

Licensing Committee

Agenda

Date: Friday, 13th February, 2009
Time: 10.00 am
Venue: The Capesthorne Room - Town Hall, Macclesfield SK10 1DX

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

4. **Minutes of Previous Meeting** (Pages 1 - 4)

To approve the Minutes of the Meeting held on 14 January 2009.

5. **Terms of Reference** (Pages 5 - 14)

To consider amended terms of reference for the Licensing Committee and its Sub-Committees.

6. **Statement of Licensing Policy - Licensing Act 2003** (Pages 15 - 38)

To consider the consultation responses received and to recommend the draft policy to Council.

7. **Statement of Principles - Gambling Act 2005** (Pages 39 - 64)

To consider the consultation responses received and to recommend the draft policy to Council.

8. **Fees and Charges** (Pages 65 - 74)

To consider the consultation responses received and to determine the fees to be charged by the Council in relation to the licensing of hackney carriage and private hire vehicles, drivers and operators.

9. **Date of Next Meeting**

To note the time, date, and venue of the next meeting: 10am on Friday 13 March 2009 in the Council Chamber, Municipal Buildings, Crewe.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Wednesday, 14th January, 2009 at The Capesthorpe Room
Town Hall, Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)
Councillor D Bebbington (Vice-Chairman)

Councillors Mrs R Bailey, G Baxendale, T Beard, H Davenport, B Dykes,
Mrs E Gilliland, J Goddard, M Hardy, A Ranfield and Mrs C Tomlinson

12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors L Gilbert and
M Parsons.

13 DECLARATIONS OF INTEREST

There were no declarations of interest.

14 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from members of the public.

The Committee noted that Licensing was a quasi-judicial committee, and that provision was already made for members of the public to speak at meetings. In addition, parties who were not happy with the decision of the Committee in relation to applications had a right of appeal against such decisions to the Magistrates Court.

RESOLVED – That the Governance and Constitution Committee be requested to consider an amendment to Procedure Rule 35 of the Constitution, to waive the provision for members of the public to ask questions at meetings of the Licensing Committee.

15 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 19 December 2008 be confirmed as a correct record, subject to the amendment of minute 7(a) to read: 'That Sub-Committees consisting of three Members of the Licensing Committee be established to deal with matters under the Licensing Act 2003 and the Gambling Act 2005, and that the quorum of such Sub-Committees be three.'

16 PRIVATE HIRE VEHICLE LICENSING

The Committee considered a report relating to proposed licence conditions for vehicles to be licensed as private hire vehicles from 1 April 2009.

The proposed conditions had been drawn from the conditions currently in force at one or more of the three constituent authorities of Cheshire East and had been chosen to reflect the best of the current practices from those authorities.

It was proposed to hold a six week consultation exercise with the existing holders of private hire vehicle licences at Crewe and Nantwich, Congleton and Macclesfield, the result of which would be reported to a future meeting of the Committee.

The Principal Licensing Officer reported that condition 9.1viii had been amended to read: 'when the taximeter is brought into action the fare and permitted extras shall be shown legibly on the face of the meter and shall be no more than that permitted by the *private hire operator's tariff of fares approved by the Council*.'

RESOLVED - That the proposed private hire vehicle licence conditions be approved for the purpose of a consultation exercise with the private hire trade.

17 PRIVATE HIRE VEHICLE OPERATOR LICENSING

The Committee considered a report relating to proposed licence conditions for operators of private hire vehicles from 1 April 2009.

The proposed conditions had been drawn from the conditions currently in force at one or more of the three constituent authorities of Cheshire East and had been chosen to reflect the best of the current practices from those authorities.

It was proposed to hold a six week consultation exercise with the existing holders of operator licences at Crewe and Nantwich, Congleton and Macclesfield, the result of which would be reported to a future meeting of the Committee.

RESOLVED - That the proposed private hire vehicle operator licence conditions be approved for the purpose of a consultation exercise with the private hire trade.

18 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS' LICENCE CONDITIONS

The Committee considered a report relating to proposed conditions for Hackney Carriage and Private Hire Drivers Licenses from 1 April 2009.

The proposed conditions had been drawn from those currently in force in the three constituent authorities of Cheshire East and had been chosen to reflect the best of the current practices from those authorities.

It was proposed to hold a six week consultation exercise with the existing holders of Hackney Carriage and Private Hire Drivers Licences in the three districts, the result of which would be reported to a future meeting of the Committee.

RESOLVED – That the proposed hackney carriage/private hire driver's licence conditions be approved for the purpose of a consultation exercise with the holders of current hackney carriage and private hire drivers' licences.

19 HACKNEY CARRIAGE ZONING

The Committee considered a report relating to the transfer of the hackney carriage licensing function of each existing authority into the new authority.

There was insufficient time for the research and consultation necessary for the harmonisation of all matters in relation to hackney carriage licensing to take place before vesting day. It was therefore proposed that no action be taken, thereby allowing the automatic creation of hackney carriage zones. The varying tariffs, byelaws, vehicle conditions and licensing policies of the three former authorities would continue to have effect within the zones until the new authority was in a position to replace them with common Cheshire East tariffs, byelaws, conditions and policies.

RESOLVED

- (a) That the course of taking no action at this time be adopted, thereby allowing the creation of hackney carriage zones on vesting day.
- (b) That the Head of Licensing, Cheshire East Council, be requested to undertake a thorough review of the hackney carriage licensing function in the first year of the new authority.

20 LICENSING OF SEX ESTABLISHMENTS

The Committee considered a report relating to proposed conditions for sex shop licences from 1 April 2009.

The proposed conditions had been drawn from the conditions currently in force in the Boroughs of Macclesfield and Crewe and Nantwich and had been chosen to reflect the best of the current practices from those authorities.

It was proposed to hold a six week consultation exercise with the existing holders of sex shop licences at Crewe and Nantwich and Macclesfield,

the result of which would be reported to a future meeting of the Committee.

RESOLVED – That the proposed sex shop licence conditions be approved for the purpose of a consultation exercise with the holders of current sex shop licences.

The meeting commenced at 2.00 pm and concluded at 2.45 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th February 2009
Report of: Kate Khan
Title: Terms of reference

1.0 Purpose of Report

- 1.1 The purpose of the report is to approve the amended terms of reference for the Licensing Committee.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to approve the amended terms of reference relating both to the full Committee and Sub-Committees.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 As set out within the report.

6.0 Risk Assessment

- 6.1 There is a risk of legal challenge to decisions taken by the licensing authority the allocation of functions is not clear.

7.0 Background and Options

Background

- 7.1 As Members will recall at is meeting on 19th December the Licensing Committee resolved to approve both terms of reference and the delegation of functions between the full Committee, Sub-Committees and Officers. The Committee noted that the terms of reference may be subject to amendment as

decisions were taken across the Council as to the allocation of functions between service areas.

- 7.2 Attached to this report is an updated version of the terms of reference for the Committee which (i) includes certain functions which were additional to those originally presented to the Committee (for example alcohol disorder zones); (ii) sets out those licensing and registration functions covered within a schedule to the terms of reference; and (iii) illustrates the previous decision of the Committee in relation to the separation of the functions between the full Committee and the Sub-Committees.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to terms of reference for Licensing Committees and Sub-Committees in place is a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The recommendations are made to ensure that the terms of reference are clear and incorporate all the relevant functional responsibility of the Committees.

For further information:

Officer: Mrs K Khan, Solicitor
Tel No: (01625) 504264
Email: k.khan@macclesfield.gov.uk

Background Documents:

None

SECTION 2B - Council (Non-Executive) Functions - Committees Terms of Reference

Licensing Committees

Matters relating to the administration of licences which are determinable by the Council as set out within the attached Schedule, including the delegation of functional responsibility to individual officers for determination of any application for Consents, Licences, Certificates, Permits, Registrations or the like.

To hear and determine appeals against any decisions of Officers in relation to the grant, renewal, transfer, variation, refusal, revocation, suspension or imposition of condition in accordance with the Council's licensing procedure.

The discharge of the Council's functions under section 13(2) the Criminal Justice and Police Act 2001

The discharge of the Council's functions under section 16 the Violent Crime Reduction Act 2006.

Provided that before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.

Responsibilities of Full Committee and Sub-Committees

The functions of the Licensing Committee (subject to the delegations to officers contained within Section 2C) shall be determined by the Full Committee or Sub-Committees based on the delegations set out below.

These delegations to Sub-Committees shall be subject to the proviso that the Chairman or Vice Chairman of the full Committee may refer a matter up from a Sub-Committee to the full Committee where that matter is significant or controversial in nature

Licensing Act 2003/Gambling Act 2005 Sub-Committee

Function	Full Committee	Sub-Committee
Determination of application for Premises Licence (section 18(3) 2003 Act)		To determine applications where representations have been made and not withdrawn
Determination of application for Provisional Statements (section 31(3) 2003 Act)		To determine applications where representations have been made and not withdrawn
Determination of application for variation of Premises Licence (section 35(3) 2003 Act)		To determine applications where representations have been made and not withdrawn
Determination of application for variation of designated premises supervisor (section 39(3) 2003 Act)		To determine applications where police objection has been made
Determination of application for transfer of Premises Licence (section 44(5) 2003 Act)		To determine applications where police objection has been made

Act)		
Determination of application relating to an interim authority notice (section 48(3) 2003 Act)		Consideration of police objection to an interim authority notice
Determination of application for a review of a Premises Licence (section 52(2) 2003 Act)		To determine applications for review
Determination of an application for a Club Premises Certificate (section 72(3) 2003 Act)		To determine applications where representations have been made and not withdrawn
Determination of an application to vary a Club Premises Certificate (section 85(3) 2003 Act)		To determine applications where representations have been made and not withdrawn
Determination of an application for the review of a Club Premises Certificate (section 88 2003 Act)		To determine review applications
Decision to give a counter notice to a Temporary Event Notice (section 105(2) 2003 Act)		To give a counter notice following a police objection to a temporary event notice
Determination of application for the grant of a Personal Licence (section 120(7) 2003 Act)		To determine applications where police objection has been made
Determination of application for the renewal of Personal Licence (section 121(6) 2003 Act)		To determine applications where police objection has been made
Revocation of Personal Licence (section 124(4) 2003 Act)		To revoke Personal Licence where convictions come to light after the grant/renewal of the Licence
Determination of review following closure order (section 167(5) 2003 Act)		To determine review applications following a closure order where representations are made
Decision to object when the local authority is the consultee not the relevant authority considering an application (2003 Act)		To determine whether to make an objection
Determination of application for Premises Licence (section 163 2005 Act)		To determine applications where representations have been made and not withdrawn
Determination of application for variation of Premises Licence (section 187 2005 Act)		To determine applications where representations have been made and not withdrawn
Determination of application for transfer of Premises Licence (section 188 2005 Act)		To determine applications where objection has been made
Consideration of objection made to application for reinstatement (section 195 2005 Act)		To consider the objection
Determination of an application for the review of a Premises Licence (section 201 2005 Act)		To determine review application
Determination of application for Provisional Statement (section 204 2005		To determine applications where representations have been made

Act)		and not withdrawn
Decision to give a counter notice to a Temporary Use Notice (section 224 2005 Act)		To give a counter notice following an objection to a temporary use notice
Consideration of representations in relation to proposed rejection of a club gaming permit or club machine permit (schedule 12 2005 Act)		To consider representations and determine whether permit to be rejected
Cancellation of club gaming permit or club machine permit (schedule 12 2005 Act)		To determine whether to cancel permit
Decision to make an order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises (section 284 2005 Act)		To determine whether an order to be made where representations made by licensee and not withdrawn.
Power to set fees for Premises Licence (section 212 2005 Act)	To set fees	

General' Licensing Sub-Committee

Subject to the matters reserved to the full Committee below, the 'general' Licensing Sub-Committee shall deal with the licensing functions set out below together with any other function within Schedule 1 referred to it by officers (with the exception of matters under the Licensing Act 2003/Gambling Act 2005).

