

Licensing Committee

Agenda

Date: Monday, 20th July, 2009
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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 - 6)

To approve the Minutes of the Meeting held on 22 May 2009.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 22)

To receive the Minutes of the Licensing Sub-Committee Meetings held on 12 June 2009, 26 June 2009, 29 June 2009 and 7 July 2009.

6. **Fees and Charges** (Pages 23 - 42)

To consider the responses to the consultation exercise on fees & charges 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.

7. **Policy in Relation to 'Exempt Plating' of Private Hire Vehicles and Drivers**
(Pages 43 - 50)

To consider the draft policy in relation to exemption from the requirement to display licence plates on Private Hire Vehicles and the requirement for licensed drivers to display their Private Hire Driver Badge.

8. **Street Trading - Designation as 'Prohibited Street'** (Pages 51 - 54)

To consider authorising the publication of a notice of intention to designate the A556 (to its extent within the Borough), together with any adjoining street for a distance of 50 metres, as prohibited streets for the purposes of street trading.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Friday, 22nd May, 2009 at Council Chamber, Municipal Buildings,
Earle Street, Crewe CW1 2BJ

PRESENT

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

Councillors Rachel Bailey, Rhoda Bailey, G Baxendale, T Beard, B Dykes,
L Gilbert, E Gilliland, J Goddard, A Ranfield, C Tomlinson and M Hardy

APOLOGIES

Councillors H Davenport and M Parsons

50 DECLARATIONS OF INTEREST

No Member present made any declaration of interest in the business of the meeting.

51 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, Mr Fidler indicated that he wished to address the Committee on behalf of the traders. The Chairman agreed to take his comments under agenda item 7 (Fees and Charges).

52 MINUTES OF PREVIOUS MEETINGS

Subject to the following amendment to the second sentence of Minute 46 (Taxi Licensing – Convictions Policy) in the Minutes of the meeting held on 30th March 2009 i.e.

The phrase *'threatening or abusive violent behaviour'* to be replaced with *'threatening or abusive language or behaviour'* -

RESOLVED: That the Minutes of the meetings held on 30 March and 5 May 2009 respectively be approved as correct records.

53 MINUTES OF LICENSING SUB-COMMITTEE

RESOLVED: That the Minutes of the Sub Committee meeting held on 29 April 2009 be approved as a correct record.

54 DELEGATION OF FUNCTIONS (EXPEDITED REVIEWS)

In accordance with the Licensing Act 2003, certain functions falling under the remit of the Licensing Committee could be delegated to a Licensing Sub Committee; the power of referral to the parent committee being retained by the Chairman and Vice Chairman. On the 19 December 2008, the Committee had resolved to delegate the majority of its functions under the 2003 Act to a Sub-Committee of three Members; however two functions were omitted namely –

- a) Determination of interim steps pending summary review [Sections 53A(2) (a) or 53B]; and
- b) Any function under Section 53C [review following review notice] in a case where relevant representations [within the meaning of Section 53C(7)] have been made.

To ensure reviews could be dealt with expeditiously, the Committee was invited to delegate the above powers to the Sub Committee.

RESOLVED: That the following functions be delegated to the Licensing Sub Committee established under the Licensing Act 2003, subject to the proviso that the Chairman or Vice Chairman of the full Committee has the discretion to refer matters to the full Licensing Committee if the item is particular significant or controversial in nature -

- a) Determination of interim steps pending summary review [Sections 53A(2) (a) or 53B]; and
- b) Any function under Section 53C [review following review notice] in a case where relevant representations [within the meaning of Section 53C(7)] have been made.

55 FEES AND CHARGES

The Committee had considered, on previous occasions, a schedule of fees and charges for 2009/2010 which would apply to Hackney Carriage and Private Hire Vehicles. Following statutory consultation periods, a number of representations had been received which had been considered by the Committee and had resulted in revisions to the schedule.

Appendix J (attached to the report) provided a summary of the proposed harmonised fees. For the avoidance of doubt, Mrs Khan advised Members that the Appendix constituted a 'new' proposal and as such, the fees would be subject to a further consultation exercise. Due to the need for a notice to be placed in local newspapers for a twenty eight day consultation period, the date of implementation (subject to any consultation responses received) would be 6 July 2009 rather than 19 June as set out in the report.

Further to Minute No. 51, Mr Fidler was invited to address the Committee. He began by stating that, in the views of the traders, the methodology applied to the calculation of fees was flawed and would result in inequalities across the three areas of Congleton, Crewe and Nantwich and Macclesfield. He drew particular attention to the fact that the fees currently included the cost of MOT testing for Macclesfield drivers; a cost which was borne separately by those operating in Crewe and Nantwich and Congleton.

Mr Fidler also sought clarification on whether there would be an opportunity to make representations on the revised fees and charges or whether the decision of the Committee today would constitute a binding agreement. In response, Members were advised that whilst it would be lawful (under the provisions of Section 70 of the Local Government (Miscellaneous Provisions) Act 1976) for the Committee to make a decision at the meeting, it was equally lawful, if the Committee decided to resolve (i) not to implement the original proposals on fees; and (ii) to carry out a consultation exercise on the new proposals.

Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 provided that the authority may set fees in relation to drivers' licences which it '*considered reasonable with a view to recovering the costs of issue and administration of such licences*'. Mr Potts and Mr Rennie commented on the method of calculation, stating that until the administrative support structure had been finalised and costed, the outturn figure for 2008/2009 had been applied. It was anticipated that costs savings would be achieved by the end of the financial year when further data became available.

Having heard the representations and the responses from officers, the Committee

RESOLVED: That

- a) The scales of fees and charges published in February 2009 not be implemented; and
- b) the proposed 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 set out in Appendix J of the report be subject to consultation, and if no representations are received, be implemented with effect from 6th July 2009.

56 REVIEW OF PREMISES LICENCE - WHITE HORSE, PILLORY STREET, NANTWICH

In attendance:

Mr G Hodgson	Ford and Warren Solicitors, on behalf of the Premises Licence Holder, Punch Taverns
Ms A Jackson	licensing/Enforcement Officer, Cheshire East Council
Mr D Smethurst	Police Licensing Officer

Due to an incident which had occurred on 25th April 2009 and in accordance with Section 53A of the Licensing Act 2003, the Committee had held an interim hearing on 29th April 2009 to consider the Premises Licence for the White Horse Public House, Pillory Street, Nantwich. Having heard the views of the various parties in attendance at the meeting, the Committee agreed to impose a number of conditions on the licence.

