

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADERSHIP TEAM'S

REPORT TO CABINET

16 January 2024

Report Title: Walleys Quarry – Odour Issues

Submitted by: Chief Executive

Portfolios: Sustainable Environment; One Council, People & Partnerships

Ward(s) affected: All

<p><u>Purpose of the Report</u></p> <p style="text-align: right;"><u>Key Decision</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>To update Cabinet on the latest position regarding the problematic odours in the Borough associated with Walleys Quarry.</p>
<p><u>Recommendation</u></p> <p>Cabinet is recommended to:</p> <p>1. Note the contents of this update report.</p>
<p><u>Reasons</u></p> <p>To ensure Cabinet is kept updated on the ongoing work regarding the problem odours associated with Walleys Quarry landfill.</p>

1. Background

- 1.1 For a number of years, parts of the borough have suffered from foul odours from the Walleys Quarry Landfill Site in Silverdale operated by Walleys Quarry Ltd, part of the RED Industries group of companies. The Environment Agency (EA) is the lead regulator for such sites, testing and enforcing compliance with the permit under which the site operates. The Council also has a role in influencing the operation and performance of such sites, where an operator fails to comply with actions required under an abatement notice issued by the Council in relation to any statutory nuisance caused by the site.
- 1.2 In March 2021, Council held an extraordinary meeting to receive the report of the Economy, Environment and Place Scrutiny Committee review into the Walleys Quarry issues, and to debate a motion demanding the immediate suspension of operations and acceptance of waste at the Walleys Quarry Landfill site.
- 1.3 Following extensive work, officers determined that the odours from the Walleys Quarry site amounted to a Statutory Nuisance and, on 13 August 2021, served an Abatement Notice on Walleys Quarry Ltd. (WQL). Following an appeal by Walleys Quarry Ltd, and a successful mediation process, His Honour District Judge Grego

approved the settlement that the parties had reached and issued a court order upholding the Abatement Notice and dismissing WQL's appeal on 6 October 2022.

- 1.4** The Council continues to assess the prevalence of odours off site. If there are further instances of statutory nuisance identified which amount to a breach of the Abatement Notice, the Council's Enforcement Policy will guide the process to be followed [Reference: [Environmental Health enforcement policy – Newcastle-under-Lyme Borough Council \(newcastle-staffs.gov.uk\)](https://www.newcastle-staffs.gov.uk)]. This would determine what action the Council would take, and whether that would be formal or informal. Enforcement is usually considered sequentially but should the circumstances or nature of the breach be such, escalation direct to prosecution is possible. The Council would need to obtain the consent of the Secretary of State before it is able to prosecute an offence of breaching an abatement notice, as the site is permitted by the Environment Agency.
- 1.5** Officers maintain an ongoing dialogue with Walleys Quarry Ltd, and with other agencies involved with the issue. Cabinet has received monthly updates on the issues relating to the odours, and Council has also been regularly updated.

2. Complaint Data

- 2.1** Below is a schedule of complaints received by the Council and by the Environment Agency over the last 3 months, on a weekly basis. Historical complaint data is attached to this report as Appendix 1.

	Complaints to NuLBC	Complaints to Environment Agency
October 2023		
02/10/23 – 08/10/23	8	37
09/10/23 - 15/10/23	29	64
16/10/23 - 22/10/23	22	81
23/10/23 - 29/10/23	26	115
30/10/23 - 05/11/23	5	15
November 2023		
06/11/23- 12/11/23	40	123
13/11/23- 19/11/23	35	119
20/11/23- 26/11/23	36	135
27/11/23 - 03/12/23	115	265
December 2023		
4/12/23- 10/12/23	83	151
11/12/23- 17/12/23	48	180
18/12/23 -24/12/23	28	79
25/12/23-31/12/23	44	129
January 2024		
01/01/24 - 07/01/24	229	627
08/01/24 - 14/01/24	66	N/R

2.2 Officers highlight any odour events where 10 or more odour complaints have been recorded. There have been 8 odour events in the month of December:

- 01 December 2023 - 24 complaints
- 02 December 2023 - 17 complaints
- 04 December 2023 - 12 complaints
- 05 December 2023 - 27 complaints
- 06 December 2023 - 25 complaints
- 11 December 2023 - 11 complaints
- 14 December 2023 - 12 complaints
- 30 December 2023 - 13 complaints

In January there have been over 10 complaints received each day during the following period:

- 01 January to 08 January
- 11 January
- 13-14 January

The overall trend is for “spikes” in complaints when odours are prevalent.