Function	Full Committee	Sub-Committee
Power to licence (first grant, renewal and transfer) hackney carriages and private hire vehicles		To determine applications where the vehicle does not meet the Council's vehicle conditions or the vehicle does not pass the inspection.
Power to suspend or revoke hackney carriage and private hire vehicle licences		To note reports relating to officer decisions to suspend vehicle licences. The power to revoke vehicle licences.
Power to licence (first grant or renewal) operators licences		To determine applications where the Council's requirements are not met.
Power to suspend or revoke operators licences		To note reports relating to officer decisions to suspend operators licences. Power to revoke operators licences.
Power to licence (first grant or renewal) hackney carriage and private hire drivers		To determine applications where the driver does not meet the Council's requirements.
Power to suspend or revoke hackney carriage and private		To note reports relating to officer decisions to suspend drivers

hire drivers licences		licences. Power to revoke drivers licences.
Power to set fees in relation to hackney carriage and private hire drivers, vehicles and operators	Power to set fees.	
Power to licence sex shops and sex cinemas (including first grant, renewal, transfer and variation of standard conditions)	<p>First grant: all cases before the Licensing Committee.</p> <p>Renewal: if there are objections which are not withdrawn and which cannot be dealt with under the authority delegated to officers.</p> <p>Transfer: if there are objections which are not withdrawn and which cannot be dealt with under the authority delegated to officers.</p> <p>Variation of standard</p>	
Power to set fees for sex establishments	Power to set fees	
Power to licence street collection		<p>To determine requests for waiver of the Council's street collection regulations.</p> <p>Determines appeals against officer refusal.</p>
Power to licence House to House collection		Determines appeals against officer refusal.
Power to issue street trading licences or consents		<p>To determine applications for street trading consents where representations have been received (and not withdrawn).</p> <p>To determine applications for street trading licences.</p>
Power to designate streets as consent streets, licence streets or prohibited streets.	Power to designate streets	
Power to set fees in relation to street trading	Power to set fees.	
Power to make a Designated Public Places Order	Power to make order	
Power to designate area as an Alcohol Disorder Zone	Power to make designation	

SCHEDULE

Schedule of functions

All Council (non-executive) functions relating to:

(a) licensing and registration functions in respect of:

- (i) Caravan sites and moveable dwellings/camping sites¹
- (ii) Hackney carriages and private hire vehicles, drivers and operators²
- (iii) Sex shops and sex cinemas³
- (iv) Performances of hypnotism⁴
- (v) Acupuncture, tattooing, ear-piercing and electrolysis⁵
- (vi) Pleasure boats and vessels⁶
- (vii) Market and street trading⁷
- (viii) Premises for the preparation of food⁸
- (ix) Scrap yards and motor salvage operators⁹
- (x) Dog breeding, pet shops, animal breeding, animal trainers and exhibitors, zoos and wild animals¹⁰
- (xi) Employment of children¹¹
- (xii) Charitable collections¹²
- (xiii) Operation of loudspeakers¹³
- (xiv) Storage of celluloid¹⁴
- (xv) Meat product premises and dairy establishments¹⁵
- (xvi) Egg products, butchers and fish products¹⁶
- (xvii) Auction and wholesale markets¹⁷
- (xviii) Food business premises¹⁸

(b) Health and safety at work¹⁹ to the extent that those functions are discharged otherwise than in the authority's capacity as an employer;

(c) smoke-free premises under the Health Act 2006 and regulations;²⁰

¹ Items 2 & 3 of para B of Schedule 1 Local Authorities (Functions and Responsibilities)(England) Regulations 2000

² Items 3 – 5 of para B of Schedule 1 to the 2000 Regulations

³ Item 15 of para B of Schedule 1 to the 2000 Regulations

⁴ Item 16 of para B of Schedule 1 to the 2000 Regulations

⁵ Item 17 of para B of Schedule 1 to the 2000 Regulations

⁶ Item 18 of para B of Schedule 1 to the 2000 Regulations

⁷ Item 20 of para B of Schedule 1 to the 2000 Regulations

⁸ Item 24 of para B of Schedule 1 to the 2000 Regulations

⁹ Item 25 and 71 of para B of Schedule 1 to the 2000 Regulations

¹⁰ Items 29 – 33 of para B of Schedule 1 to the 2000 Regulations

¹¹ Item 35 of para B of Schedule 1 to the 2000 Regulations

¹² Item 39 of para B of Schedule 1 to the 2000 Regulations

¹³ Item 40 of para B of Schedule 1 to the 2000 Regulations

¹⁴ Item 56 of para B of Schedule 1 to the 2000 Regulations

¹⁵ Items 57-59 of para B of Schedule 1 to the 2000 Regulations

¹⁶ Items 60-65 of para B of Schedule 1 to the 2000 Regulations

¹⁷ Item 66 of para B of Schedule 1 to the 2000 Regulations

¹⁸ Item 67 of para B of Schedule 1 to the 2000 Regulations

¹⁹ Para C of Schedule 1 to the 2000 Regulations

²⁰ Para FA of Schedule 1 to the 2000 Regulations

(d) Designated Public Place Orders under the Criminal Justice and Police Act 2001 and regulations¹

(e) Alcohol Disorder Zones under the Violent Crime Reduction Act 2006²

(f) the following functions under the Licensing Act 2003³ and the Gambling Act 2005⁴:

- (i) section 18(3) of the 2003 Act (determination of application for a premises licence where representations have been made);
- (ii) section 31(3) of the 2003 Act (determination of application for provisional statements where representations have been made);
- (iii) section 35(3) of the 2003 Act (determination of application for variation of premises licence where representations have been made);
- (iv) section 39(3) of the 2003 Act (determination of application to vary designated premises supervisor following police objection);
- (v) section 44(5) of the 2003 Act (determination of application for transfer of premises licence following police objection);
- (vi) section 48(3) of the 2003 Act (consideration of police objection made to an interim authority notice);
- (vii) section 52(2) or (3) of the 2003 Act (determination of an application for review of a premises licence);
- (viii) section 72(3) of the 2003 Act (determination of an application for a club premises certificate where relevant representations have been made);
- (ix) section 85(3) of the 2003 Act (determination of application to vary club premises certificates where representations have been made);
- (x) section 88(2) or (3) of the 2003 Act (determination of application for a review of club premises certificate);
- (xi) section 105(2) (decision to give counter notice following police objection to a temporary event notice);
- (xii) section 120(7) of the 2003 Act (determination of application for grant of personal licence following police objection);
- (xiii) section 121(6) of the 2003 Act (determination of application for renewal of personal licences following police objection);
- (xiv) section 124(4) of the 2003 Act (revocation of licence where convictions come to light after grant or renewal of personal licences);
- (xv) section 167(5) (review following closure order where relevant representations have been made);
- (xvi) section 163 of the 2005 Act (determination of an application for premises licences where representations have been made);
- (xvii) section 187 of the 2005 Act (determination of an application for variation of premises licence where representations have been made);
- (xviii) section 188 of the 2005 Act (determination of application for transfer of premises licence following objection);
- (xix) section 195 of the 2005 Act (consideration of objection made to an application for reinstatement);
- (xx) section 201 of the 2005 Act (determination of review of a premises licence);

¹ Item 49 of para I of Schedule 1 to the 2000 Regulations

² Item 50 of para I of Schedule 1 to the 2000 Regulations

³ Item 14A of para B of Schedule 1 to the 2000 Regulations

⁴ section 154 and 232, Schedule 10 paragraph 6, Schedule 12 paragraph 28, Schedule 13 paragraph 3 and Schedule 14 paragraph 7 of the Gambling Act 2005

- (xxi) section 204 of the 2005 Act (determination of application for a provisional statement where representations have been made);
- (xxii) section 224 of the 2005 Act (decision to give counter notice following an objection to a temporary use notice)
- (xxiii) schedule 12 of the 2005 Act (determination as to cancellation of a club gaming permit or club machine permit)
- (xxiv) schedule 12 of the 2005 Act (consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit).
- (xxv) section 284 of the 2005 Act (determination of whether an order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises to be made)
- (xxvi) section 212 of the 2005 Act (power to set fees)

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CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th February 2009

Report of: Mrs K Khan – Licensing Solicitor

Title: Licensing Act 2003 – Statement of Licensing Policy

1.0 Purpose of Report

- 1.1 Licensing Authorities must approve and publish a Statement of Licensing Policy in order to carry out functions relating to the licensing of alcohol and entertainment under the Licensing Act 2003. Where practicable the Council is required to produce its Statement of Licensing Policy by 1st April 2009.
- 1.2 The Council is required to undertake a consultation exercise with stakeholders on the content of the Statement before it is determined. The purpose of this report is to advise the Committee of representations received and that any amendments considered appropriate in the light of the representations are made.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to consider the consultation responses received in relation to the Statement of Licensing Policy under the Licensing Act 2003 and to recommend the draft policy, subject to any amendments the Committee considers necessary, to Council.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Local Government (Structural Changes)(Transitional Arrangements)(No 2) Regulations 2008 provide that the preparation of a statement of principles by the shadow Council will be taken as satisfying the requirements of the Licensing Act 2003 as regards the three year period commencing on 7th January 2011. For this reason the statement is not required to be reviewed again until January 2014.

5.0 Legal Implications

- 5.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of policy that it proposes to apply in exercising its functions under the Act.

- 5.2 The Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 provide that, where it is practicable to do so, a statement of principles under the Licensing Act 2003 shall be produced by 1 April 2009.

6.0 Risk Assessment

- 6.1 There would be a risk of legal challenge if consultation responses received were not considered.