Subsequent to this, the Premises Licence Holder submitted further representations to the Council, which resulting in an interim steps hearing being convened on 5 May 2009 in accordance with Section 53B of the Licensing Act 2003; the outcome of which was the revision of the conditions imposed.

As a result of the hearings being called, there was now a requirement for a full review of the licence to be heard and the Committee was invited to consider the application. Mrs Khan summarised the position for the Committee, drawing Members' attention to the relevant paragraphs of the Licensing Act and the previous decisions made in relation to the White Horse which had been set out in Appendices A to D. The Police Licensing Officer stated that since the event on 25th April 2009, no further incidents had been reported at the premises.

Mr Smethurst was then invited to address the Committee. He began by explaining to Members that the usual practice (at this point in the proceedings) would be for witnesses to be brought forward but this had not been deemed necessary. Discussions had taken place with the Premises Licence Holder and an agreement had been reached between the two parties which regards to the imposition of suitable conditions to meet the licensing objectives of **the prevention of public nuisance and crime and disorder**. A list of the conditions proposed was tabled at the meeting for the benefit of Members.

The Committee questioned Mr Smethurst on matters pertaining to the history of incidents at the premises and the presence of door supervisors on specific dates in the calendar which were responded to accordingly. With regard to the conditions proposed, a Member suggested that Condition 4, which would require staff to receive training on commencement of their employment, should apply to all employees; a proposal which was acceptable to both the Police Licensing Officer and the Premises Licence Holder.

Having made their representations, the Police Licensing Officer, the Licence Holder's Solicitor and other representatives present withdrew from the meeting to allow the Committee to determine the application. Upon reaching its decision, the above parties were re-admitted to the meeting to be informed of Committee's decision.

RESOLVED:

That the following conditions be imposed on the Premises Licence in respect of The White Horse, 22 Pillory Street, Nantwich:

1. A Challenge 21 proof of age scheme shall be in operation in relation to all sales of alcohol.
2. The Designated Premises Supervisor or their representative is required to regularly attend Pub Watch meetings to ensure that people subject of Pub Watch bans are identified and where possible to take reasonable steps to ensure that those persons are excluded from the premises.
3. A minimum of two Security Industry Authority Door Supervisors are on duty at the premises every Friday and Saturday and on the Sunday preceding the Easter bank holiday Monday from 20.00 hours until the premises closes to the public.
4. All authorised staff shall receive training at the commencement of their employment so that they have an awareness of the licensing law and wider social responsibilities attached to the sale of alcohol and the conditions attached to the licence. All current staff shall also receive this training. Such authorisations and evidence of such training shall be recorded in writing.

5. CCTV should within the next 4 months be sited on the premises. The precise siting of each camera and number of cameras where possible to be agreed between the Premises Licence Holder and the Police. Such system to be maintained in working order and recordings be retained for such a period as agreed between the Premises Licence Holder and the Police.

The meeting commenced at 10.00 am and concluded at 11.45 am

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Friday, 12th June, 2009 at The Tatton Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)

Councillors Rachel Bailey, M Parsons, C Tomlinson and Rhoda Bailey

10 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

11 APOLOGIES FOR ABSENCE

None.

12 DECLARATIONS OF INTEREST

None.

13 EXCLUSION OF THE PUBLIC AND PRESS

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information in accordance with the paragraphs 1 and 3, pursuant to part 1 of Schedule 12 (A) of the Act.

14 APPLICATION FOR EXEMPTION FROM DISPLAY OF PLATES AND REMOVAL OF PRIVATE HIRE VEHICLE CONDITIONS

The Sub-Committee considered a report regarding an application for grant of an exemption certificate to exempt the applicants vehicle from the requirement to display private hire licence plates and an exemption for drivers of the vehicle to wear their private hire drivers identification badge.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application should be granted.

The Committee were informed that the applicant no longer wished to pursue with his application.

RESOLVED – That the application be refused.

15 HACKNEY CARRIAGE DRIVERS LICENCE

The Sub-Committee considered a report regarding the future of a Hackney Carriage Drivers Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application should be granted.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, the following course of action had been agreed.

RESOLVED – That the Licence Holder be given a warning in relation to his behaviour and any future conduct.

16 HACKNEY CARRIAGE DRIVERS LICENCE

This item was adjourned to the next available Committee date.

17 HACKNEY CARRIAGE DRIVER LICENCE AND VEHICLE LICENCE.

The Sub-Committee considered a report regarding the future of a Hackney Carriage Driver and Vehicle Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application should be granted.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, the following course of action had been agreed.

RESOLVED – That the Licence Holder be given a warning in relation to his behaviour and any future conduct.

18 HACKNEY CARRIAGE DRIVER LICENCE AND VEHICLE LICENCE.

The Sub-Committee considered a report regarding the future of a Hackney Carriage Driver and Vehicle Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application should be granted.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, the following course of action had been agreed.

RESOLVED – The Committee determined that there was not sufficient grounds in the case to depart from its policy and therefore it did not feel that it was appropriate to disapply the condition in relation to tinted windows. The Committee

also determined to suspend the hackney carriage vehicle licence under section 60(1) of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the films were removed and the vehicle presented for inspection by an authorised officer of the Council.

The Licence Holder was reminded of the right to appeal the decision to the Magistrates Court within 21 days.

The meeting commenced at 10.00 am and concluded at 12.35 pm

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Friday, 26th June, 2009 at East Committee Room - Municipal
Buildings, Earle Steet, Crewe, CW1 2BJ

PRESENT

Councillor P Whiteley (Chairman)

Councillors D Bebbington, H Davenport, B Dykes and L Gilbert

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor

Mr P Simester, Licensing Officer

Mrs J Zientek, Democratic Services Officer

1 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

2 APOLOGIES FOR ABSENCE

There were no apologies for absence.

3 DECLARATIONS OF INTEREST

There were no declarations of interest.

4 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

5 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application for a Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant attended the hearing and made representations in respect of his application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, including the applicant's oral representations, the following course of action had been agreed.

RESOLVED – That the applicant is not a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, as insufficient time has elapsed since his conviction, and that the application be refused.

6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application for a Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant attended the hearing and made representations in respect of his application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, including the applicant's oral representations, the following course of action had been agreed.

RESOLVED – That the applicant is a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be granted on a probationary basis with a review period of 12 months, to allow him to demonstrate that he continues to be a fit and proper person to hold a licence. If the licence holder has no further convictions and no valid complaints are made against him, his licence will be confirmed for a further 2 years without the need for re-application.