2.3 NULBC Odour Assessments

Officers have undertaken odour assessments during normal working hours and out of hours. The monitoring has been reactive to odour complaints and proactive where low odour dispersion is predicted.

The type of monitoring includes spot assessments (instantaneous assessments) and assessments made over a 5-minute period where the odour intensity is recorded every 10 seconds.

This report focuses on the 5-minute odour assessments.

27 odour assessments were undertaken on 5 separate dates in December. 11 out of 27 assessments detected distinct or strong landfill related odour on:

- Friday 01 December
- Tuesday 05 December
- Wednesday 06 December
- Wednesday 13 December

Mobile Air Quality Monitoring (using Jerome monitor)

2.4 Officers have monitored the levels of hydrogen sulphide within the community using the mobile Jerome monitor. The highest level of hydrogen sulphide recorded was 40.38ppb at Galingale View on 13 December at 22:22. In January, a level of 210ppb was monitored at The Hamptons on 04 January at 20:07.

NULBC Actions

2.5 It is disappointing to report that over this winter period there has been a deterioration in the odours conditions from Walleys Quarry, as shown in the data reported. The worsened conditions have continued into January.

2.6 Officers are awaiting the rectified air quality data published by the EA to compare the data against the findings from Officer assessments and the Jerome air quality data.

- 2.7 A request is being made to Walleys Quarry for their investigation findings for the November and December odour events and any remedial action taken or planned.
- 2.8 Officer monitoring and assessments will continue to be undertaken in January, both in and out of office working hours to continue monitoring and to respond to the issues raised.

Walleys Quarry Update

- 2.9 Walleys Quarry Limited issued a press statement on 13 December 2023 as follows:
- ‘Over the past few months, Walleys Quarry Ltd (WQL) has been engaged in several projects at the facility, as part of their ongoing commitment to and development of, the Walleys Quarry (WQ) facility. These extensive and complex works demonstrate continued commitment to the site and are reflective of a significant financial investment. These works have been completed, whilst also maintaining an active operational facility’*
- 2.10 Further details are available [here](#) and in summary WQL report on the following work undertaken to the site:

Sidewall Engineering – ‘In order to continue the development of the facility and in preparation for the deposit of wastes accepted for permitted disposal, an area of the southern sidewall of the original quarry has been lined’.

‘Upon completion of active landfill operations, the sidewall engineering also gives the “anchor” for the permanent capping to be installed into, eventually creating a complete impermeable envelope’.

Leachate Wells – ‘WQL has installed a series of 5 new leachate wells through the 60m waste mass, to the original basal engineering to ensure that the installed infrastructure at the facility continues to be effective and allow the monitoring and measuring of the site generated leachate’.

Permanent Capping – ‘WQL continues to install permanent capping in areas where all active operational activity is complete. The 2023 permanent capping programme has seen a significant area of the landfill, focussed on the eastern flank covered with a thick layer of impermeable plastic’.

Temporary Capping – ‘Throughout 2023 WQL has instigated a significant programme of temporary capping at the facility. Utilising high-quality, low permeability engineering clay sourced locally, areas of the site which are either not being actively deposited on or represents the flanks of active depositional areas have been covered in significant quantities and depths of clay’.

