipment	Dog Exclusion	
Harrison Close	Halmerend	Children's Play Equipment	Dog Exclusion	
Station Road,	Halmerend	Children's Play Equipment	Dogs on Leads	
Wesley Place - Pitch	Halmerend	Ball Games Pitch	Dog Exclusion	
Laurel Drive	Hariseahead	Children's Play Equipment	Dogs on Leads	
Keele Cemetery	Keele	Cemetery	Dog Exclusion	
Ash View / Powy Drive / Medina Way	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Attwood Street Cemetery	Kidsgrove	Cemetery	Dog Exclusion	
Bathpool Park - Ball Games	Kidsgrove	Ball Games Pitch	Dogs on Leads	
Bathpool Park - Children's Play	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Hayhead Close	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Medina Way	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Merlin Way	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Powy Drive	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Salop Place	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Silvermine Close	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Whitehall Avenue - Children's Play Equipment	Kidsgrove	Children's Play Equipment	Dog Exclusion	
Acacia Ave	Knutton	Ball Games Pitch	Dogs on Leads	
Acacia Ave	Knutton	Children's Play Equipment	Dog Exclusion	
Arthur Street / Moran Road	Knutton	Children's Play Equipment	Dog Exclusion	
Black Bank Road	Knutton	Ball Games Pitch	Dogs on Leads	
Cotswold Avenue	Knutton	Cemetery	Dog Exclusion	
Cotswold Avenue	Knutton	Children's Play Equipment	Dog Exclusion	
Cotswold Avenue	Knutton	Ball Games Pitch	Dogs on Leads	
Rogers Avenue / Robertson Drive	Knutton	Children's Play Equipment	Dog Exclusion	
Wammy	Knutton	Ball Games Pitch	Dogs on Leads	
Wilmot Drive Ball Park	Knutton	Multi Use Games / Ball Park	Dog Exclusion	
Burtwood View Hugo Way,	Loggerheads	Children's Play Equipment	Dog Exclusion	
Pheasant Walk	Loggerheads	Ball Games Pitch	Dogs on Leads	
Birch Dale Recreation Ground	Madeley	Children's Play Equipment	Dog Exclusion	
College Gardens / Daltry Way	Madeley	Children's Play Equipment	Dog Exclusion	
Wharf Terrace / Heath Row	Madeley	Children's Play Equipment	Dogs on Leads	
Wolstanton Marsh, Basford Park Road	May Bank	Children's Play Equipment	Dog Exclusion	
Dales Green Road	Mow Cop	Children's Play Equipment	Dogs on Leads	
Moorland Road	Mow Cop	Children's Play Equipment	Dog Exclusion	
Mow Cop Castle (Newcastle Borough)	Mow Cop	Amenity Space	Dogs on Leads	
Brampton Park	Newcastle	Children's Play Equipment	Dog Exclusion	
Icky Picky / Croft Road	Newcastle	Children's Play Equipment	Dog Exclusion	
Lockwood Street	Newcastle	Children's Play Equipment	Dog Exclusion	
Lyme Valley	Newcastle	Ball Games Pitch	Dogs on Leads	