7 LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding a licensed Hackney Carriage/Private Hire driver.

The Sub-Committee was informed that this fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to consider what action, if

any, should be taken in respect of the licence held by the Hackney Carriage/Private Hire driver.

The licence holder attended the hearing and made representations. The licence holder's employer also attended the hearing and made representations in support of the licence holder.

After a full hearing and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, including oral representations by the licence holder and his employer, the following course of action had been agreed.

RESOLVED – That the licence holder is no longer a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that his licence be suspended under Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 with immediate effect, until such time as the first set of three penalty points expire for the purposes of totting up, namely 4 July 2010.

The meeting commenced at 10.00 am and concluded at 12.10 pm

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Monday, 29th June, 2009 at The Tatton Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)

Councillors E Gilliland, M Parsons, A Ranfield and T Beard

Apologies

None.

1 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

2 APOLOGIES FOR ABSENCE

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF THE PUBLIC AND PRESS

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information in accordance with the paragraphs 1 and 3, pursuant to part 1 of Schedule 12 (A) of the Act.

5 HACKNEY CARRIAGE DRIVER LICENCE

The Sub-Committee considered a report regarding the future of a Hackney Carriage Driver Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine the future of the Hackney Carriage Driver Licence.

The applicant attended the hearing with a representative and made representations in respect of his application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account

of all of the evidence, including the applicant's oral representations, the following course of action had been agreed.

RESOLVED - The Sub-Committee determined that the applicant continued to be a fit and proper person to hold a hackney carriage drivers licence and therefore resolved to grant the application for the renewal of the licence.

6 HACKNEY CARRIAGE DRIVER LICENCE

The Sub-Committee considered a report regarding the future of a Hackney Carriage Driver Licence.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine the future of the Hackney Carriage Driver Licence.

The licence holder attended the hearing with his Solicitor and made representations in respect of his application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, including the licence holder's oral representations, the following course of action had been agreed.

RESOLVED - The Sub-Committee considered the evidence and took into account the representations made. The Sub-Committee determined that the licence holder continued to be a fit and proper person to hold a hackney carriage drivers licence. The Sub-Committee therefore resolved to take no action in relation to the future of the licence.

The Sub-Committee wished to emphasise the importance of reporting convictions to the Licensing Section.

7 APPLICATION FOR EXEMPTION FROM DISPLAY OF PLATES AND REMOVAL OF PRIVATE HIRE VEHICLE CONDITIONS

The Sub-Committee considered a report regarding an application for grant of an exemption certificate to exempt the applicants vehicle from the requirement to display private hire licence plates.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly the hearing had been convened to enable the Sub-Committee to determine whether the application should be granted.

The Licensing Sub-Committee was requested to determine an application for the grant of an exemption certificate in relation to a Chrysler Grand Voyager vehicle currently licensed with the Council.

The applicant attended the hearing with her Accountant and made representations in respect of her application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of all of the evidence, including the applicant's oral representations, the following course of action had been agreed.

RESOLVED - The Sub-Committee determined to grant an exemption certificate in relation to the display of plates on the private hire vehicle in accordance with condition 10 of the Council's vehicle conditions.

The meeting commenced at 10.00 am and concluded at 11.40 am

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Tuesday, 7th July, 2009 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)

Councillors T Beard and A Ranfield

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor

Mr A Bibi, Environmental Health Officer

Mrs N Cadman, Licensing Officer

Mrs J Zientek, Democratic Services Officer

8 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

9 APOLOGIES FOR ABSENCE

There were no apologies for absence.

10 DECLARATIONS OF INTEREST

Councillor P Whiteley declared a personal interest in respect of the matter under consideration, on the grounds that he had attended a number of meetings and a social function at Toft Cricket Club.

Councillor A Ranfield declared a personal interest in respect of the matter under consideration, on the grounds that he had attended a number of meetings at Toft Cricket Club.

11 APPLICATION FOR A PREMISES LICENCE - TOFT CRICKET CLUB, BOOTH'S PARK, CHELFORD ROAD, KNUTSFORD, CHESHIRE

The Sub-Committee considered a report regarding an application from Toft Cricket Club for a Premises Licence under section 17 of the Licensing Act 2003.

Local residents and representatives of the applicant attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- 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)
- All the evidence, including the written representations of further residents and representations made by the Environmental Health Service and Cheshire Constabulary

the following course of action had been agreed:

RESOLVED – That a Premises Licence be granted, subject to the following amended operating schedule:

Live music (to take place indoors)
Monday to Sunday 10.00 to 24.00

Live music (to take place outdoors)
Monday to Sunday 12.00 to 24.00

[subject to the condition below in relation to outdoor events]

Recorded music (to take place indoors and outdoors)
Monday to Sunday 10.00 to 24.00

Performance of Dance (to take place indoors and outdoors)
Monday to Sunday 10.00 to 24.00

Performance of Plays (to take place indoors)
Monday to Sunday 10.00 to 24.00

Film Exhibitions (to take place indoors)
Monday to Sunday 10.00 to 24.00

Anything of a similar description to live music, recorded music and dance (to take place indoors)
Monday to Sunday 10.00 to 24.00

Provision of facilities for making music (to take place indoors)
Monday to Sunday 10.00 to 24.00

Provision of facilities for dancing (to take place indoors)
Monday to Sunday 10.00 to 24.00

Provision of facilities for entertainment similar to music and dance (to take place indoors)
Monday to Sunday 10.00 to 24.00

Late night refreshment (to take place indoors)
Monday to Sunday 23.00 to 24.00

Sale and supply of alcohol
Monday to Wednesday 10.00 to 24.00
Thursday to Saturday 11.00 to 00.30
Sunday 12.00 to 22.30

and subject to the following conditions:

1. There shall be no more than two outdoor events at the premises per year, one of which shall last no more than three consecutive days and the other which shall last no longer than one day.
2. The Club shall notify the Police and Head of the Environmental Health Service of the details of any outdoor event no later than fourteen days before the first day of the event.
3. Doors and windows of the premises shall remain closed after 22.00 when live or recorded music is being played.
4. Notices shall be placed at the exits to the premises requiring persons leaving the premises to do so quietly and with respect for neighbours.