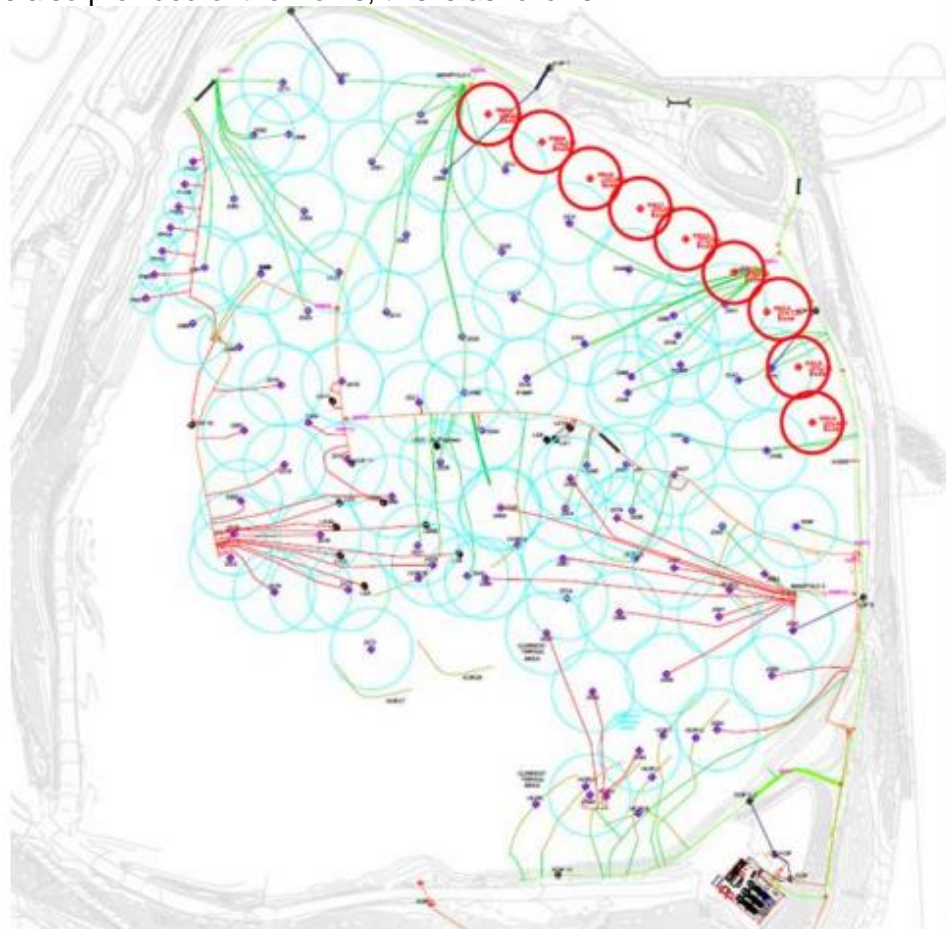
- 2.11 On 04 January 2024 Walleys Quarry Ltd issued a press release as follows:

“Aligned with the principles developed within the Landfill Gas Management Plan (LFGMP) and continuing the BAT approach (Best Available Technique) taken at the Walleys Quarry facility, a series of 9 Pin wells will be installed along the northern boundary.

The works will commence on 8 January 2024 and is expected to be completed within the week. The installed wells will be integrated directly into the existing gas capture and control infrastructure. Collected landfill gas, will be safely conveyed through the perimeter ring main to the Gas Utilisation Plant (GUP) where it will be treated through

the system, aiding the generation of electricity which is exported to the grid for off-site use. It is not anticipated that there will be any off site impacts from the works.”

A plan is also provided of the works, this is as follows:



The press release is available at the following link [659678543782f0fed602e8de Walleys Update 04.01.2024.pdf \(website-files.com\)](https://www.newcastle-under-lyme.gov.uk/website-files.com/Walleys%20Update%2004.01.2024.pdf)