Lyme Valley (Remploy)	Newcastle	Children's Play Equipment	Dog Exclusion
Queens Gardens, Ironmarket	Newcastle	Floral Park	Dogs on Leads
Victoria Road	Newcastle	Children's Play Equipment	Dog Exclusion
Wilson Street	Newcastle	Children's Play Equipment	Dog Exclusion
Queen Elizabeth Park, Silverdale Road	Poolfields	Floral Park	Dogs on Leads
Bradwell Park - Bowling	Porthill	Bowling	Dog Exclusion
Bradwell Park - Children's Play	Porthill	Children's Play Equipment	Dog Exclusion
Bradwell Park - Multi Use Games	Porthill	Multi Use Games / Ball Park	Dog Exclusion
Bradwell Park - Tennis	Porthill	Tennis Court	Dog Exclusion
Oaklands Park, Oaklands Ave	Porthill	Amenity Space	Dogs on Leads
The Dingle, Oakdene Ave	Porthill	Children's Play Equipment	Dogs on Leads
Deans Lane	Red Street	Children's Play Equipment	Dog Exclusion
Red Street Comm. Centre Pitches, Talke Rd	Red Street	Ball Games Pitch	Dogs on Leads
Bluebell Drive	Seabridge	Children's Play Equipment	Dog Exclusion
Roe Lane, Playing Fields	Seabridge	Ball Games Pitch	Dog Exclusion
Back Lane Park Road	Silverdale	Children's Play Equipment	Dogs on Leads
Heritage Park / Silverdale Colliery	Silverdale	Children's Play Equipment	Dog Exclusion
Ilkley Place	Silverdale	Ball Games Pitch	Dogs on Leads
Ilkley Place	Silverdale	Children's Play Equipment	Dog Exclusion
Ironbridge Drive	Silverdale	Children's Play Equipment	Dog Exclusion
Silverdale Cemetery	Silverdale	Cemetery	Dog Exclusion
Silverdale Park, Vale Pleasant - bowling green & courts	Silverdale	Bowling Green	Dog Exclusion
Underwood Road / Pepper Street	Silverdale	Children's Play Equipment	Dog Exclusion
Chester Road - Ball Games	Talke	Ball Games Pitch	Dogs on Leads
Chester Road - Children's Play	Talke	Children's Play Equipment	Dog Exclusion
Townfields Close	Talke	Children's Play Equipment	Dogs on Leads
Orme Road - skate park	Thistleberry	Skate Park	Dog Exclusion
St Paul's Road	Thistleberry	Ball Games Pitch	Dogs on Leads
Thistleberry Parkway, Keele Road	Thistleberry	Children's Play Equipment	Dogs on Leads
Audley Road / Cedar Road	Waterhayes	Children's Play Equipment	Dog Exclusion
Barbridge Road / Ludford Close / Longclough Rd	Waterhayes	Children's Play Equipment	Dog Exclusion
Wroxham Way	Westbury Park	Children's Play Equipment	Dog Exclusion
Guernsey Drive	Westlands	Children's Play Equipment	Dogs on Leads
Wedgwood Avenue	Westlands	Tennis Court	Dog Exclusion
Whitmore Village Hall	Whitmore	Ball Games Pitch	Dog Exclusion
Whitmore Village Hall	Whitmore	Children's Play Equipment	Dog Exclusion
Wolstanton Park, Moreton Parade - Bowling	Wolstanton	Bowling	Dog Exclusion
Wolstanton Park, Moreton Parade - Children's Play	Wolstanton	Children's Play Equipment	Dog Exclusion
Wolstanton Park, Moreton Parade - Tennis	Wolstanton	Tennis Court	Dog Exclusion
Wood Lane, Tomfields	Wood Lane	Children's Play Equipment	Dogs on Leads



PSPO consultation May/June 2023

Headline findings

- 22 responses
 - Not all respondents answered each question
- Support (yes answers) for every proposal
 - 100% backing for continuing to require dog owners to clean up / have the means to pick up after their dog
- Almost identical levels of support (81% or 82%) in favour of no more than six dogs in each mentioned location
- Lowest support for
 - Continuing to require a dog to be on a lead in
 - the Bathpool park area (55%)
 - open space owned by parish and town councils (55%)
 - Continue to require dogs to be excluded from open space owned by parish and town councils (52%)

We would like to know if you would support the following proposals:

	Yes	No	Don't know
The prohibition of any person having an open alcohol container in their possession. Any individual who has an open alcohol container in their possession will need to surrender this when required to do so by an Authorised Officer of the Council or Staffordshire Police.	82%	14%	5%
Continue to require a person in charge of a dog to clean up its faeces if their dog fouls in any public place.	100%	0	0
Continue to require dog owners to have the means to pick up dog fouling i.e. a bag with them whenever they walk their dog.	100%	0	0