The meeting commenced at 9.30 am and concluded at 12.07 pm

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 20 July 2009
Report of: Tony Potts, Community Safety Manager
Title: Fees and Charges

1.0 Report Summary

- 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 Recommendations

- 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 within each of the three zones and private hire vehicles, drivers and operators with effect from the First of August.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee is requested to take into consideration the representations and to take these into account when determining its decision. The committee is requested to decide the amount of the fees to be charged by Cheshire East so that this may be resolved and in place by the 1st August 2009.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications including - Climate change, Health

None

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 Should the committee decide not to implement the proposed fees and charges then this will have an impact upon the 2009/10 budgets

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 As above

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 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.
- 9.2 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. It also 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
- 9.3 A district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part-
- (a) the reasonable cost of carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
 - (b) the reasonable cost of providing hackney carriage stands; and
 - (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles

10.0 Risk Management

If the Committee are unable to determine the fees, the current situation of unequal fees (charged by the three previous district councils) will remain.

It is suggested that leaving the charges as they are would be inequitable

11.0 Background and Options

- 11.1 As Members will recall, at its meeting on 22nd May 2009, 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**.
- 11.2 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 1st June 2009. In addition details were also put onto the council's website. The date by which representations were required to be submitted was 3rd July 2009.
- 11.3 The Council has received a total of 7 representations as part of the consultation exercise. For further information a copy of all the letters received are attached **Appendix B, C, D, E, F, G & H. (Appendix H also includes a response)** to which a verbal presentation will be given at the meeting. Also attached at **(Appendix J)** is a representation that has been responded to and is included for information.
- 11.4 The proposed fees have been calculated from consolidated costs previously incurred by each of the three-district council's and adjusted for identified cost savings. The committee must also take into account when determining the level of fee to be set, that the cost of providing the service ensures that the costs are reasonable, and relate to cost recovery.
- 11.5 A summary of the proposed harmonised fees **Appendix K** has been calculated using the cost per hour of available officer time using the calculated rate per hour.

For further information:

Portfolio Holder: Councillor Brian Silvester

Officer: Tony Potts

Tel No: 01270 529869

Email: tony.potts@congleton.gov.uk

Background Documents:

None

Appendix A

Details of the proposed fees are set out below:-

Hackney Carriage Vehicle (Annual)	£290
Private Hire Vehicle (Annual)	£290
6 month test (hackney carriage) (vehicles over 7 years old)	£75
6 month test (private hire vehicle) (vehicles over 7 years old)	£75
Joint Hackney Carriage/Private Hire fee) Drivers Licence – New application (3 years)	£210 (including CRB
Joint Hackney Carriage/Private Hire fee) Drivers Licence – Renewal (3 years)	£150 (including CRB
Private Hire Operators Licence (5 years)	£335

APPENDIX B

Cornes, Jane

From:
Sent: 20 June 2009 21:58
To: Licensing Mail Box
Subject: Complaint against Taxi and PH licence fee hikes

Dear Sirs,

To date there has not been one statement by the CE Council, either via the Licensing Dept or Finance Dept, as to the total revenue raised from the various fees received that are associated with Taxi/PH revenues.

As you no doubt are aware, the applicable legislation provides only for either part or full recovery of the costs with which to supply the licensing service, there is no provision for a Council to make any surplus above the actual operating costs, to do so would leave the Council open to a charge of profiteering in an illegal manner.

The original intent of the law governing Taxi/PH licensing was that it should be a public service to ensure the safety of the travelling public, not a cash cow to subsidise other areas of Council expenditure.

All of the current licence holders therefore, formally request the relevant financial information as to whether the Councils Licensing costs are equal to or greater than, the income generated in the past and current years, most hold the opinion that the current fees are already creating a surplus and that the suggested hike in fees (some 43%) is not only unfair at this time of recession, it is a blatant misuse of the powers placed upon those who are supposedly working only for the public good.

You may also be aware of the front page article in the Macclesfield Express dated June 10th 2009 ("Council Hides Parking Profit") which may give you some idea of how the public feel about the current way the "transparency of Government" depts are operated, you simply cannot pluck a figure out of the blue for fees without having the figures to back up your claim, to do so would leave you open to litigation at a later date and would not be in the interests of the public purse for if a case came to court that found the Council was acting in an illegal manner it may well cost taxpayers a great deal of money in compensation.

You must approach licensing fees in a correct, fair, and legal way. you must provide a genuine reason for increases and be in a position to back up your decision with figures that can be verified, not to do so could see you end up with another front page story which could (in this case) go national and effect every Council in the country.

Protect yourselves ! I formally wish to register my complaint against licensing fee increases until you can provide a sound verifiable basis for them to be increased.

Yours faithfully

22/06/2009

APPENDIX C

Robson, Vilma

From: Robson, Vilma on behalf of Licensing Mail Box
Sent: 23 June 2009 12:25
To:
Subject: RE: Proposed Licence fee increases

Dear
I write to acknowledge receipt of your objections and suggestions in relation to the proposed fees and charges. I confirm that I will forward these to Mr Tony Potts who is dealing with this matter.
Regards Vilma Robson

Vilma Robson
Licensing Officer
Cheshire East Council
vilma.robson@cheshireeast.gov.uk

-----Original Message-----
From: uk [mailto:kenkar54@tiscali.co.uk]
Sent: 23 June 2009 09:40
To: Licensing Mail Box
Subject: Proposed Licence fee increases

I wish to object to Cheshire East Councils proposal to increase fees for Private Hire Vehicles etc. The proposed increases are way above the rate of inflation and cannot be justified, particularly in this current financial climate. This proposal, coupled with the extra burden of the cost of the new conditions will seriously jeopardize the future of many operators. We all know the cost of fuel nowadays notwithstanding the increased cost of tyres etc., etc.
Should the Council need to save costs then may I suggest they look no further than themselves and do some in house pruning.