7.0 Background and Options

- 7.1 As Members will be aware, section 5 of the Licensing Act 2003 requires all licensing authorities to prepare and publish a Statement of Licensing Policy which that authority will apply when exercising its functions under the Act during the three year period to which the policy applies.
- 7.2 At its meeting on 17th December 2008 Cabinet resolved to approve the draft policy in order that it may go forward for statutory consultation.
- 7.3 The Act requires that the following persons/bodies must be consulted before any policy is published: the Police, the Fire Authority, local licence holders and/or their representatives and local businesses and residents or their representatives. Copies of the policy was forwarded to Parish and Town Councils together with residents groups and local Pub Watch representatives. A copy of the policy has also been available on the Council's website throughout the consultation period.
- 7.4 In determining its Statement of Policy, the Council, as Licensing Authority, must have regard to the statutory requirements within the Act and the Secretary of State's Guidance issued under section 182 of the Act. In addition, the Council is required to take into account the views of those who submit consultation responses; the Guidance states that 'the views of all these persons/bodies listed should be given appropriate weight when the policy is determined.'
- 7.5 Attached as Appendix A is the draft policy as it went out for consultation. Appendix B is a table showing the details of the consultation responses received.
- 7.6 The Committee is requested to consider the consultation responses and any amendments to the draft statement of principles as a result of these responses. The Committee is further requested to recommend the statement to Council, subject to any amendments the Committee feels are required.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have a Statement of Licensing Policy in place is, where practicable, a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The Council is required to produce and publish, every three years a statement of the policy which it proposes to apply when exercising its functions under the Licensing Act 2003; where practicable this is required to be done by 1 April 2009. The Committee is asked to recommend the policy to Council so that it may be formally approved to take effect on 1 April 2009.

For further information:

Officer: Mrs K Khan

Tel No: (01625) 504264

Email: k.khan@macclesfield.gov.uk

Background Documents:

The Licensing Statement of Macclesfield Borough Council

The Licensing Statement of Congleton Borough Council

The Licensing Statement of Policy of Crewe & Nantwich Borough Council dated 28th November 2007

Documents are available for inspection at:

Macclesfield Borough Council – Legal and Democratic Services, Town Hall, Macclesfield

Congleton Borough Council – Community Safety Dept, Westfields, Middlewich Road, Sandbach

Crewe & Nantwich Borough Council – Licensing Section, Municipal Buildings, Earle Street, Crewe

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CHESHIRE EAST COUNCIL**STATEMENT OF LICENSING POLICY
(LICENSING ACT 2003)****FOREWORD**

Cheshire East has a population of 358,900 and covers an area of 116,638 hectares. Cheshire East's administrative area contains the industrial town of Crewe, the old mill towns of Macclesfield, Bollington and Congleton, the market towns of Nantwich, Knutsford and Sandbach, the salt town of Middlewich, the town of Wilmslow as well as the smaller settlements of Holmes Chapel, Alsager and Poynton.

Each of the former district Councils within Cheshire East first produced and published licensing policy statements in January 2005 following the commencement of the Licensing Act 2003.

This Statement of Licensing Policy draws on the original policies of each of the districts and sets down a policy on how Cheshire East Council will deal with applications in order to achieve the four licensing objectives, namely;

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

It is intended that this policy will be a guide for both applicants and those other parties who have an interest in these matters. Whilst the policy provides framework guidance, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.

(date)

CHESHIRE EAST COUNCIL**STATEMENT OF LICENSING POLICY
(LICENSING ACT 2003)****1. INTRODUCTION**

- 1.1 This Statement of Licensing Policy ('the Policy') is published by Cheshire East Council ('the Council') as the licensing authority ('the Licensing Authority') in accordance with section 5 of the Licensing Act 2003 ('the Act').
- 1.2 The Policy takes into account the guidance issued under section 182 of the Act by the Department of Culture Media and Sport. The latest guidance was published by the DCMS on 28th June 2007; a copy of the guidance may be accessed via the DCMS website, www.culture.gov.uk

- 1.3 In accordance with section 4 of the Act, the Licensing Authority shall have regard to the Policy in the exercise of its functions in respect of licensable activities and qualifying licensable activities.

‘Licensable activities’ means:

- The sale by retail of alcohol;
- The provision of regulated entertainment; and
- The provision of late night refreshment

‘Qualifying licensable activities’ means:

- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- The sale by retail of alcohol by or on behalf of a club to a guest or member of the club for consumption on the premises where the sale takes place; and
- The provision of regulated entertainment where that provision is made on behalf of a club for members of the club or members of the club on behalf of their guests,

in accordance with section 1 of the Act and Schedules 1 and 2 to the Act.

The full list of licensable activities is set out at Appendix 1.

- 1.4 In formulating the Policy, the Licensing Authority has consulted interested bodies including the Chief Officer of Police, the Fire Authority, representatives of holders of premises licences, representatives of holders of club premises certificates and representatives of businesses and residents within the Council’s administrative area.
- 1.5 In determining the Policy, the Licensing Authority has given due weight to the views expressed by those who responded to the consultation exercise.

2. OBJECTIVES

- 2.1 The Licensing Authority will exercise its licensing functions with a view to promoting the four licensing objectives set out within section 4 of the Act, namely:
- **The prevention of crime and disorder;**
 - **Public safety;**
 - **The prevention of public nuisance; and**
 - **The protection of children from harm**

3. POLICY CONSIDERATIONS

- 3.1 This policy does not prejudice the requirement for the Licensing Authority to consider each application upon its own individual merits.
- 3.2 Nothing in the Policy will:

3.2.1 Undermine the rights of any individual to apply under the terms of the Act for a variety of permissions and have the application considered on its individual merits; and

3.2.2 Override the right of a person or a body who is an interested party or responsible authority (as defined within the Act) to make representations on an application or to seek a review of a licence or certificate in accordance with the provisions of the Act.

3.3 Matters within the control of the licence holder

3.3.1 The Licensing Authority recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore the direct control of the licence (or certificate) holder. Accordingly, in exercising its licensing functions the Licensing Authority will focus upon matters, which are within the control of the individual applicant or licence holder.

3.3.2 The Licensing Authority will however expect applicants to consider and make necessary provision to ensure that harm is not caused to the licensing objectives as a result of activity in, or in the vicinity of, the licensed premises.

3.3.3 Where appropriate, following receipt of relevant representations, the Licensing Authority may attach conditions to the grant of a licence or certificate which seeks to regulate the behaviour of persons as they leave licensed premises.

3.4 Need for licensed premises

3.4.1 When exercising its licensing functions the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for any particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.

3.5 Anti-social behaviour

3.5.1 The Licensing Authority recognises that in addition to the requirements for it to promote the licensing objectives, the Local Authority has a duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder within its administrative area.

3.5.2 The Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of anti-social behaviour including:

- Planning controls;
- Measures (including closed circuit TV) to create a safer and cleaner environment in partnership with businesses and other agencies;
- 'Alcohol designation orders' also known as "Designated No Drinking Zones" made under the Criminal Justice and Police Act 2001 under which the Police have the power to confiscate alcohol
- The use by Police of powers such as the issue of fixed penalty notices and prosecution for sales to underage drinkers;

- The power of the Police to close down a premises for twenty-four hours on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;
- Powers under sections 40 and 41 of the Anti-Social Behaviour Act 2003 which provides authorised Environmental Health Officers the power to issue a closure order effective for up to 24 hours in situations where the noise from a licensed premises is causing a public nuisance;
- The powers available to local authorities and the Police contained within the Violent Crime Reduction Act 2006;
- The power available to local authorities to issue fixed penalty notices to licensed premises emitting noise which exceeds the permitted level between 11pm and 7am within the Clean Neighbourhoods and Environment Act 2005;
- The normal enforcement work carried out by the Police; and
- The ability for the Police, or other responsible authority or local residents/businesses to seek a review of a licence or certificate.

4. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION

- 4.1 The Licensing Authority will consider the Local Authority's approved strategies and policies where they are relevant to the exercise of its function as the licensing authority.
- 4.2 The Licensing Authority will provide information in relation to Premises Licences and Club Premises Certificates granted to the Planning Department and the relevant transport agencies in order that the provision of late night transport from entertainment venues may be considered.
- 4.3 The Licensing Authority recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes.
- 4.4 The Licensing Authority recognises that there should be a clear separation of the planning, building control and licensing regimes in order to avoid duplication. Whilst there may be some factors affecting the planning decision, which may also affect the decision of the Licensing Committee, licensing applications will not be a re-run of planning applications.
- 4.5 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 4.6 The Licensing Authority recognises that as part of implementing local authority cultural strategies, proper account should be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays for the wider cultural benefit of communities. The Licensing Authority recognises the need for a balance the cultural needs with the necessity of promoting the licensing objectives.

5. STEPS TO PROMOTE THE LICENSING OBJECTIVES

Operating schedules

- 5.1 Applications for Premises Licences and Club Premises Certificates must be accompanied by an operating schedule, which is a written description of how the premises and proposed activities will be operated and managed. The operating schedule should address how the applicant proposed to meet the four licensing objectives.
- 5.2 The Licensing Authority takes the view that the applicants should discuss their operating schedules in draft form with the appropriate Responsible Authorities (as set out within Appendix 2) particularly the Police, the Fire and Rescue Service and the Local Authority's Environmental Health Department prior to formal submission of the application. Applicants will thereby have access to expert advice on the steps that may be necessary to promote the licensing objectives.
- 5.3 The Licensing Authority recognises that the number of issues which need to be addressed within an operating schedule will depend on the size of the premises and the type of licensable activity provided. Whilst the following lists are not exhaustive, the Licensing Authority expects applicants to consider the following issues:

5.4.1 Prevention of Crime and Disorder

The means by which crime and disorder will be prevented by the effective management and operation of the licensed activities. The issues may include:

- Crime prevention design, including appropriate lighting of exterior areas;
- Door supervision together with the maintenance of an incident book;
- Use of toughened or plastic glasses;
- Mechanisms for combating drug dealing and abuse;
- The use of CCTV cameras;
- Use of 'Pubwatch' radio system or other means of communication;
- Use of ID scan equipment

5.4.2 Prevention of public nuisance

The means by which nuisances will be prevented by the effective management and operation of the licensed activities. The issues may include:

- Measures to deal with noise emanating from the premises including external areas such as beer gardens;
- Noise and disturbance caused by people leaving the premises;
- Whether there will be a 'drinking up' time
- Whether doors and windows will be kept closed or other methods of noise control operated;

5.4.3 Public safety

The means by which public safety will be promoted by the effective management and operation of the licensed activities. The issues may include:

- Fire/emergency procedures and the training of staff in such procedures;
- Door supervision together with the maintenance of an incident book;

- Assessments in relation to the safety of performers in addition to audience and staff

5.4.4 Protection of children from harm

The means by which children will be protected from harm (including any damaging, detrimental or injurious effects) by the effective management and operation of the licensable activities. The issues may include:

- Restrictions on access by children either to the whole or any part of the premises;
- Provision of adult supervision;
- Use of recognised proof of age schemes

- 5.5 Every supply of alcohol under a Premises Licence must be made or authorised by the holder of a Personal Licence. The Licensing Authority recommends that in appropriate circumstances, particularly in relation to large premises, a minimum of one member of staff in addition to the Designated Premises Supervisor should hold a Personal Licence.