	Yes	No	Don't know
Continue to require a dog to be on the lead at.....			
Borough Council Crematorium, churchyards and cemeteries, and closed churchyards	86%	14%	0
Formal gardens e.g. Queens Gardens, Queen Elizabeth Park	96%	5%	0
Marked out sports pitches	73%	17%	9%
Unfenced children's play equipment and a portion of the surrounding area, extending 20 metres in all directions from it.	86%	14%	0
Fenced / enclosed portions of Apedale Country Park which are designated for wildlife conservation	86%	14%	0
Parts of Bathpool park from the car park, across the reservoir dam, and along the side of the reservoir next to the railway line	55%	23%	23%
Fishing Pools managed by angling clubs as per their signs	77%	14%	9%
Open space owned by parish and town councils as per their signs	55%	36%	9%

	Yes	No	Don't know
Continue to require owners to put their dog(s) on a lead(s) when asked to do so by an authorised officer	95%	0	5%

	Yes	No	Don't know
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%	5%	0
Fenced or enclosed games areas, such as tennis and ball courts, multisport areas and skate parks	95%	5%	0
The grassed portion of all bowling greens	86%	14%	0

Fenced or enclosed portions of Apedale Country Park which are designated for wildlife conservation	81%	14%	5%
Fishing Pools managed by angling clubs as per their signs	71%	14%	14%
Open space owned by parish and town councils – as per their signs.	52%	24%	24%

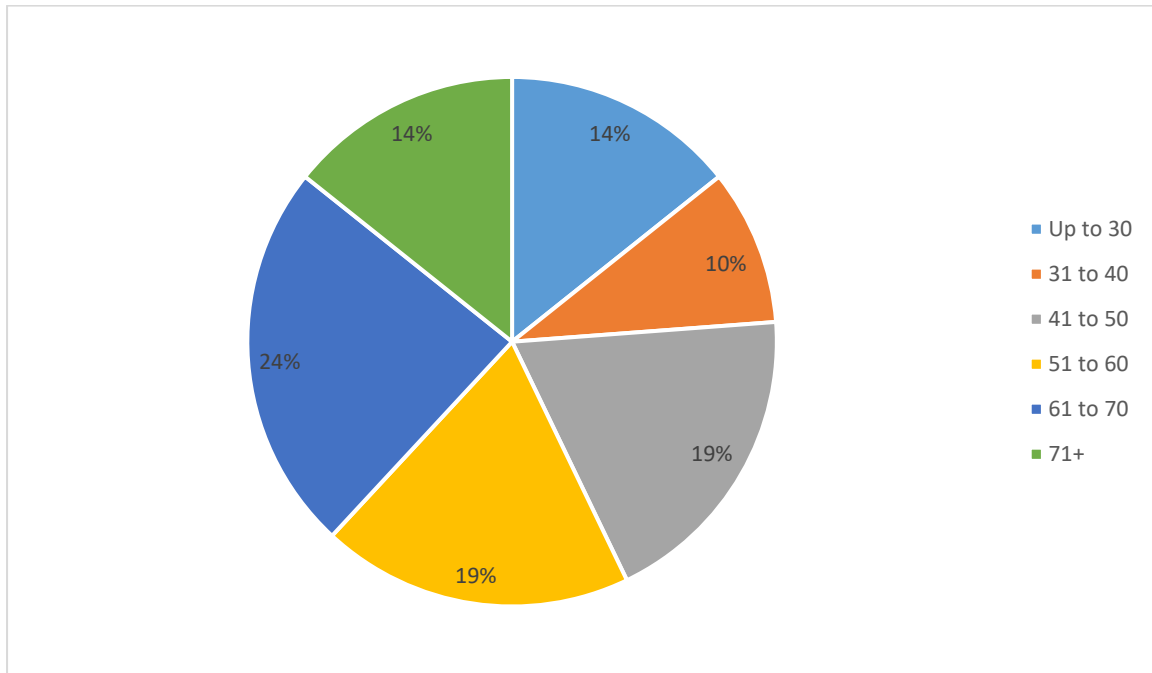
	Yes	No	Don't know
Continue to require that no more than six dogs can be taken by any one person into the following locations:			
Apedale Country Park	81%	19%	0
Bateswood Country Park	81%	19%	0
Bathpool Park	81%	19%	0
Clough Hall Park	81%	19%	0
Silverdale Community Park	82%	18%	0
Lyme Valley Parkway	81%	19%	0
Birchenwood Country Park	81%	19%	0