3. Air Quality & Health

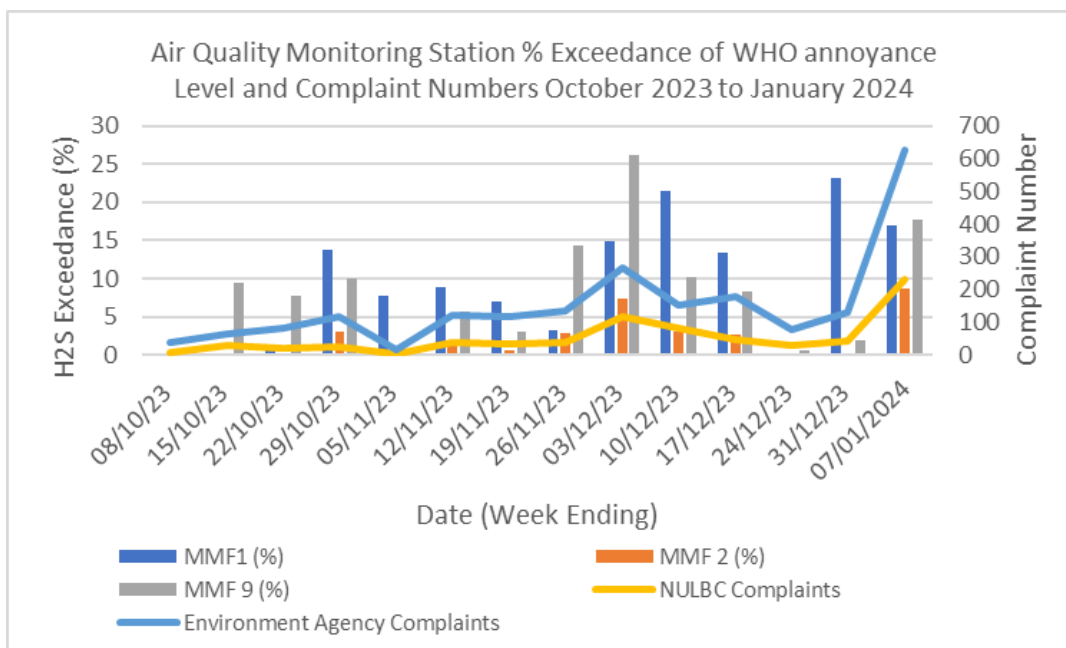
- 3.1** The Council, Staffordshire County Council, and the Environment Agency have jointly funded a campaign of air quality monitoring utilising three static air monitoring stations. The Environment Agency manage and operate these air quality monitoring stations. Data from these stations has been routinely published weekly by the Environment Agency.
- 3.2** Hydrogen sulphide levels have previously been reported and reviewed as part of this report and a full data set provided in Appendices. On 5 October, the Environment Agency provided an update, alerting the community to a problem with the reliability of the Hydrogen Sulphide (H₂S) monitoring data collected at the monitoring stations. This update is available at the following link [Latest News | Engage Environment Agency \(engagementhq.com\)](https://www.engagementhq.com/latest-news/)
- 3.3** On 19 October 2023, the EA calibrated the H₂S analysers in MMF1 and MMF2. The EA have sufficient confidence in the raw data recorded for the week commencing 16 October 2023 to allow the EA to restart publishing data from MMF1 and MMF2. The latest H₂S data is set out in the table below, defining the proportion of the time periods where H₂S levels were above the WHO Odour Annoyance guideline of 7ug/m³.

3.4 The latest H2S data is set out in the table below, defining the proportion of the time periods where H2S levels were above the WHO Odour Annoyance guideline of 7ug/m3.

Time Period	Percentage of time the location recorded hydrogen sulphide concentrations above the WHO annoyance guideline level		
	MMF1	MMF 2	MMF 9
02 October – 08 October 2023			0%
09 October – 15 October 2023			9.4%
16 October – 22 October 2023	0.9%	0.0%	7.8%
23 October – 29 October 2023	13.7%	3.0%	10.4%
30 October – 5 November 2023	7.8%	0.6%	NR
6 November – 12 November 2023	8.9%	1.5%	5.6%
13 November – 19 November 2023	6.9%	0.6%	3%
20 November – 26 November 2023	3.3%	2.9%	14.33%
27 November – 3 December 2023	14.9%	7.4%	26.2%
4 December – 10 December 2023	21.4%	3.0%	10.2%
11 December – 17 December 2023	13.4%	2.68%	8.33%
18 December – 24 December 2023	0%	0%	0.6%
25 December- 31 December 2023	23.21%	0.3%	1.9%
01 January – 07 January 2024	16.9%	8.7%	17.7%

NR= not reported

3.5 The complaint data and weekly % exceedance of the WHO annoyance level have been combined and is shown on the graph below. This shows good correlation between the two, apart from the week ending 31st December where complaints are much lower than the H2S exceedance level at MMF1.



- 3.6** The EA have been required to remove the Mobile Monitoring Facility (MMF) 2 from the Silverdale Pumping Station in mid-January 2024. This is due to construction works beyond their control. The EA issued an update on 4 January 2024:

Following discussions with Newcastle-under-Lyme Borough Council, Staffordshire County Council and the UK Health Security Agency, proposals for potential new locations were shared with the Strategic Coordinating Group and a site to the east of the current MMF2 location was confirmed on 12 December 2023.