Large scale events of a temporary nature

- 5.6 The Licensing Authority expects applications for Premises Licences for temporary events (where the event is too large in scale to be authorised by way of a Temporary Event Notice) to submit their draft operating schedules to the Responsible Authorities (in particular the Police, Environmental Health and Health and Safety) well in advance, and no later than six months before the date of the event, in order that proper consultation and discussion can take place between the Responsible Authorities and the applicant.
- 5.7 The Licensing Authority recognises that such events can give rise to special considerations in respect of public safety and therefore expects operating schedules to show an awareness of these matters. Applicants are referred to the following documentation:
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999);
 - Managing Crowds Safety (HSE 2000)
 - Five steps to risk assessment: Case Studies (HSE 1998)
 - The Guide to Safety at Sports Grounds (The Stationary Office, 1997) etc

Small scale events of a temporary nature – Temporary Event Notices

- 5.8 Whilst the provisions of the Act require ten working days notice to be given of temporary events (which fulfil the requirements of Part V of the Act), the Licensing Authority strongly recommends that notices should be submitted sufficiently early to enable proper consultation to take place between the Police and the premises user.
- 5.9 However, it is also recognised that notice should not be given so far in advance of a proposed event that it is difficult for the Police to make a sensible assessment in

relation to the proposals. It is suggested that service of a Temporary Event Notice six months before a proposed event is the maximum period which is appropriate.

6. CONDITIONS

- 6.1 If no relevant representations are received by the Licensing Authority in relation to an application for a licence or certificate, the Licensing Authority will grant the licence/certificate subject only to the applicable mandatory conditions (as set out within the Act) and such conditions as are consistent with the proposals set out within the applicant's operating schedule.
- 6.2 The Licensing Authority may only impose conditions on a licence/certificate where its discretion has been engaged following the receipt of relevant representations and where it is satisfied of the necessity to impose conditions due to the representations received.
- 6.3 Any conditions imposed by the Licensing Authority will be necessary in order to promote the licensing objectives and proportionate to the premises and/or the events to be licensed.
- 6.4 The Licensing Authority will not attach conditions, which, if imposed, would have the effect of duplicating other existing legislative requirements. Conditions, which impose requirements over and above, that contained within other existing legislation may be imposed if relevant representations are received.
- 6.5 The Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 places the onus on applicants and licensees to demonstrate that they have undertaken and recorded a fire safety risk assessment which takes into account risks from fire, measures necessary to control the risks and the identification of safe occupancy levels. It is also recognised that a capacity limit should not be imposed by way of condition on the basis of fire safety grounds as under article 43 of the A 'safe capacity' will only be imposed where necessary for the promotion of public safety or the prevention of crime and disorder and will not be imposed if a capacity has been introduced through other legislation.
- 6.6 Where appropriate, the Licensing Authority will make use of the pool of conditions in Annex D of the guidance published by the Department of Culture Media and Sport (DCMS) in accordance with section 182 of the Act. (The current guidance, issued on 28th June 2008, may be viewed on the DCMS website, www.culture.gov.uk)

7. CUMULATIVE IMPACT

- 7.1 It is recognised that an unusual number, type and density of premises selling alcohol for consumption on the premises within a concentrated area may have a cumulative impact on the promotion of the licensing objectives.
- 7.2 The cumulative effect of the premises may stem from the saturation of the area with such premises making it a focal point for large groups of people to gather and create serious problems of disorder and nuisance.
- 7.3 The nuisance and disorder may be characterised as the cumulative effect of all the premises taken together where the impact on the surrounding areas of the

behaviour of the customers from those premises when taken together is greater than the usual impact from customers of individual premises.

- 7.4 At the present time there is no evidence to suggest that a special policy in relation to cumulative impact is appropriate in respect of any area within Cheshire East, However should evidence become available, then this decision will be reviewed.

8. LICENSING HOURS

- 8.1 The Licensing Authority will determine licensing hours based on the individual merits of each application.
- 8.2 The Licensing Authority recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. It is noted that this can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which lead to disorder and disturbance.
- 8.3 The Licensing Authority further recognises the Government's view that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists. Whilst providing consumers with greater choice and flexibility is an important consideration, the Licensing Authority takes the view this should always be carefully balanced against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 8.4 The Licensing Authority will not seek to impose uniform closure times in relation to alcohol licensed premises and will consider each application on its merits. However, where premises are situated in sensitive areas, in circumstances where the Licensing Authority's discretion has been engaged through the receipt of relevant representations, consideration will be given to the imposition of conditions aimed at limiting the impact of noise and disturbance on residents. Such conditions may, for example, include the use of door supervisors, or measures to prevent the escape of sound from within the premises. Licensees and certificate holders are reminded that they should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance in outside areas such as beer gardens or smoking shelters and in areas such as pavements immediately outside their premises, where and to the extent that these matters are within their control.
- 8.5 The Licensing Authority recommends that applicant's indicate within the operating schedule that consideration has been given to the impact the licensing hours applied for will impact on local residents and the surrounding area.
- 8.6 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting the hours. Consideration may be given to restricting the licensing hours of individual shops in circumstances where representations received indicate that the premises is a focus of disorder and disturbance.

9. CHILDREN

Access to Licensed Premises

- 9.1 Whilst each application will be considered on its merits, where the Licensing Authority's discretion has been engaged following the receipt of relevant representations, conditions in relation to the admission of persons under the age of eighteen may be imposed if there is evidence to suggest that this is necessary and proportionate in order to prevent physical, moral or psychological harm to them.
- 9.2 Circumstances in which concerns about access of children may lead to such the imposition of such conditions include premises:
- where entertainment or services of an adult or sexual nature are commonly provided;
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises (but not, for instance, the simple presence of a small number of cash prize gaming machines); and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 9.3 Where appropriate to limit access to a licensed premises to children due in order to promote the prevention of harm to children, the Licensing Authority may consider the imposition of the following:
- limitations on the hours when children may be present;
 - limitations excluding the presence of children under certain ages when particular specified activities are taking place;
 - limitations on the parts of premises to which children might be given access;
 - age limitations (below 18);
 - requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);
 - full exclusion of all those people under 18 from the premises when any licensable activities are taking place.
- 9.4 The Licensing Authority will not impose a condition on any licence or certificate requiring the admission of children to any premises.
- 9.5 Where a large number of children are likely to be present at an event involving regulated entertainment, the Licensing Authority will expect operating schedules to indicate that consideration has been given to the safety of children. In addition, in such circumstances, where its discretion has been engaged following receipt of relevant representations, the Licensing Authority may impose conditions requiring an appropriate number of adult staff to ensure their safety.
- 9.6 The Licensing Authority recommends that in order to prevent illegal sales to underage persons, licence holders employ a recognised 'proof of age' scheme, for example the 'Challenge 21' scheme.

Children and cinemas

- 9.7 In the case of premises giving film exhibitions, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified by according to the recommendations of the British Board of Film Classification or the Licensing Authority.

Responsible Authority and Children

- 9.8 The Licensing Authority recognises the Local Safeguarding Children Board as the responsible authority for the purposes of notification upon matters relating to the protection of children.

10. ENFORCEMENT

- 10.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.
- 10.2 The Licensing Authority will establish a protocol for enforcement with Cheshire Constabulary to provide for the efficient discharge of this function in conjunction with the enforcement officers of the Licensing Authority, Environmental Health officers, Trading Standards officers, and other agencies as appropriate.
- 10.3 Resources will be deployed in accordance with an assessment of which premises and events manifest the greatest risk to the promotion of the licensing objectives.
- 10.4 The Licensing Authority recognises the importance of co-operation between licence holders, Authorised Persons (as set out within Appendix 2), Responsible Authorities and Interested Parties in order to promote the licensing objectives. The Licensing Authority therefore commends the practice whereby a Responsible Authority or Authorised Person who has concerns about any premises should draw these concerns to the attention of the licence/certificate holder at an early stage with a warning that remedial action should be undertaken.
- 10.5 The Licensing Authority will therefore expect to see evidence from the Responsible Authorities of warnings, and of failure on the part of the licence holder to respond to such warnings, where an application is made to it to conduct a formal review of a licence.

11. ADMINISTRATIONS AND EXERCISE OF FUNCTIONS

- 11.1 The Licensing Authority has delegated certain decisions and functions under the Licensing Act 2003 to its Licensing Committee and, in recognition of the need to provide a speedy, efficient and cost-effective service, where possible to Licensing Sub-Committees and officers.
- 11.2 The table at Appendix 2 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.

12. PERIOD IN FORCE

- 12.1 This Statement of Licensing Policy was approved by Cheshire East Council on (date) and will take effect until such time as it is reviewed; a reviewed policy will be published no later than 7 January 2014.

APPENDIX 1: Licensable Activities

The following are 'licensable activities for the purposes of the Licensing Act 2003:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit, which includes:
 - Performance of a play
 - Exhibition of a film
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Performance of live music
 - Playing of recorded music
 - Performance of dance
 - Provision of facilities for making music
 - Provision of facilities for dancing
 - Entertainment of a similar description to the performance of live music, the playing of recorded music or a performance of dance
- Supply of hot food and/or drink from any premises between 11pm and 5am

The Act provides that the following are not to be regarded as regulated entertainment:

- (a) film exhibitions for the purposes of demonstration of a product, advertisement of any goods or services or the provision of information, education or instruction;
- (b) film exhibitions which consist or form part of an exhibit put on show for any purposes of a museum or art gallery;
- (c) the performance of live music or the playing of recorded music that is incidental to some other activity which is not itself regulated entertainment;
- (d) the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990
- (e) the provision of any entertainment or entertainment facilities (a) for the purposes of or for purposes incidental to, a religious meeting or service, or (b) at a place of public religious worship
- (f) the provision of entertainment or entertainment facilities at a garden fete or a function or event of a similar character provided the event concerned is not promoted for purposes of private gain
- (g) a performance of morris dancing or any dancing of a similar nature or a performance of unamplified live music as an integral part of such a performance or facilities enabling persons to take part in such entertainment
- (h) the provision of any entertainment or entertainment facilities (i) on premises consisting or forming part of a vehicle, and (ii) at a time when the vehicle is not permanently or temporarily parked

The Act states that an activity is not a licensable activity if it is carried on: -

- (a) aboard an aircraft, hovercraft or railway vehicle engaged on a journey;
- (b) aboard a vessel engaged on an international journey;
- (c) at an approved wharf at a designated port or hoverport;

- (d) at an examination station at a designated airport;
- (e) at a royal palace;
- (f) at premises which at the time when the activity is carried on are permanently or temporarily occupied for the purposes of the armed forces of the Crown;
- (g) at premises in respect of which a certificate issued under section 174 (exemption for national security) has effect or
- (h) at such other place as may be prescribed by the Government in regulations

APPENDIX 2: Authorised Persons, Responsible Authorities and Interested Parties

Authorised Persons

This group is entitled to carry out inspection and enforcement roles and include officers of the Local Authority, Fire Authority inspectors, Health and Safety at Work inspections and Environmental Health Officers.

In addition, the Police have the power to close premises on the grounds of disorder or nuisance caused by noise coming from the premises.

Responsible Authorities

This group must be notified of all applications for a premises licence. They are entitled to make representations to the Licensing Authority and include: -

- The Police
- The Fire Authority
- Health and Safety Authority
- The Environmental Health Department (Cheshire East Council)
- The Local Planning Authority (Cheshire East Council)
- The Local Safeguarding Children Board
- Trading Standards (Cheshire East Council)

In relation to a vessel, but no other premises, responsible authorities also include the navigation authorities that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. These include: the Environment Agency, the British Waterways Board, and the Secretary of State for Transport, who in practice acts through the Maritime and Coastguard Agency.