Are there any additional controls you think are required, or any other locations where specific controls need to be set? Due to the small number of comments they are included in full here:

- You have both "dogs on leads" AND "dogs excluded completely" for Apedale Country Park enclosed areas, this does not make sense and provides a loophole people will exploit. It should only be "dogs excluded" from fenced wildlife conservation areas in **ALL** country parks because Silverdale Country Park also has wildlife conservation areas which are fenced in.
- The anti-social behaviour caused by alcohol consumption/drugs that occurs on the loopline and Birchenwood playing fields/woods in Kidsgrove, more especially during summer evenings and school holidays. The litter (cans, bottles, take away food cartons and on occasion stolen shopping trolleys) is appalling. Fires are regularly lit in the tunnels (destroying the tarmac) using wood ripped from surrounding woodland and any detritus is either thrown over the railings within the tunnel, into the water or smashed on the path.
- Outside school gates.
- Dogs that are owned in flats have to be on a lead when outside the property and owners must clean up their mess not just leave it.
- Allocation of dogs should be lower than 6. 1 person cannot control 6 dogs
- Less fouling, people need to start taking home their waste with them if there is no dog waste bin
- More to be done about fouling, provide more bags for public
- More education to public
- This six dogs rule is too many. Some people can control six dogs but too many dog walkers are irresponsible. Not that these controls seem to have much impact anyway - dog walkers (including 'professional' dog walking companies ignore them).

Age profile

Fewer than half (43 per cent) were aged under 50, with 38 per cent aged more than 60.



PUBLIC PROTECTION SUB-COMMITTEE

Wednesday, 7th June, 2023
Time of Commencement: 6.00 pm

[View the agenda here](#)

Present: Councillor Andrew Parker (Chair)

Councillors: Whieldon G Williams

Officers: Matthew Burton Licensing Administration Team Manager
Anne-Marie Pollard Solicitor
Melanie Steadman Licensing Officer

1. **APOLOGIES**

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **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 would 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.

4. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 1**

The Sub-Committee considered a relevant matter which fell outside of Council Policy. The applicant wasn't in attendance and hadn't sent any representative. After very careful consideration of information from the Council's Licensing Officer, the Sub-Committee agreed as follows.

Resolved: That the Dual Driver's Licence and Private Hire Vehicle Licence be revoked.

5. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 2**

The Sub-Committee considered a relevant matter which fell outside of Council Policy. The applicant and his legal representative were in attendance. After very careful consideration of information from the Council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows.

Resolved: That the application for a Hackney Carriage Vehicle Licence be refused.

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6. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 3

The driver asked if this item could be deferred to the next meeting as their legal representative was unable to attend.

Resolved: That the item be deferred to the 12th July 2023 meeting and be heard then with or without the driver and / or their legal representative in attendance.

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 - APPLICANT 4

The Sub-Committee considered a relevant matter which fell outside of Council Policy. The applicant and his legal representative were in attendance. After very careful consideration of information from the Council's Licensing Officer and representations from the applicant, the Sub-Committee agreed as follows.

Resolved: That the application for a Dual Driver's Licence be refused.

8. URGENT BUSINESS

There was no urgent business.

**Councillor Andrew Parker
Chair**

Meeting concluded at 8.20 pm