Value your online security: Get 50% off Norton Security 2009 -
<http://www.tiscali.co.uk/securepc>

APPENDIX D

Robson, Vilma

From:
Sent: 22 June 2009 14:11
To: Licensing Mail Box
Subject: Plates

To whom it may concern I'm a driver in the east Cheshire bough and I'm not happy with the plate increase from £210 to £290 this is by far a large increase and is not fair for the current climate, this is unfair to increase the plates as the work has dropped of and the plates in macclesfield are increasing all the time I feel this needs looking into further before it can be decided to be increased thanks for your cooperation

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22/06/2009

APPENDIX E

Cornes, Jane

From: [redacted]
Sent: 01 July 2009 10:30
To: Licensing Mail Box
Subject: Taxi Fees

To whom it may concern I'm a driver in the east Cheshire bough and I'm not happy with the plate increase from £210 to £290 this is by far a large increase and is not fair for the current climate, this is unfair to increase the plates as the work has dropped of and the plates in macclesfield are increasing all the time I feel this needs looking into further before it can be decided to be increased thanks for your cooperation

Upgrade to Internet Explorer 8 Optimised for MSN. [Download Now](#)

02/07/2009

APPENDIX F

Cornes, Jane

From:
Sent: 07 June 2009 21:48
To: Licensing Mail Box
Subject: License fees

I would like to object to the proposed license fees as published in the Macclesfield Express newspaper dated 3/6/09.
The hackney carriage vehicle test is still too high at £290-00. The 6 monthly test for vehicles over 7 years old IS acceptable at £75-00.
Why should I be forced to pay for a joint Hackney/Private hire badge when I have no intention of owning a private hire vehicle?
Are these proposed fees simply plucked out of midair or are they calculated on the basis of hours required to process a license.
How were these figures arrived at?
As it stands, we are at saturation point where I work in Macclesfield, and I am having to work excessive hours to keep in business.
Further increase in cost is totally unacceptable, as we are still in a recession.
It would appear that you have no consideration for the trade and only seek to reap revenue from it.
Deregulation plus a recession is not a good environment to propose an increase in fees.

25years experience of the trade.

Get £25 off a case of wine with Tiscali's Naked Wines offer - www.tiscali.co.uk/wine

APPENDIX G.



Dear Sir or Madam

In response to the proposed increase in Private hire and Hackney carriage Licenses I object for two main reasons.

Firstly the present financial climate means there is a large reduction in people using taxis and the general increase in the cost of fuel and repairs.

Secondly there are too many licenses being issued and that is reducing the share of business available to make a reasonable income.

Is the M O T certificate included in the increase in fees or are we expected to pay out again for something which has been unnecessary in the past?

Yours faithfully

A large, dark, illegible signature or stamp, possibly a red wax seal or a very dark ink mark, located below the "Yours faithfully" text.

APPENDIX H.

1st. July, 2009.

Mr. T. Potts,
Licensing Department,
Cheshire East Council
Council Offices
Westfield's,
Middlewich Road,
Sandbach,
Cheshire,
CW11 1HZ

Local Government (Miscellaneous Provisions) Act 1976
Fees and associated charges for the Licensing of Vehicles, Operators and Drivers.

Dear Sirs,

Cheshire East Council – Licensing Fees for taxis etc.

Further to the Statutory Notice placed by the Council in The Macclesfield Times we wish to submit our Objection to the implementation of the fees as advertised.

We are particularly concerned that the failure of the Council to address the difficulties which ought to have been apparent to it when considering the transition to a new authority has resulted in a situation where partial variation of conditions of licence and the continuing operation of what are essentially three licensing services is engendering considerable feelings of inequality of treatment amongst the trade across the three former authority areas.

Four months in to the new Council's life we find that the degree of disparity of treatment of existing licence holders is producing increasing doubt that the Council has a proper appreciation of our sense of dissatisfaction with the failure of the Council to devote sufficient management input at an early stage into resolving these complex issues.

If the Council will be unable for reasons of lack of available management resource to meet with us and resolve our substantial concerns within the next two months, then we believe the Council should revert to charging the lowest fee levied for any particular licence across the three former councils for the remainder of this financial year.

In the meantime we ask the Licensing Committee to defer consideration of our and any other Objections submitted, to allow for consultation to produce a thorough and acceptable resolution of the anomalies inherent in the current proposals.

At the meeting of the Licensing Committee held on 22nd May, 2009, it was resolved that fees for licensing of drivers, vehicles and operators be approved as set out in the Report

for the meeting at Appendix A and that those fees would be advertised further to allow for Objection to be made in accordance with the provisions of the Act.

We set out below a number of the major concerns we have and hope that these will demonstrate the need for the detailed consultation/negotiation we have requested.

The council had produced a revised budget for the Licensing of taxis etc following the adjournment of the meeting of the Committee on 30th March, 2009 when concerns raised by the trade and elected members were sufficiently serious to make a determination of the fees then proposed unsafe on the basis of the information available to the committee at that time.

The council subsequently supplied a considerable amount of financial and other data to support the recommendations made to the Committee for approval on 22nd May, 2009.

The budget showed an apparent deficit (under recovery of alleged operating costs) of between £84582 (based on actual numbers of licences issued in 2008/09) and £133,536 (based on the budgeted volumes of the three former authorities).

The council's position is that on the basis of the fees now approved the trade as a whole will be enjoying a considerable subsidy, by reference to the estimated cost of providing the service over the coming twelve months (being the actual outturn costs of the former authorities for 2008/09 with a few minor adjustments).

That is all predicated on the assumption that the three previous authorities were applying reasonable apportionments of costs to their respective Taxi licensing Cost centres.

Examination of the costs attributed by them to taxi licensing activity indicates widely disparate approaches.

To date, the new authority has not established an integrated costs and overheads recharging system.

✓ Has the Cheshire East Council approved a consolidated budget for 2009/10 and was this approved as a single budget or are there four separate budgets operating as 'satellite' operations which will only be consolidated for the purposes of producing the Statutory Accounts?

The operation of the Cheshire East licensing functions to the present time is based on three separate offices working to the working practices and administrative systems of the former authorities.

As such, the setting of the fees by reference to notional time allowances for particular licence processes is unsafe as there is no commonality of actual practice.

By way of example we cite the method by which licence renewals and vehicle testing is carried out in Macclesfield. The licensee does not deal with licensing staff but submits applications to staff in the Customer Services Centre who check papers and documents against a 'checklist' for completeness and accept payment. Licences are issued by the Licensing Department, in the case of vehicles, after completion of the Compliance Test by the Council's appointed contractor. The time involvement of the Licensing department staff and other Council staff is therefore considerably less than that stated in Appendix J of the report to the Committee for 22nd May, 2009.

It is our considered view that the Council should reject the concept of 'time based' fees for the following reasons:-

- 1) As stated in our submission to the Committee on 22nd May, 2009 we do not accept a summation of total 'staff hours' to be expended in licensing of taxis and drivers, based upon notional time estimates to process each type of licence, as a valid basis of budgeting – example above.

The Council is required to provide an 'on demand' service in normal office hours, which will be in place regardless of demand on any day or time of the year. The council must also respond to public enquiries, complaints, carry out enforcement and process action to the committee or courts in appropriate circumstances.