Work is now under way to commission the new monitoring site and establish the appropriate services as soon as possible. It is important to note that data from the previous MMF 2 location will not be directly comparable to data collected at the new location. We will continue to update the community on the progress of the new monitoring site.

- 3.7** The previous Cabinet meeting reported that Staffordshire County Council had held their Health and Care Overview and Scrutiny Committee on 20th November 2023 to consider matters relating to Walley's Quarry Landfill Site with a focus on health implications for residents. The minutes of this meeting are available at [Minutes \(staffordshire.gov.uk\)](https://www.staffordshire.gov.uk/minutes).
- 3.8** A motion was agreed 'That Council agrees that the Leader of the Council will write to the Secretary of State admonishing them for the failure to support this Council's request for a public enquiry; to ask them to reconsider their decision and invite the minister or their representatives to meet with representatives of this Council to discuss our concerns.' A copy of the original response from Ms Pow MP and the Leader's letter to Mr Sunak Prime Minister are attached in Appendix 2 and 3.

Environment Agency Regulatory and Enforcement Action

- 3.9** The Environment Agency has continued to provide updates on their regulatory activity on the Walleys Quarry Landfill and can be accessed here: <https://engageenvironmentagency.uk.engagementhq.com/hub-page/walleys-quarry-landfill>
- 3.10** These updates reflect regular EA officer presence at the site to review progress with the Contain Capture Destroy strategy. The Compliance Assessment Reports (published on the [EA website](#)) provide further details of the site visits undertaken.
- 3.11** The following table provides a summary of the published CAR (Compliance Assessment Report) forms since the last Cabinet report:

Date of Report	Date issued	CAR Reference	Assessment	Compliance score
02/10/23	16/10/23	DP3734DC/0476949	Site inspection (unannounced)	31
26/10/23	08/11/23	DP3734DC/0479867	Site inspection (announced)	0
08/11/23	21/11/23	DP3734DC/0481216	Site inspection (unannounced)	Onew CAR

22/11/23	11/12/23	DP3734DC	Site inspection (announced)	0
21/11/23	04/12/23	DP373DC/0482454	Site inspection (unannounced)	0

3.12 The CAR dated 02 October 2023 scored a category 2 non-compliance (31 CCS points) for 2 breaches.

- **C2 General Management – Management System & Operating Procedures - Permit Condition 2.4.1** ‘failed to install a temporary clay cap to the flanks of phase 4, with the exception of the lower part of the south facing flank of Phase 4 above the haul road, in accordance with the agreed Capping and Phasing Plan. ‘This is a non-compliance which could have a significant effect on quality of life if not addressed. promptly and adequately, due to an increased risk of fugitive emissions of landfill gas from the uncapped area of Phase 4, with the potential for off-site odour causing offence to local residents’ sense of smell’.
- **C2 General Management – Management System & Operating Procedures - Permit condition 2.4.1.** ‘You have been scored a category 2 non-compliance (31 CCS points), because you have carried out landfill operations without adequate seals on a leachate well (LS7A) as specified in the OMP’ [Odour Management Plan]. This is a non-compliance which could have a significant effect on quality of life if not addressed promptly and adequately, due to an increased risk of fugitive emissions of landfill gas from an unsealed leachate well, with the potential for off-site odour causing offence to local residents’ sense of smell.
- ‘The total non-compliance score for this assessment is 31 CCS points. When we identify several non-compliances under permit condition, we consolidate these. The risk category and score we give is usually the most severe non-compliance we have identified. The scores for both non-compliances recorded under permit condition 2.4.1 have been consolidated’.

3.13 On 8 December 2023 the EA provided an update video on their Facebook page. On 12 January 2023 the EA provided a further update video. You can view it by clicking [here](#).

Key Performance Data

3.14 Through the settlement agreement both Walleys Quarry Ltd and the Council have developed key performance indicators in relation to relevant data from each organisation. These key performance indicators are shown in Appendix 4 and 5.

3.15 The data from the Council covers the period from October to December 2023, and provides complaint numbers and officer assessments.

3.16 The data from Walleys Quarry Limited provides data on waste acceptance, odour management, landfill operations, landfill gas management, leachate management and information relating to the EA regulator as the primary regulator of the site. The KPI data and explanatory notes for December is awaited and will be uploaded later as Appendix 5.