Interested Parties

This group may make representations to the Licensing Authority on applications for the grant, variation or review of premises licences and includes: -

- A person living in the vicinity of the premises in question
- A body representing persons who live in that vicinity e.g. a residents association
- A person involved in a business in the vicinity of the premises
- A body representing persons involved in such businesses e.g. a trade association.

Any of these persons can have their view represented by for example, a solicitor, MP, friend or a local ward councillor.

APPENDIX 3: Table of delegations of licensing functions

Functions under the Licensing Act will be dealt with as follows:

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Application for Personal Licence		If a police objection	If no objections made
Application for Personal Licence with unspent convictions		All Cases.	
Application for premises Licence/Club Premises Certificate		If a relevant representation made.	If no relevant representation made.
Application for provisional statement		If a relevant representation is made.	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made.	If no relevant representation made.
Application to vary designated Personal Licence holder		If a police objection.	All other cases.
Request to be removed as designated Personal Licence Holder.			All cases.
Application of transfer of Premises Licence.		If a police objection.	All other cases.
Application for Interim Authorities		If a police objection	All other cases.
Application to review Premises Licence/Club Premises Certificate.		All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases.
Decision to object when Local Authority is a consultee and not a lead authority.		All cases.	
Determination of a police objection to a Temporary Event Notice.		All cases.	

SUMMARY OF CONSULTATION RESPONSES

LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY

Cheshire East Council, as Licensing Authority with effect from 1 April 2009 published a statement of Licensing Policy for consultation on 29 December 2008. The table below summarises the consultation responses received.

CONSULTEE	CONSULTATION RESPONSE
British Beer and Pub Association (BBPA)	<p>In its response dated 7 January 2009 the BBPA state as follows in relation to the draft statement of Licensing Policy:</p> <p>Thank you for providing this Association with the opportunity to comment on the draft policies for Gambling and Licensing in the local authority of Cheshire East.</p> <p>The British Beer and Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Cheshire East area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies. Further information is available on our website at www.beerandpub.com</p> <p>This response is also supported by the BII, the professional body for the licensed retail sector, the Association of Licensed Multiple Retailers (ALMR), which represents the interests of smaller independent companies within licensed retailing and the Federation of Licensed Victuallers Association (FLVA) which represents self-employed licensees in England.</p> <p>In terms of the draft Licensing Policy, we have nothing to add or take away from our earlier response to the former Macclesfield Policy Statement which Cheshire East now appears to mirror.</p> <p><i>The response provided in relation to the Macclesfield Borough Council policy was as follows:</i></p> <p><u>General</u> <i>The BBPA welcomes the Council's very positive approach to the licensing of the sale of alcohol and the provision of public entertainment and in particular its recognition of the social and cultural contribution the trade has to make, and also its importance as a local employer. The draft policy has also recognised one of the key principles of the Licensing Act 2003, namely that each application must be treated on its own merits.</i></p> <p><u>Enforcement</u> <i>We would welcome recognition of the Hampton principles of inspection and enforcement in paragraph 11 [paragraph 10 of the Cheshire East policy], which include the following:</i></p> <ul style="list-style-type: none"> • <i>No inspection should take place without a reason;</i> • <i>Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.</i>

	<p><u>Additional considerations</u></p> <p><i>We have some concerns that the Council may receive representations for change to which we will be unable to respond until after the policy is approved by the Council. We will take this opportunity therefore to highlight certain issues, not mentioned above, which we would not support being included in, or arising from, the final policy document as they are outside the provisions of the Licensing Act:</i></p> <ul style="list-style-type: none"> <i>Applications to be completed in a specific manner, other than that prescribed in regulations;</i> <i>Blanket or standard conditions on licences e.g. CCTV, hours, use of polycarbonate/plastic glasses, capacity limits, membership and attendance at Pubwatch meetings, minimum pricing requirements etc</i> <i>The Designated Premises Supervisor to be on the premises at all times, or to have a specific level of experience, training or qualification in addition to the personal licence qualification etc</i> <i>Written authorisation for the sale of alcohol</i> <i>More than one personal licence holder on the premises</i> <i>Measure that duplicate existing legislation e.g. health and safety (e.g. smoking, fire etc) or disability provisions</i>
Pickmere Parish Council	<p>One of our Councillors has inspected the documents we received as Pickmere Parish Council from Cheshire East Council re Licensing consultation.</p> <p>He stated that both statements appear to be comprehensive, appropriate and well structured.</p>
Knutsford Pub Watch	<p>After reading both draft policies regarding licensing and gambling I found both to be quite easy to understand and precise in their wording. As they are worded now should pose no difficulties for anyone to understand.</p>
Crewe Green Parish Council	<p>The draft documents were considered by the Parish Council meeting on the 5th January 2009. The Parish Council were pleased to accept the proposals as submitted.</p>
Police Licensing - Congleton	<p>Noted an error in the sixth line of paragraph 6.5 – this should read “by way of condition on the basis of fire safety grounds as under article 43 of the <u>Fire Safety Order</u>..”</p>
Police Licensing - Macclesfield	<p>Reference the draft Statement of Licensing Policy there are just a couple of issues which we feel would be appropriate to be included:</p> <p>3.3.1: Perhaps needs re wording as it is felt that it gives a 'get out' clause once drinkers are off the premises. Suggest as in the last draft the following or a variation of it could be added: However, DPS's and Premises Licence Holders should take reasonable steps to prevent the occurrence or crime and disorder immediately outside their premises - for example - on the pavement, in a beer garden, car park or smoking shelter, where the extent of these matters is within their control.</p> <p>4.2: Late Night Transport - has anything ever been passed to the 'relevant transport agencies & Planning department ref the provision of late night transport ??</p> <p>5.4.1: Suggest an additional bullet point to recommend that attendance and participation in Pub Watch Schemes - where operating - should be included</p>

	5.4.2: Whilst it is mentioned in 3.3.1 above the Prevention of Nuisance mandate should also include the supervision and monitoring of outside smoking areas and the impact on neighbours with noise, stale smoke in Summer etc.,
Rainow Parish Council	<p>Rainow Parish Council would comment as follows on the above consultation.</p> <p>"The statement of licensing policy is acceptable but we would recommend guidance is given in section 5.6 of the policy document on the dividing line between large scale and small scale events."</p>

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CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th February 2009

Report of: Mrs K Khan – Licensing Solicitor

Title: Gambling Act 2005 – Statement of Principles

1.0 Purpose of Report

- 1.1 Licensing Authorities must approve and publish a Statement of Principles in order to carry out functions relating to the licensing of gambling premises and the issue of gambling permits under the Gambling Act 2005. Where practicable the Council is required to produce its Statement of Principles by 1st April 2009.
- 1.2 The Council is required to undertake a consultation exercise with stakeholders on the content of the Statement before it is determined. The purpose of this report is to advise the Committee of representations received and that any amendments considered appropriate in the light of the representations are made.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to consider the consultation responses received in relation to the Statement of Principles under the Gambling Act 2005 and to recommend the draft policy, subject to any amendments the Committee considers necessary, to Council.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Local Government (Structural Changes)(Transitional Arrangements)(No 2) Regulations 2008 provide that the preparation of a statement of principles by the shadow Council will be taken as satisfying the requirements of the Gambling Act 2005 as regards the three year period commencing on 31st January 2010. For this reason the statement is not required to be reviewed again until January 2013.

5.0 Legal Implications

- 5.1 Section 349 of the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its

functions under the Act. The drafting of the policy statement must take into account the requirements of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

- 5.2 The Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 provide that, where it is practicable to do so, a statement of principles under the Gambling Act 2005 shall be produced by 1 April 2009.

6.0 Risk Assessment

- 6.1 There would be a risk of legal challenge if consultation responses received were not considered.

7.0 Background and Options

- 7.1 As set out above, the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. Cheshire East must have its own policy document in place in order to perform its role as the licensing authority for applications to licence premises for gambling.

- 7.2 At its meeting on 17th December 2008 Cabinet resolved to approve the draft policy in order that it may go forward for statutory consultation.

- 7.3 The Act requires the Council, as licensing authority, to consult the following on the statement of principles:

- The chief officer of police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

Copies of the policy were forwarded to trade organisations, Parish and Town Councils together with residents groups and local Pub Watch representatives. A copy of the policy has also been available on the Council's website throughout the consultation period

- 7.4 Attached as Appendix 1 is the draft policy as it went out for consultation. Appendix 2 is a table showing the details of the consultation responses received.

- 7.5 The Committee is requested to consider the consultation responses and any amendments to the draft statement of principles as a result of these responses. The Committee is further requested to recommend the statement to Council, subject to any amendments the Committee feels are required.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have a Statement of Licensing Policy in place is, where practicable, a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The Council is required to produce and publish, every three years a statement of the policy which it proposes to apply when exercising its functions under the Licensing Act 2003; where practicable this is required to be done by 1 April 2009. The Committee is asked to recommend the policy to Council so that it may be formally approved to take effect on 1 April 2009.

For further information:

Officer: Mrs K Khan

Tel No: (01625) 504264

Email: k.khan@macclesfield.gov.uk

Background Documents:

Statement of Licensing Principles of Macclesfield Borough Council

Statement of Licensing Principles of Congleton Borough Council

Statement of Licensing Principles of Crewe & Nantwich Borough Council

Documents are available for inspection at:

Macclesfield Borough Council – Legal and Democratic Services, Town Hall, Macclesfield

Congleton Borough Council – Community Safety Dept, Westfields, Middlewich Road, Sandbach

Crewe & Nantwich Borough Council – Licensing Section, Municipal Buildings, Earle Street, Crewe

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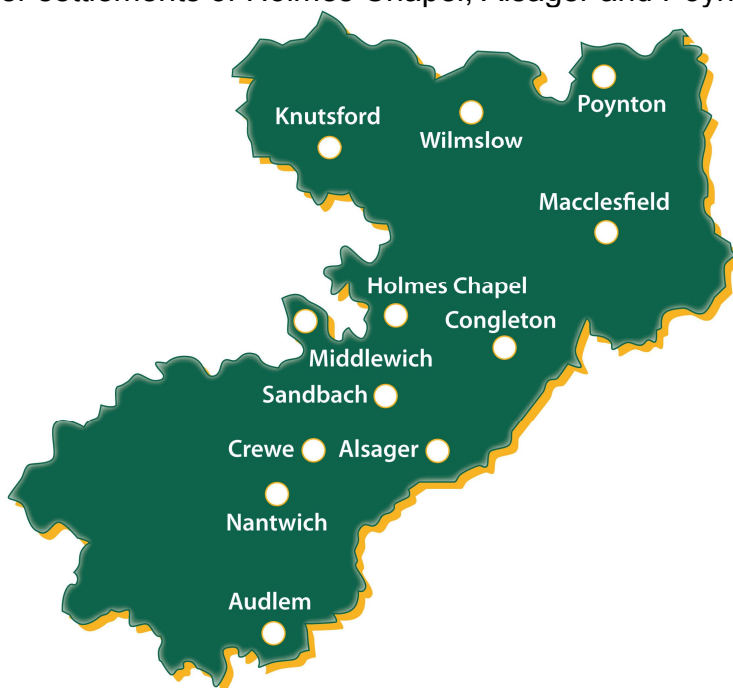
Appendix 1

**STATEMENT OF PRINCIPLES****GAMBLING ACT 2005****1 Introduction**

- 1.1 This Statement of Principles ('the Statement') is published by Cheshire East Council ('the Council') as the Licensing Authority in accordance with section 349 of the Gambling Act 2005.
- 1.2 The Council has produced this Statement of Principles in accordance with the provisions of the Act and having regard to the provision of the Guidance issued by the Gambling Commission under Section 25 of the Act.
- 1.3 This Statement of Principles will come into effect on the date of publication by the Council and will be reviewed from time to time as necessary. This statement will be published at least every three years from the date of publication. Statutory consultation shall take place whenever amendments are proposed to the statement of principles, before it is republished.