If the time allocations set out in Appendix J (Report 22nd May, 2009) are accepted, the only funding for on-going administration of these additional matters would appear to be the trivial sum of £34 per annum drawn from the Five –Year Operator licence.

- 2) In correspondence, the council has stated that the 'savings' in the staff employed on taxi licensing for the future (as shown on the Costs and Income Spreadsheet presented to the meeting on 22nd May) have been achieved by reducing from 4.72 down to 4.12 FTE posts as against the staff input to this activity in the former authorities. Are these actual proportions of given posts, or derived figures based upon the notional hours calculated/stated for the grant and renewal of licences?

Whichever seems not to matter, as the notional hourly rate derived from the costs appears to move inversely to the reduction in the FTE staff figure given on the budget calculation spreadsheet? The future forecast operating departmental costs are simply the consolidated outturn for last year in the three former councils. Thus, as the staffing FTE figure has been reduced this results in less total staff hours per working year to be applied as the denominator in the calculation of the hourly charge out rate. This has now increased from £50 as given in the Report to the committee at paragraph 7.9 to £60.53 at the 6th paragraph of section 8.1 of the report to the meeting on 22nd May.

The net result is to maintain the level of Fee income by increasing the hourly charging rate as the 'alleged' staff time input 'falls'.

On the basis of the above observations we do not see any point in engaging in a detailed argument about the specifics of costs included in the account until such time as we have had the opportunity provided under the Audit Commission Act 1998 – Public Inspection of Accounts Regulations, to examine the details of the specific charging policies and costs included in the Licensing accounts of the former authorities, which should be available for inspection within the next few weeks.

The differences of practice between the three 'licensing sections' including the testing regimes for Private Hire Vehicles and Hackney Carriages, for which the 'old' conditions remain in force, is producing considerable inequality of treatment and costs for owners and drivers in different places. The council must address these issues urgently to remove the current lack of faith in the trade that the merging of the authorities will produce any efficiencies or improvement in the area of licensing activity; which impinges on their businesses to an extent far greater than in almost any other area of activity subject to Council supervision and control.

We hope that the council will give due consideration to our Objection and suggested timetable to resolve the current concerns, which are felt widely across the whole of the new authority and allow us the opportunity to present additional comments to appropriate senior Officers of the Council at an appropriate time.

Yours sincerely,

chairman

For and on behalf of Cheshire East Hackney Carriage and Private Hire Association.

Please reply to

Cheshire East Hackney Carriage and Private Hire Association
C/O

APPENDIX J

E Mail to Mr Rennie from

dated 22nd June 2009

Mr. Rennie,

I understand from Mr Potts that a requested meeting with Trade representatives will unfortunately not be possible. Consequently and in order for me to prepare appropriate and accurate representations to the proposed fee structures, a timely response to the following is requested;

Central Services Recharges.

a) How was the apportionment of the total consolidated cost base arrived at for the TAXI/ PHI licensing functions?

b) How were the FTE figures calculated?

c) Under the Supplies and Services section are items IT Software + Communications & Computing. Are these duplicated within the ACT Services Recharge?

d) Law & Admin; Community Safety; Environmental health; Customer Services, DEBTORS; and a very large item called OTHERS. What service is provided to the Taxi / Licensing function to justify these recharges?

e) Can we be assured that a department whose costs are being recharged e.g.. IT services do NOT include any recharged costs made to them by a.n.other service dept e.g. Law & Admin?

Many Thanks

Terry ME.

E.Mail Response to From Andrew Rennie Dated 3rd July 2009.

Taxi Licensing Fees

Central Service Recharges

a) How was the apportionment of the total consolidated cost base arrived at for the Taxi/PHI licensing functions?

The total consolidated cost base for Central Service Recharges has been arrived at by the using the historical data for each of the three districts.

As I mentioned at the meeting on 22nd May 2009 and in my email to Alan Fiddler dated 14th May 2009 (who represented the Taxi Drivers at the same meeting) the overhead allocations made to Taxi Licensing are considered to be a reasonable estimate at the present time.

Each District has it's own basis of allocations and to help you understand how these have been arrived at I attach a spreadsheet showing the basis of allocation.

The FTE figures (reduced for 2009/10 by 0.6 FTE) represent staff numbers who are directly charged to the Licensing Section. An estimate of their proportion of time spent on Taxi Licensing compared to other Licensing has been made. The addition of these proportions makes up the FTEs shown on the costing sheets.

Contained within Supplies & Services are Software Licence Costs & Updates which are directly related to the Taxi Licensing function. The ICT Recharges are computing recharges made from the ICT function. I confirm there is no duplication of costs being charged to Taxis.

The recharges from the various sections you have mentioned are included on the attached spreadsheet. I have split the others section out below the body of the spreadsheet and have provided an explanation of the basis of the allocation of the recharge.

I cannot assure you that a department whose costs are being recharged have not already had costs recharged to it. The recharge calculation has to start at one cost centre and finish at another cost centre. The IT Section would recharge costs to almost every cost centre including Law & Admin and each of those cost centres would in turn recharge their total costs to other cost centres (inclusive of recharges).

See above for explanation

HR & Payroll - Staff time based on assignment to a directorate, then apportioned over services in directorate based on FTEs in each section.

Communications - FTEs per directorate/service

Planning HelpdeskAdmin - % of time spent at front desk taking payments/banking etc

Office bathroom - Based on 80 ft. of office space for licensing function

AP# - No of invoices processed

Insurance - Corporate insurance based on staffing

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APPENDIX 1

Chesham East Borough Council		Total Licensing Overhead Allocation Details 2009/10		Total	
Central Services Resource		Misclassified		Correct & Rerouted	
Condition		Basis of Allocation		Basis of Allocation	
ICT Services	Based on Number of PCs used & direct software used	No of PCs + Office time spent on systems work	16,997	No of PCs + Persons plus any direct software related costs	5,240
Law & Admin	Office Time at Legal Section	Office Time at Legal Section	24,736	Office time and decision of legal operations	6,004
Community Safety	Office Time at Community Safety Manager			Office Time dealing with tax vehicle licence issues	40,806
Environmental Health					
Customer Services					
Debtors					
Central Print Unit					
Head of Service					
Transport Management					
Others					
Total					

See above for explanation

H.R. + Payroll - Staff time based on assignment to a directorate, then apportioned over services in directorate based on F.T.E.s in each section.

Commissionable - F.T.E.s per directorate/service

Planning H.R./Directorate - % slice of time spent on most distracting payments banking etc.