4. Proposal

4.1 Cabinet is recommended to:

- Note the contents of this update report.

5. **Reasons for Proposed Solution**

- 5.1 To ensure Cabinet is kept updated of the ongoing work to address the issues associated with the odours from Walleys Quarry landfill and to keep under review opportunities to further action.

6. **Options Considered**

- 6.1 To provide regular updates to Cabinet.

7. **Legal and Statutory Implications**

- 7.1 Part III of the Environmental Protection Act 1990 is the legislation concerned with statutory nuisances in law. This is the principal piece of legislation covering the Council's duties and responsibilities in respect of issues relating to odour nuisance:

- The Environmental Protection Act 1990, section 79 sets out the law in relation to statutory nuisance. This is the principal piece of legislation covering the Council's duties and responsibilities in respect of issues relating to odour nuisance.
- The relevant part of Section 79 defines a statutory nuisance as any smell or other effluvia arising on industrial, trade or business premises which is prejudicial to health or a nuisance. The Council is responsible for undertaking inspections and responding to complaints to determine whether a statutory nuisance exists.
- Where a statutory nuisance is identified or considered likely to arise or recur, section 80 of the Act requires that an abatement notice is served on those responsible for the nuisance. The abatement notice can either prohibit or restrict the nuisance and may require works to be undertaken by a specified date(s).
- It is then a criminal offence to breach the terms of the abatement notice. Because the site is regulated by the Environment Agency under an Environmental Permit, the council would need to obtain the consent of the Secretary of State before it is able to prosecute any offence of breaching the abatement notice.
- The Act provides powers in respect of a breach. If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, they shall be guilty of an offence. If this is on industrial, trade or business premises shall be liable on conviction to an unlimited fine. It is a defence that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

8. **Equality Impact Assessment**

8.1 The work of the Council in this regard recognises that the problematic odours in the area may impact on some groups more than others. The work is focussed on minimising this impact as soon as possible.

9. Financial and Resource Implications

9.1 Dedicated officer resource has been allocated to continue the Council's work regarding Walleys Quarry Landfill.

9.2 From April 2023 there is £100k reserved for legal action associated with Walley Quarry landfill site. In the event that formal action is required, a separate report will be brought to full Council to approve additional funds.

10. Major Risks

10.1 A GRACE risk assessment has been completed including the following main risks:

- Failure to achieve a reduction in odour levels;
- Community dissatisfaction at odour levels;
- The ability to take enforcement action against abatement notice;
- Failure to evidence a breach of the abatement notice;
- Secretary of State refuses permission to undertake prosecution proceedings.

10.2 Controls have been identified and implemented in order to control these risks; the main controls include:

- Provisions in settlement agreement ensures greater transparency for public;
- Provisions in settlement agreement ensures regular meetings with Walleys Quarry which enable issues to be discussed;
- Dedicated officer resource for Walleys Quarry work has been secured;
- Continued air quality monitoring provision;
- Robust procedure for investigating complaints with experienced officers;
- Specialist expert advice maintained;
- Multi-Agency partnership working continues.

11. UN Sustainable Development Goals (UNSDG)



12. Key Decision Information

12.1 As an update report, this is not a Key Decision.

13. Earlier Cabinet/Committee Resolutions

13.1 This matter has been variously considered previously by Economy, Environment & Place Scrutiny Committee, Council and Cabinet on 21 April 2021, 9th June 2021, 7th July 2021, 21st July 2021, 8th September 2021, 13th October 2021, 3rd November 2021, 17th November, 1st December 2021, 12th January 2022, 2nd February 2022, 23rd February 2022, 23rd March 2022, 20th April 2022, 7th June 2022, 19th July 2022, 6th September 2022, 18th October 2022, 8th November 2022, 6th December 2022, 10th January 2023, 7th February 2023, 13th March 2023, 5th April 2023, 6th June 2023, 18th July 2023, 19th September 2023, 17th October 2023, 7th November 2023, 5th December 2023.

14. List of Appendices

- 14.1** Appendix 1. Historical Complaint data
- 14.2** Appendix 2. Letter from Ms Pow MP
- 14.3** Appendix 3. Letter to Mr Sunak PM
- 14.4** Appendix 4. NUL Key Performance Data
- 14.5** Appendix 5. WQL Key Performance Data