2 Cheshire East

- 2.1 Cheshire East has a population of 358,900 and covers an area of 116,638 hectares. Cheshire East's administrative area contains the industrial town of Crewe, the old mill towns of Macclesfield, Bollington and Congleton, the market towns of Nantwich, Knutsford and Sandbach, the salt town of Middlewich, the town of Wilmslow as well as the smaller settlements of Holmes Chapel, Alsager and Poynton.



3 Licensing Objectives

3.1 The Gambling Act 2005 requires the Council as Licensing Authority to carry out its various licensing functions with a view to promoting the three licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

3.2 The licensing authority shall aim to permit the use of the premises for gambling as set out in section 153 of the Act, that is so far as the Authority think it:

- (a) in accordance with any relevant code of practice under section 24 of the Act;
- (b) in accordance with any relevant guidance issued by the Gambling Commission under section 25 of the Act;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above); and
- (d) in accordance with this statement of principles (subject to (a) and (c) above).

4 Licensable authority functions

The licensing functions within the Act include the following:

- the grant of premises licences and the issue of provisional statements in respect of premises where gambling activities are to take place;
- to receive notifications from premises licensed for the sale of alcohol (under the Licensing Act 2003) for the use of either one or two Category C or D gaming machines;
- to grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the premises where there are more than two gaming machines;
- to grant club gaming permits and club gaming machine permits for members' clubs;
- to grant club machine permits for commercial clubs;
- to grant permits for unlicensed family entertainment centres for the use of certain lower stake gaming machines;
- to grant permits for prize gaming;
- to receive and endorse notices for the temporary use of premises for gambling;
- to consider occasional use notices for betting at tracks;
- to register small societies' lotteries;
- to provide information and statistics to the Gambling Commission; and
- to maintain registers of licences and permits issued.

5 General Principles

5.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations

on employers and operators such as the Health and Safety at Work Act 1974, the Disability Discrimination Act 1995 and the fire safety regime.

- 5.2 The Licensing Authority recognises that it may only consider matters within the scope of the Guidance issued by the Gambling Commission, the Act and the Codes of Practice. It is also recognised that there may be issues raised, such as the likelihood of the applicant obtaining planning permission, which are not relevant for the purposes of the Act.
- 5.3 The Licensing Authority makes a commitment to regulating gambling in the public interest.
- 5.4 Nothing in this Statement of Principles will undermine the rights of any person to make an application under the Act and have the application considered on its individual merits; or undermine the right of any person to make representations on any application or seek a review of a licence or permit where provision has been made for them to do so within the Act.
- 5.5 In determining its Statement of Principles, the licensing authority will have regard to the Guidance issued by the Gambling Commission, and will give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:
 - who is making the representations (what is their expertise or interest);
 - what their motivation may be for their views;
 - how many other people have expressed the same or similar views;
 - how far the representations relate to matters that the licensing authority should be including in its statement of principles.
- 5.6 The Licensing Authority recognises that unmet demand is not a criterion for it when considering an application for a premises licence under the Act. Each application will be considered on its merits without regard to demand.
- 5.7 The Licensing Authority recognises that the location and proximity of premises to be used for gambling to other premises such as, for example, schools and other premises used by vulnerable persons, may be a relevant consideration with respect to the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The type of gambling which is to be offered will also be relevant.

Each application will be considered on its merits and the Licensing Authority will take into account any proposals by the applicant or licence holder which show how the licensing objectives may be satisfied.

6 Responsible Authorities

- 6.1 A 'Responsible Authority' may make representations about an application for a premises licence or may request a review of a premises licence.
- 6.2 For the purposes of sections 157 and 349 of the Gambling Act 2005, the following are responsible authorities in relation to premises in the area of Cheshire East:

- (i) The licensing authority in whose area the premises are wholly or mainly situated (Cheshire East Council)
- (ii) The Gambling Commission
- (iii) Cheshire Constabulary as the police authority
- (iv) Cheshire Fire Service as the fire and rescue authority
- (v) The Local Planning Authority (Cheshire East Council)
- (vi) Environmental Health Service (Cheshire East Council)
- (vii) Local Safeguarding Children Board
- (viii) Her Majesty's Revenue and Customs
- (ix) Any other person prescribed, for the purposes of Section 157 of the Act, by regulations made by the Secretary of State.

6.3 In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

6.4 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board for this purpose.

6.5 The contact details of all the responsible authorities under the Gambling Act 2005 are available via the Council's website at: www.cheshireeast.gov.uk or on request from the Licensing Section.

7 Interested Parties

7.1 In addition to Responsible Authorities, 'Interested parties' can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-

(a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,

(b) has business interests that might be affected by the authorised activities, or

(c) represents persons who satisfy paragraph (a) or (b)"

7.2.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are as set out below.

7.2.2 Each case will be decided upon its merits.

7.2.3 This authority will not apply a rigid rule to its decision making, however it will consider the following as per the Gambling Commission's Guidance to local authorities:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area, that might be affected.

7.2.4 Representations made on the grounds that an applicant would be in competition with an existing business or that there is allegedly no demand for additional gambling premises will not be considered to be relevant.

7.2.5 The Gambling Commission has also recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents’ and tenants’ associations. This authority will not, however, generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.

8 Consideration of applications

8.1 The licensing authority is mindful of the Commission’s Guidance which provides that the authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permissions and matters that it will consider relevant when determining whether to review a licence.

8.2 The licensing authority has determined to set out a number of factors, linked to the licensing objectives, which it may consider when considering applications. It should be noted that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, then that will be taken into account.

8.3 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

8.3.1 In considering licence applications, the Licensing Authority will particularly take into account the following:-

- The location of the premises – for example if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime.
- The design and layout of the premises;

- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any violence, public order or policing problem if the licence is granted.

8.3.2 This licensing authority notes the Commission's Guidance in relation to the meaning of disorder in the context of gambling premises, namely activity that is more serious and disruptive than mere nuisance, and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

8.3.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Licensing Officers of Cheshire Constabulary before making a formal application.

8.4 Ensuring that gambling is conducted in a fair and open way

8.4.1 This licensing authority has noted that the Commission's Guidance states: *"Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence."*

8.4.2 This licensing authority also notes, however, that the Gambling Commission also states *"in relating to the licensing tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable."* It is recognised that because the track operator does not need to have an operating licence (although he may have one), the licensing authority may have to consider placing requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting.

8.5 Protection of children and other vulnerable persons

8.5.1 It is noted that, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments.

8.5.2 This licensing authority has noted that the Gambling Commission Guidance to local authorities states that "The objective talks of protecting children from being "harmed or exploited by gambling", but in practice that often means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children

8.5.3 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include consideration of issues such as:-

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises.

8.5.4 The Licensing Authority recognises the Commission's Guidance which states that Licensing authorities should ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

8.5.5 It is noted that in relation to casinos, the Act provides for a code of practice on access to casino premises by children and young persons. In accordance with section 176 of the Act, adherence to the code will be a condition of a casino premises licence.

8.5.6 The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that "vulnerable persons" include:

- People who gamble more than they want to;
- People who gamble beyond their means;
- People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

8.6 Conditions

8.6.1 The Act provides licensing authorities with:

- The ability to exclude from the premises licence any default conditions that have been imposed under section 168; and
- The power to impose conditions on the premises licence

8.6.2 The Licensing Authority recognises its duty to act in accordance with the principles within section 153 of the Act and will not attach conditions which limit the use of premises for gambling except where to do so is necessary as a result of the requirement to act:

- In accordance with the Commission's Guidance, the Commission's Codes of Practice, or this statement of licensing principles; or
- In a way that is reasonably consistent with the licensing objectives.

The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

8.6.3 Any condition imposed by the licensing authority will be proportionate to the circumstances which it seeks to address. In particular, the licensing authority will ensure that premises licence conditions are:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

8.6.4 Decisions on individual conditions will be taken on a case-by-case basis, although this will be against the background of general policy set out in the Commission's Guidance and this statement of principles.

8.6.5 There are conditions which the Licensing Authority cannot attach to premises licences which are:

- any condition which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs); and
- conditions in relation to stakes, fees, winning or prizes.

8.6.5 Where a condition is attached to a premises licence requiring door supervisors, the Licensing Authority will normally require those door supervisors to be Security Industry Authority (SIA) registered. Door supervisors at casinos or bingo premises are exempt from being registered by the SIA but the Licensing Authority considers that it is best practice for door supervisors working at casinos or bingo premises to have SIA training or similar.

9 Reviews

9.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities (including the Licensing Authority itself). The Licensing Authority will carry out the review unless it determines that a review should not be carried out based on whether the request for the review is relevant to the matters listed below, and with consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of principles

10. Gambling Premises Licences

10.1 Adult Gaming Centres

10.1.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that those under eighteen years of age do not have access to the premises.

10.1.2 Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.2 (Licensed) Family Entertainment Centres

10.2.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

10.2.2 Appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline and local Citizens Advice Bureaux.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.3 Bingo Premises

10.3.1 It is important that, if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines.

10.3.2 Where category C or above machines are available in premises to which children are admitted the Licensing Authority will expect applicants to consider measures to ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

10.3.3 Further Guidance will be issued by the Gambling Commission about the particular issues which should be taken into account in relation to the suitability and layout of bingo premises. The Licensing Authority will take account of that Guidance when it is made available.

10.4 Betting Premises

10.4.1 The Licensing Authority will take into account

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people
- when considering the number, nature and circumstances of betting machines an operator wants to offer.

10.4.2 The Licensing Authority will consider making door supervision a requirement in circumstances where there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

10.4.3 The Licensing Authority is mindful of the conditions which may be attached to betting premises licences, which may include those relating to the restriction of the number of betting machines, their nature and the circumstances in which they are made available. The Authority will consider limiting the number of machines in circumstances where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. In these circumstances the Authority may take into account the ability of staff to monitor the use of such machines from the counter.

10.4.4 The Licensing Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

10.5 Tracks

10.5.1 Tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.

10.5.2 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas and do not have access to adult only gaming facilities.

10.5.3 It should be noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

10.5.4 Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.5.6 Where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, if these machines are above category D, the applicant must demonstrate that they will be located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

10.5.7 The Licensing Authority will consider restricting the number and location of betting machines in respect of applications for track premises licences.