Office economin - based on sq ft of office space for licensing function

AP - No of invoices processed

Insurance - Corporate Insurance based on staffing

Design & Graphics -

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

Item	Number of hours	Cost¹
Initial processing of application	2h:45m	170
Vehicle test ² including administration	1h:30m	90
Issue of licence/plates	0:30m	30
TOTAL		290

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

Item	Number of hours	Cost
Initial processing of application	2h	120
Knowledge test	1h	60
Issue of licence/plates	0:30m	30
TOTAL		210

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

Item	Number of hours	Cost
Initial processing of application	2h	120
Issue of licence/plates	0.30m	30
TOTAL		150

¹ Based on an hourly rate of £60 per hour

² Based on an average over the three existing districts

Operators' licence (five year licence)

Item	Number of hours	Cost
Initial processing of application	3h	180
Issue of licence	0.30	30
Element for 'control and supervision' (Over 5 year period £34 per year)		125
	TOTAL	335

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 20 JULY 2009
Report of: MR M JANES
Subject/Title: POLICY IN RELATION TO 'EXEMPT PLATING' OF
PRIVATE HIIRE VEHICLES AND DRIVERS

1.0 Report Summary

- 1.1 The Licensing Committee is requested to consider the draft policy in relation to the exemption from the requirement to display licence plates on Private Hire Vehicles and the requirement for licensed drivers to display their Private Hire Driver Badge.

2.0 Recommendations

- 2.1 The Committee is requested to consider the draft policy on 'exempt plating' and to approve the draft policy, subject to any amendments the Committee feel to be appropriate, so that it may be subject to consultation with the trade.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee has the power to licence private hire vehicles and drivers and to determine the policy which will apply to such licences.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications including - Climate change - Health

- 6.1 Harmonisation of similar policies of the previous authorities of Macclesfield, Congleton, Crewe and Nantwich Borough Council's.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 provides the Council with the authority to attach to the grant of a Private Hire Vehicle Licence such conditions as it considers reasonably necessary.

Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 authorises the Council to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate.

Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 authorises the Council to grant to a licensed private hire driver an exemption from the requirement to display his/her licensed badge.

10.0 Risk Management

10.1 The Licensing Committee is being requested to consider a draft policy so that it may go forward for consultation with the trade. Any responses received during the relevant consultation period will be reported to the Committee and taken into account in making the final decision on the policy. By consulting on the policy and taking responses into account the risk of legal challenge to the policy is minimised.

11.0 Background and Options

11.1 The Councils vehicle conditions in relation to private hire vehicles require that the private hire plates issued by the Council are at all times to be "clearly displayed on the exterior surface of the vehicle." Similarly the conditions relating to private hire drivers require drivers to wear the drivers identification badge at all times when in or with the relevant private hire vehicle.

11.2 As is set out within legal implications at paragraph 9 above, section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 provides the authority with the ability to issue exemptions in relation to the display of plates and badges.

11.3 The Council has recently received requests from operators of 'executive' vehicles for exemption from the normal requirements in relation to display of plates resulting from the requirements of their businesses. Currently Cheshire East Borough Council does not have a policy in relation to 'exempt plating'. The draft policy, a copy of which is attached as Appendix 1, brings together

the policies that were previously in force in the predecessor districts of Congleton, Crewe and Nantwich and Macclesfield. The Licensing Committee is requested to approve the draft policy so that it may be circulated for consultation with the relevant members of the trade. At the conclusion of the consultation exercise a further report will be brought before the Licensing Committee.

- 11.4 The alternative option would be not to approve the draft policy for consultation. This would mean that the Council would remain in a position where there is no policy in place and it would have to make decisions on a case by case basis without reference to an approved policy. It is suggested that the approval of a policy will assist in ensuring both consistency of decision-making and in providing clarity to operators who may wish to consider applying for an exemption.

12.0 Overview of Year One and Term One Issues

- 12.1 It is suggested that it would be advantageous to have a policy in place as soon as possible within Year One to ensure consistency of decision-making and to provide clarity for prospective applicants.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mr M Janes
Designation: Licensing Enforcement Officer
Tel No: (01625) 504190
Email: mike.janes@cheshireeast.gov.uk

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CHESHIRE EAST BOROUGH COUNCIL

LICENSING SECTION

EXECUTIVE PLATING

1. Introduction

It is clear that all 'private hire vehicles' within the meaning of section 80 of the Local Government (Miscellaneous Provisions) Act 1976 must be licensed with the relevant Licensing Authority.

The display of identification plates and badges is important in terms of protecting the public and the taxi trade. However, it is recognised that there are limited occasions, such as the operation of chauffeured, executive and limousine vehicles, where identification of the vehicle may have a negative effect both in terms of customer safety and commercial considerations.

This guidance is issued to set out the Council's position in relation to executive plating and to assist operators of 'executive' type vehicles who wish to make application for 'executive plates.'

2. Legal background

Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council upon the vehicle at all times that the vehicle is being used for the purposes of the licence.

Section 54(2)(a) of the Act requires the driver of a private hire vehicle to wear (display) the licence identification badge issued by the Council when acting in accordance with the requirements of the licence.

However, section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council.

Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

3. Procedure

The Council considers that this exemption will not be applicable to all private hire vehicles, but rather to a minority of vehicles operated as chauffeured, executive and limousine vehicles. Each application will be judged on its own merits, however, it is considered that this system is appropriate for those vehicles fulfilling the requirements set out below.

Exempt vehicles are subject to the same criteria as all licensed private hire vehicles in that they can only be driven by a private hire driver who is licensed by the same authority from which the vehicle licence and private hire operators licence were issued, in our case Cheshire East Borough Council.

3.1 Requirements

To be considered appropriate for executive plating, it is considered that the following criteria should be met:

- The vehicle is of a high quality both in terms of brand and condition;
- The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim.
- Evidence of the service being provided must be supplied to justify the exemption.

3.2 Application

Applicants must submit a business plan for the use of the vehicle to satisfy the council that the exemption is appropriate.

A business plan may include , for example, the following factors:

- Target groups/clients
- Types of journey to be undertaken
- Method of advertising
- Method of payment
- The type of vehicle itself
- Whether the type of vehicle itself is the reason for hiring it (eg, stretched limousine)
- Vehicle modifications
- Additional facilities provided
- Special driver qualifications or requirements (eg Chauffeur's uniform)

The vehicle must be operated **exclusively** as set out in the business plan.