10.5.8 When considering the number, nature and circumstances of betting machines an operator wants to offer, the Licensing Authority will take into account

- the size of the premises;
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people

10.5.9 The Licensing Authority will normally attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

10.6 Travelling Fairs

10.6.1 A travelling fair is defined as a fair consisting wholly or principally for the provision of amusements and is provided by persons who travel from place to place and is held at a place which has been used for the provision of fairs on no more than 27 days per calendar year.

10.6.2 Category D gaming machines or equal chance gaming may be provided without a permit provided that facilities for gambling amount to no more than ancillary amusement at the fair.

11 **Provisional Statements**

11.1 An applicant cannot obtain a full premises licence until the premises are ready to be used for gambling. An applicant may apply for a provisional statement in respect of premises expected to be constructed, altered or acquired.

11.2 Where a provisional statement is granted and an application subsequently made for a premises licence, the Licensing Authority will disregard any representations made which address matters that could have been addressed when the provisional statement was considered unless there has been a change of circumstances.

11.3 A premises licence will be granted in the same terms as the provisional statement unless:

- representations are received which address matters that could not have been addressed when the provisional statement was considered;
- there has been a change of circumstances; or

the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement

12 **Casino resolution**

12.1 The Council may make a resolution to not grant premises licences for casinos. In doing so, it may take into account any principle or matter.

12.2 The Council has not passed a resolution not to grant premises licences for casinos.

13 **Permits**

13.1 (Alcohol) Licensed Premises Gaming Machine Permits

13.1.1 Premises licensed to sell alcohol are automatically entitled to have 2 gaming machines of categories C or D provided that:

- the requisite notice has been served on the Licensing Authority;
- the appropriate fee has been paid; and
- any code of practice relating to the location and operation of gaming machines is complied with.

13.1.2 The Licensing Authority can remove the automatic authorisation if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

13.1.3 If a licensed premises wishes to have more than 2 machines, then a permit is required.

13.1.4 The Licensing Authority must take account of the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005 when considering an application for a permit. The Licensing Authority may also consider such matters as it thinks are relevant. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling.

13.1.5 The Licensing Authority will expect the applicant to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include notices and signage, adult machines being in sight of the bar or in sight of staff who will monitor that the machines are not being used by those under 18. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline and local Citizens Advice Bureaux.

13.2 Unlicensed Family Entertainment Centre gaming machine permits

13.2.1 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include CRB checks for staff, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

13.3 Prize Gaming Permits

13.3.1 Prize gaming is a form of gaming where the size of the prize is determined by the operator and is not based on the number of persons playing or the total value of the stakes raised.

13.3.2 Premises which have a Premises Licence can provide prize gaming without the need for a separate Prize Gaming Permit issued by the Local Authority. Premises licensed as a casino* or a betting shop, or for bingo or for an adult gaming centre or as an FEC do not need a Prize Gaming Permit in order to offer prize gaming. In

addition, an unlicensed FEC may provide prize gaming without a permit provided that a gaming machine permit has been issued and the gaming is equal chance gaming, and, finally a travelling fair may provide prize gaming provided that it is equal chance gaming.

* except for prize bingo which would require a permit/bingo operating licence

13.3.3 In exercising its functions in respect of prize gaming permits, the Licensing Authority need not, but may, have regard to the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

13.3.4 There are conditions in the Act which a permit holder must comply with which are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day;
- the game must be played and completed on the day the chances are allocated and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

13.3.5 Applicants should set out the types of gaming intended to be offered and should demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

The Licensing Authority will consider these matters when determining the suitability of an applicant for a permit.

13.4 Club Gaming and Club Gaming Machine Permits

13.4.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit.

13.4.2 The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance in accordance with regulations made under the Act.

13.4.3 A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

13.4.4 Members Clubs must:

- have at least 25 members;
- be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. (It is anticipated that this will include bridge and whist clubs.);

- be permanent in nature;
- not be established to make commercial profit;
- be controlled by its members equally.

Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

13.4.5 The Licensing Authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police.

13.4.6 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

13.4.7 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced.

13.4.8 The only grounds upon which an application under the fast-track process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

14 Temporary Use Notices

14.1 A temporary use notice may only be given by the holder of an operator's licence. A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.

14.2 A set of premises will be considered to be the subject of a temporary use notice if any part of the premises is the subject of a notice. Consequently, operators cannot extend the limits on temporary use notices in respect of large premises by giving separate notices for different parts of the premises.

- 14.3 The Licensing Authority will object to temporary use notices where it appears that they are being used to permit regular gambling in a set of premises.
- 14.4 In determining whether a place falls within the definition of “a set of premises” the Licensing Authority will take into consideration ownership/occupation and control of the premises. For example, a large exhibition centre will normally be regarded as one set of premises and will not be allowed separate temporary use notices for each of its exhibition halls. Individual units in a shopping centre may be regarded as different sets of premises if they are occupied and controlled by different people.

15 Occasional Use Notices

- 15.1 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
- 15.2 A track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include, for example, agricultural land upon which a point-to-point meeting takes place. The track need not be a permanent fixture. Those giving occasional use notices will be expected to demonstrate that the premises fall within the definition of a track.

16 Information exchange

- 16.1 Licensing authorities are required to include in their statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 16.2 In fulfilling its functions and obligations under the Gambling Act 2005 the Licensing Authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Council’s existing policies. In addition, the Licensing Authority will act in accordance with guidance from the Commission and adopt the principles of better regulation.
- 16.3 Details of those persons making representations will be made available to applicants to allow for negotiation unless the individual notifies the Licensing Authority to the contrary within seven days of a request for confirmation of this. In the event of a hearing being held, the representation will form part of a public document. Anyone making representations will be informed that their details will be disclosed unless they advise to the contrary.
- 16.4 Data subjects may make requests for information held by the Licensing Authority about themselves to the Data Protection Officer, Cheshire East Council.

17 Enforcement

- 17.1 The Act requires licensing authorities to state the principles that they will apply when exercising their functions under Part 15 of the Act (inspection of premises) and the powers under section 346 (power to institute criminal proceedings in respect of offences specified).
- 17.2 The Council is a signatory to the Regulator Compliance Code and will follow the principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.
- 17.3 The Licensing Authority will be guided by the Gambling Commission's Guidance for local authorities and in accordance with both this Guidance and the Enforcement Concordat will base its approach on the following:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects
- 17.4 The Code (available upon request) proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to a Sub-Committee, the issue of a Formal Caution or a referral for prosecution.
- 17.5 The Licensing Authority will adopt a risk-based programme of inspections; this will include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more efficiently concentrated on problem premises.
- 17.6 As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

18 Declaration

In producing this statement of principles the authority has had regard to the licensing objectives of the Gambling Act 2005, guidance issued by the Gambling Commission. In producing the final statement the licensing authority will also have regard to any responses from those consulted on the statement.

19 Scheme of delegation

- 19.1 The Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.
- 19.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Licensing Authority Officers. The table shown at Appendix A sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

20 Sources of information

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:-

Licensing Section
Cheshire East Council

Tel:
Fax:
E-mail:

Information is also available from:-

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6500
Website: www.gamblingcommission.gov.uk

APPENDIX A

TABLE OF DELEGATION OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		X (Full Committee)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX B**GLOSSARY OF TERMS**

Licensing Objectives:	As defined in section 1.3 below
Council:	Cheshire East Council
Borough:	The area of Cheshire administered by Cheshire East Council
Applications:	Applications for licences and permits as defined in section 4 above
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Cheshire East Council
Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated ("Cheshire East Council"); 2. The Gambling Commission; 3. Cheshire Constabulary; 4. Cheshire Fire Service; 5. Local Planning Authority, Cheshire East Council; 6. Environmental Health Department, Cheshire East Council; 7. Local Safeguarding Children Board; 8. HM Customs and Excise.
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-</p> <ol style="list-style-type: none"> a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; b) Has business interests that might be affected by the authorised activities; c) Represents persons who satisfy a) or b) above.

SUMMARY OF CONSULTATION RESPONSES

GAMBLING ACT 2005 – STATEMENT OF LICENSING PRINCIPLES

Cheshire East Council, as Licensing Authority with effect from 1 April 2009 published a statement of principles for consultation on 29 December 2008. The table below summarises the consultation responses received.

CONSULTEE	CONSULTATION RESPONSE
British Beer and Pub Association (BBPA)	<p>In its response dated 7 January 2009 the BBPA state as follows in relation to the draft statement of Licensing Policy:</p> <p>Thank you for providing this Association with the opportunity to comment on the draft policies for Gambling and Licensing in the local authority of Cheshire East.</p> <p>The British Beer and Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Cheshire East area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies. Further information is available on our website at www.beerandpub.com</p> <p>This response is also supported by the BII, the professional body for the licensed retail sector, the Association of Licensed Multiple Retailers (ALMR), which represents the interests of smaller independent companies within licensed retailing and the Federation of Licensed Victuallers Association (FLVA) which represents self-employed licensees in England.</p> <p><u>The protection of children and vulnerable persons</u></p> <p>We would like to take this opportunity to emphasise that pubs have had amusement with prizes machines on their premises for many years. The BBPA has been pressing for legislation prohibiting under 18s from playing all cash machines (ACMs) since before the introduction of our Code of Practice on Minimum Age of Players, and we therefore very much welcome the restriction now contained in the new Gambling Act. The Association first introduced its Code of Practice in 1998, and has kept it under regular review since then. As a result of the Code, which is supported by other trade bodies including the ALMR, BII, FLVA and BACTA, ACMs coming on to the market include the “No under 18s to play” prohibition notice in the front of the machine.</p> <p>The inclusion of this notice has been achieved at the instigation of the Association in co-operation with machine suppliers. BBPA member company trading schemes also reinforce the management of the machines to ensure the minimum age requirement is complied with, for example by requesting recognised ID such as a PASS accredited proof of age card, driving licence or passport where there is doubt that the player is 18 years of age or over.</p> <p><u>Grant of additional permits</u></p> <p>While there is no actual requirement under the Gambling Act 2005 for machines to be sited in the bar, we believe that supervision of machines is very important and this is again reinforced by our Code of Practice and staff training. Under the new regime, when operators apply for additional machine permits and they are complying with the Gambling Commission Code of Practice (which will of course replace</p>

	the BBPA Code), there is no reason why these should not be granted. It would be helpful if the Statement of Principles could reflect this and include an outline of the application procedures for permits for more than two machines. We understand that some Councils are taking the view that they will grant up to four machine permits without the need for a hearing. We support such an approach in the interests of reduced administration and bureaucracy for both Councils and applicants and would encourage you to consider this possibility.
Pickmere Parish Council	One of our Councillors has inspected the documents we received as Pickmere Parish Council from Cheshire East Council re Licensing consultation. He stated that both statements appear to be comprehensive, appropriate and well structured.
Knutsford Pub Watch	After reading both draft policies regarding licensing and gambling I found both to be quite easy to understand and precise in their wording. As they are worded now should pose no difficulties for anyone to understand.
Crewe Green Parish Council	The draft documents were considered by the Parish Council meeting on the 5 th January 2009. The Parish Council were pleased to accept the proposals as submitted.
Race Course Association	We would advise you that we have no venues in your area and therefore will not be responding to your document.