Applications must be accompanied by the prescribed fee (which will be the same as that currently levied by the Council for private hire and hackney carriage vehicles) together with the business plan.

If all the requirements are met and the vehicle passes the Council's inspection then an Exemption Notice will be issued. If the requirements are not met then the application will be refused.

3.3 Notice

If the application is granted, the Licensing Authority will issue a formal notification of exemption (the Exemption Notice) to the applicant.

The Exemption Notice will not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

3.4 Identification Badge

The Council will issue the proprietor with an identification badge to include the following information:

- The private hire vehicle licence number;
- The registration number of the vehicle;
- The number of persons the vehicle is licensed to carry;
- The expiry date of the licence.

The identification badge must be displayed within the vehicle in line with the standard Cheshire East Borough Council private hire vehicle conditions.

3.5 Conditions

The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard Cheshire East Borough Council private hire vehicle conditions headed **SPECIAL CONDITION for EXECUTIVE LIMOUSINES**. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice

3.6 SPECIAL CONDITION for EXECUTIVE LIMOUSINES

When this condition is attached to the licence, conditions relating to **signs and notices, and to Licence Plates will not apply**. The special condition for executive limousines will only be applied to a licence at the discretion of the Council and may be withdrawn at any time if the Council is not satisfied that the vehicle is being used or operated in accordance with the plan submitted to the Council. The notice of the grant of special condition for executive limousines shall be carried in the vehicle at all times.

Windscreen Sign

The vehicle shall display at all times in the lower near side of the windscreen and visible from the outside of the vehicle a private hire vehicle identification badge supplied by the Council. The form and content of the badge shall be prescribed by the Council.

The identification badge shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the badge to be altered, removed or obscured in any way.

Interior Sign

The vehicle shall display at all times a private hire vehicle identification sign supplied by the Council and be visible to passengers from within the vehicle. The form and content of the sign shall be visible shall be prescribed by the Council.

No other advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council.

Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word "taxi" or "cab" whether in the singular or plural or any word of similar meaning or appearance, whether alone or as part of another word and shall not suggest that the vehicle is a Hackney Carriage.

The types and makes of vehicle manufactured by London Taxis International and Metrocab now or from time to time operating as a taxi within the Metropolitan Police District and the City of London and licensed as such by the Public Carriage Office of Transport for London, Panton Street, London shall not be used as a private hire vehicle.

3.7 Withdrawal of Exemption Notice.

The exemption notice will be withdrawn from the licence if the Council is not satisfied that the vehicle is being or has been operated exclusively in accordance with the business plan, then the vehicle will become fully subject to the Cheshire East Borough Council private hire vehicle licence conditions requiring the display of licence plates and private hire signs.

If the exemption notice is withdrawn, the costs in relation to the production of the licence plates will be borne by the operator/vehicle proprietor.

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 20 July 2009

Report of: Mrs K Khan

Subject/Title: Street trading – designation as ‘prohibited street’

1.0 Report Summary

- 1.1 The report provides details in relation to the designation of streets within the former Borough of Macclesfield and the current proposal in relation to the confirmation of the designation of a street as ‘prohibited’ for the purposes of street trading.

2.0 Recommendations

- 2.1 The Licensing Committee is requested, in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, to authorise the publication of a notice of intention to designate the A556 (to its extent within the Borough), together with any adjoining street for a distance of 50 metres, as prohibited streets for the purposes of street trading.

3.0 Reasons for Recommendations

- 3.1 The function of designating streets for the purposes of street trading has been delegated to the full Licensing Committee. The background to the recommendation is provided within paragraph 11 below.

4.0 Wards Affected

- 4.1 Bucklow

5.0 Local Ward Members

- 5.1 Cllr J Macrae, Cllr A Knowles, Cllr G Walton

6.0 Policy Implications including - Climate change - Health

- 6.1 The decision to re-confirm the designation is in line with the Council’s existing decisions in relation to the designation of ‘A’ roads.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 There will be a cost associated with the publication of the requisite notices to advertise the intention to designate.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 Not applicable.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provides that local authorities may, by resolution, designate any street in their district as a prohibited street.
- 9.2 Paragraph 2 further provides the process which the local authority must follow when it designates streets, and states that a resolution may not be passed unless a notice of intention has been published in a local newspaper and served on the chief officer of Police and the relevant Highways Authority. The notice must provide a period of twenty-eight days within which objections may be made. As soon as practicable after the expiry of the objection period the authority is required to consider any representations, after which they may, if they think fit, pass a resolution. If a resolution is made, notice of the resolution is required to be published in a local newspaper for two consecutive weeks.

10.0 Risk Management

- 10.1 If the process set out within Schedule 4 of the Act was not followed then the resolution may be at risk of legal challenge.

11.0 Background and Options

- 11.1 At a meeting of the Highways Committee of Macclesfield Borough Council on 15 September 1983, a resolution was passed which included the designation of the A556 (from Plumley to Altrincham) together with any adjoining street for a distance of 50 metres as a prohibited street with effect from 7 November 1983.
- 11.2 As Members may also be aware, at the meeting of Macclesfield Borough Council's Licensing Committee on 4th November 2008, the Committee resolved to designate all 'A' and 'B' roads within the Borough (with limited exceptions) as prohibited streets together with all adjoining streets for a distance of 50 metres. As part of the consultation process in relation to this resolution Cheshire County Council were served with a notice as the Highways Authority.
- 11.3 As a 'trunk' road, the A556 is managed and maintained by the Highways Agency, an executive branch of the Department of Transport. As such the Highways Agency is the relevant Highway Authority in relation to this road rather than Cheshire East Borough Council which is the Highway Authority in relation to the majority of 'A' roads in the Borough. The A556 a major trunk road between North Cheshire and South Manchester and as such is a heavily used dual carriageway/four lane road. Due to the nature of the road and the speed

and volume of traffic of all types using it, it is suggested that mobile traders would continue to cause significant risks to highway safety.

- 11.4 Whilst the resolution in 1983 did designate the road as a prohibited street, it is suggested that for the purposes of clarity, and for the avoidance of doubt, taking into account the designation in 2008, the Committee is requested to authorise the publication of a notice of intention to designate the A556 as a prohibited street together with any adjoining streets within 50 metres.

12.0 Overview of Year One and Term One Issues

- 12.1 Not applicable.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs K Khan
Designation: Solicitor
Tel No: (01625) 504264
Email: kate.khan@cheshireeast.gov.uk

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