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th February 2009
Report of: Tony Potts, Community Safety Manager
Title: Fees and Charges

1.0 Purpose of Report

- 1.1 The purpose of the report is to provide the Licensing Committee with the responses to the consultation exercise on fees and charges and to seek a decision as to the fees to be charged by the Council in relation to the licensing of hackney carriage and private hire vehicles, drivers and operators.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to:
- 2.1.1 Consider the consultation responses received from the licensed trade in relation to fees; and
- 2.1.2 To determine the fees to be charged by Cheshire East Council in relation to the licensing of hackney carriage vehicles and drivers and private hire vehicles, drivers and operators, with effect from 1 April 2009.

3.0 Financial Implications for Transition Costs

- 3.1 There are no significant costs involved in the implementation of the revised charging options.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The harmonisation and review of fees and charges across Cheshire east does result in an increase in revenue in some areas, and to a decrease in others. However should the committee decide to change the proposed fees and charges then this will have an impact upon the 2009/10 budgets.

5.0 Legal Implications

- 5.1 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') provides the local authority with the power to charge "such a fee as they consider reasonable with a view to recovering the costs of issue and administration" for the grant of hackney carriage/private hire drivers licences. Section 70 of the Act provides the authority with a similar

power to make a reasonable charge for the grant of vehicle and operators licences.

- 5.2 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 prescribes that fees in relation private hire and hackney carriage vehicle licences and private hire operator's licences must be subject to a statutory publication requirement with provision for representations to be made within twenty-eight days of publication of the notice. Where objections are received the Council must consider these representations when coming to its determination as to the level of fees.

6.0 Risk Assessment

- 6.1 If no decision as to fees for Cheshire East were made by the Committee, the position would revert to that within the exiting three district authorities. It is suggested that leaving the charges as they (i.e. with differences between the three districts) would be inequitable.
- 6.2 Failure to carry out a consultation exercise or to consider the representations received as a result of the consultation would leave the local authority open to challenge on the fees.

7.0 Background and Options

- 7.1 As Members will recall, at its meeting on 19th December the Licensing Committee resolved to approve proposed fees in relation to taxi licensing so that these fees may be subject to statutory consultation. The fees that were proposed in the report are set out at **Appendix A**
- 7.2 In accordance with the requirements of section 70 of the 1976 Act, notice of the proposed fees were published in newspapers throughout the administrative area of Cheshire East during the week commencing 29th December. In addition correspondence advising of the proposals in relation to fees and providing details of how to make a representation was sent to all licensed drivers, operators and proprietors in mid January. The date by which representations were required to be submitted was 5th February 2009.
- 7.3 The Council has received 62 representations as part of the consultation exercise. A list of these is attached at **Appendix B**. As this is an excessive amount of representations, they are not included within in this report, as 46 of them are the same letter, signed individually. A summary of the main issues raised are attached at **Appendix D** they will however, be available at the meeting. Due to the timescales involved in the preparation of this report, there may well be additional ones to follow, as the closing date for all representations is the 5th of February 2009.

As set out above, section 53 of the 1976 Act provides that the authority may set fees in relation to drivers licences which they 'consider reasonable with a view to recovering the costs of issue and administration' of such licences. Section 70 provides that the authority may "charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part –

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

7.4 For this reason, in determining the level of fee to be set, the Council must take into account the cost of providing the service to ensure that the fees are reasonable and relate to cost recovery.

7.5 The fees included at **Appendix A** were calculated based on an hourly rate of £50 per hour of officer time (which takes into account all direct and indirect costs including insurance, accommodation, telephones, IT, printing and stationery together with staffing costs such as salary and pension/NI contributions). A breakdown of officer time and other costs used to calculate the charges in relation to each licence type are set out at **Appendix C**.

7.6 The Licensing Committee is requested to consider the representations received, and to determine the fees to be charged in relation to taxi licensing by Cheshire East.

8.0 Overview of Day One, Year One and Term One Issues

8.1 It is suggested that the setting of fees for taxi licensing across Cheshire East is a Day One requirement to ensure that the same fee is charged to all applicants.

9.0 Reasons for Recommendation

9.1 The Licensing Committee is requested to consider the representations received and to take these into account when making its determination on the fees. The Committee is requested to decide the amount of the fees to be charged by Cheshire East so that this may be resolved and be in place for 1 April 2009.

For further information:

Portfolio Holder: Councillor Brian Silvester
Officer: Tony Potts
Tel No: 01270 529869
Email: tony.potts@congleton.gov.uk

Background Documents:
None

Fees proposed in relation to taxi licensing

Hackney Carriage (Annual)	£300
Private Hire Vehicle (Annual)	£300
6 month test (hackney carriage) (Vehicles over 7 years old)	£100
6 month test (private hire vehicle) (Vehicles over 7 years old)	£100
Joint Hackney Carriage/Private Hire fee) Drivers Licence (3 years)	£204 (not including CRB
Private Hire Operators Licence (5 years)	£345

Comments received in relation to proposed Cheshire East Licensing Fees

Date	Name	District	Appendix	
31 Dec 2008	Mr A T Hudson	Macclesfield	1	
2 Jan 2009	Mr T Marshall	Congleton	2	
6 Jan 2009	Mr K Shenton	Congleton	3	
7 Jan 2009	Mr K Shenton	Congleton	4	
9 Jan 2009	Mr A James	Congleton	5	
14 Jan 2009	George Bean	Macclesfield	6	
14 Jan 2009	Mr G Tompsett	Congleton	7	
14 Jan 2009	Mr J Ratcliffe	Congleton	8	
15 Jan 2009	Mr J Hanmer	Macclesfield	9	
15 Jan 2009	Mr P J Gillick	Macclesfield	10	
19 Jan 2009	Mr D C Lea	Macclesfield	11	
19 Jan 2009	Mr P Parker	Macclesfield	12	
19 Jan 2009	Mr J R Beresford	Congleton	13	
19 Jan 2009	Mr M Jarvis	Macclesfield	14	
19 Jan 2009	Mr J Sheen	Macclesfield	15	
19 Jan 2009	Mr M C Martin	Macclesfield	16	
20 Jan 2009	David Bradshaw	Macclesfield	17	*
20 Jan 2009	Vahid Pir-Siahbaz	Macclesfield	18	*
20 Jan 2009	Brett Warburton	Macclesfield	19	*
20 Jan 2009	Hazim Al-Mallak	Macclesfield	20	*
20 Jan 2009	I A Shewan	Macclesfield	21	*
20 Jan 2009	Mazin Al Mallak	Macclesfield	22	*
20 Jan 2009	Archange-Michel Gomath	Macclesfield	23	*
20 Jan 2009	Choudhry Babar	Macclesfield	24	*
20 Jan 2009	D Stennett	Macclesfield	25	*
20 Jan 2009	H Jupp	Macclesfield	26	*
20 Jan 2009	C J Hall	Macclesfield	27	*
20 Jan 2009	W Mahon	Macclesfield	28	*
20 Jan 2009	S Collins	Macclesfield	29	*
21 Jan 2009	G Mellor	Macclesfield	30	*
21 Jan 2009	E McCabe	Macclesfield	31	*
21 Jan 2009	C Larsen	Macclesfield	32	*
21 Jan 2009	T Carr	Macclesfield	33	*
21 Jan 2009	R Myers	Macclesfield	34	*
21 Jan 2009	Peter Howard	Macclesfield	35	*
21 Jan 2009	R Hewitt	Macclesfield	36	*
22 Jan 2009	D J Podmore	Macclesfield	37	*
21 Jan 2009	Milne	Macclesfield	38	*
22 Jan 2009	R Finney	Macclesfield	39	*
22 Jan 2009	Ms K Capper	Macclesfield	40	*
22 Jan 2009	Farzad Abdi	Macclesfield	41	*
22 Jan 2009	C Neokli	Macclesfield	42	*
22 Jan 2009	T Neokli	Macclesfield	43	*
22 Jan 2009	Faisal Nawaz	Macclesfield	44	*

22 Jan 2009	M C Martin	Macclesfield	45	*
22 Jan 2009	MT Fleming	Macclesfield	46	*
22 Jan 2009	E Hoyle	Macclesfield	47	*
22 Jan 2009	E Young	Macclesfield	48	*
22 Jan 2009	Carl Warburton	Macclesfield	49	*
22 Jan 2009	Kevin Whittle	Macclesfield	50	*
22 Jan 2009	L Rutter	Macclesfield	51	*
22 Jan 2009	Clive Mather	Macclesfield	52	*
23 Jan 2009	Mr P Barry	Macclesfield	53	*
23 Jan 2009	T R Barber	Macclesfield	54	*
23 Jan 2009	T Kashmiri	Macclesfield	55	*
23 Jan 2009	D V Frankling	Macclesfield	56	*
23 Jan 2009	Dave Goodall	Macclesfield	57	*
24 Jan 2009	Tony Bently	Macclesfield	58	*
24 Jan 2009	Jim Leonard	Macclesfield	59	*
26 Jan 2009	Rafique Ahmed	Macclesfield	60	*
22 Jan 2009	P Cheakley	Macclesfield	61	*
22 Jan 2009	M Murray	Macclesfield	62	
* Letters contain the same content				

Breakdown of costs by licence type**Hackney carriage/private hire vehicle licence (annual licence)**

Item	Number of hours	Cost¹
Initial processing of application	2.75	137
Vehicle test ² including administration	1.5	75
Issue of licence/plates	0.5	25
Cost of materials (plate/backing plate/rivets and seals etc)		23
Element for 'control and supervision'		40
TOTAL		300

Hackney carriage/private hire drivers licence (three year licence)

Item	Number of hours	Cost
Initial processing of application	3	150
Knowledge test		
Issue of licence/plates	0.5	25
Cost of materials (drivers badge etc)		10
Element re: Committee hearing		19
TOTAL		204

Operators' licence (five year licence)

Item	Number of hours	Cost
Initial processing of application	3	150
Issue of licence	0.5	25
Element for 'control and supervision' (Over 5 year period £34 per year)		170
TOTAL		345

¹ Based on an hourly rate of £50 per hour

² Based on an average over the three existing districts

Summary of Comments Received

- 87% increase for a drivers licence.
- Proposals are way above inflation and unacceptable
- Licences should be capped, and then the proposed increases would be more acceptable.
- 30% increase for a vehicle licence.
- Proposed increases are disgraceful and add yet another burden on operators, which will surely lead to fare, increases to the paying public.
- CBC reduced the operator's licence from 3 years to 2, why do we need a 5-year one?
- High fuel prices last year and with the current recession, this will leave businesses struggling and more people will be out of work.
- This will affect small businesses.
- It is felt that we do not receive a supportive service for our money now, so why should we pay more?
- The increased cost of operating a Hackney carriage vehicle by 43% is unfeasible and counter intuitive. In the current economic climate, central government is committed to making sure that small businesses can stay in business. The idea of increasing operating costs so dramatically without any added benefits to us as operators does not fit with this principle.
- According to the Local government (Miscellaneous provisions) act 1976 it is the council's responsibility to keep the cost of licences proportionate to the cost of administering the licences and the public ranks. We cannot see how this cost has shot up by 43% in the last 12 months.
- We would like to see the current proposals reconsidered and a more reasonable proposal put forward.

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