

Licensing Committee

Agenda

Date: Monday 7th March 2011
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.

Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 6)

To approve the Minutes of the meeting held on 10 January 2011.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 14)

To receive the minutes of the Licensing Act Sub-Committee meeting held on 10 January 2011 and the General Licensing Sub-Committee meeting held on 2 February 2011.

6. **Sexual Entertainment Venues - Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended)** (Pages 15 - 70)

To consider a report detailing the additional consultation responses received in relation to the draft policy on the licensing of sexual entertainment venues and asks the Committee to determine the content of the policy and to determine the fee levels to apply in relation to sexual entertainment venue applications

7. **Review of Hackney Carriage Service** (Pages 71 - 202)

To consider a report which details the responses received in relation to the recent consultation exercise carried out regarding the hackney carriage service and requests the Committee to make resolutions in relation to a number of issues

8. **Licence Fees - Hackney Carriage and Private Hire Vehicles, Drivers and Operators** (Pages 203 - 208)

To consider a report on the current fees charged for hackney carriage and private hire licences and consider whether any variation should be made to the fees charged by Cheshire East Borough Council in relation to the issue of hackney carriage and private hire vehicles, drivers and operators licences

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 10th January, 2011 at Committee Suite 1, 2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)
Councillor B H Dykes (Vice-Chairman)

Councillors C Andrew, Rhoda Bailey, D Bebbington, H Davenport,
W S Davies, L Gilbert, J Goddard, M Parsons, C Tomlinson and J Wray

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

Apologies

Councillors W T Beard, M Hardy and A Ranfield

21 DECLARATIONS OF INTEREST

There were no declarations of interest.

22 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, Dr L Brown and Mrs Fielding addressed the Committee in relation to Item 6: Sexual Entertainment Venues – Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Note: With the agreement of the Chairman, Dr Brown and Mrs Fielding spoke following the Solicitor's introduction of the relevant report.

23 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 8 November 2010 be approved as a correct record and signed by the Chairman.

24 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED – That the minutes of the Licensing Act Sub-Committee meetings held on 1 November 2010, 26 November 2010, 8 December 2010, 17 December 2010 & 20 December 2010, and the General Licensing Sub-Committee meeting held on 2 December 2010 be received.

25 SEXUAL ENTERTAINMENT VENUES – SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED)

The Committee considered a report regarding the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') made by section 27 of the Policing and Crime Act 2009 and the statutory provisions in relation to the adoption of the power to regulate 'sexual entertainment venues' within the amended Schedule. The report also detailed the consultation responses received in relation to both the principle of adoption of the amendments to Schedule 3 of the 1982 Act and a draft policy on the licensing of sexual entertainment venues. In addition, the Solicitor reported four further responses which had been received following the end of the consultation period. Based on the consultation responses received, the Committee made a number of changes to the draft policy on the licensing of sexual entertainment venues, to reflect some of the observations made.

RESOLVED

- (a) That the responses received in relation to the consultation exercise on the principle of adoption of the amendments to Schedule 3 of the 1982 Act be noted.
- (b) That it be recommended to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, be adopted and shall apply within the Borough of Cheshire East; and
- (c) That it be recommended to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, shall come into force in the Borough of Cheshire East on 4th April 2011.
- (d) That the responses received in relation to the consultation exercise on the draft policy on the licensing of sexual entertainment venues be noted.
- (e) That the draft policy on the licensing of sexual entertainment venues be amended as follows:
 - (1) that "or an entire town" in the last sentence of paragraph 3.6 be deleted.
 - (2) that the requirements in relation to the submission of plans be expanded to include a statement to the effect that these must show the layout of the premises including: (i) performers changing facilities; (ii) those areas to which the public are to be admitted (shown outlined in red); (iii) toilets; (iv) entrances and exits from the premises (including emergency exits); (v) any

stage area (including an annotation as to the height of the stage); (vi) the location of any fixed structures (such as bar area or fixed tables/seating or private booths); (vii) the area to be used for customer seating, and that plans should be large enough to be easily read.

- (3) that the warning about false statements which is set out before the declaration on the final page of the application form be included in the policy.
- (4) that a reminder about the planning regime be included within the policy.
- (5) that the second sentence in paragraph 4.1 be amended to read: "The following must be submitted with the completed application form in order to form a valid application:..."
- (6) that the application form be amended as follows: (i) the inclusion of a question about the form of 'relevant entertainment' and level of nudity which is proposed to be provided at the premises; and (ii) an amendment which would enable the form to be utilised for renewal, variation and transfer applications in addition to applications for grant.
- (7) that paragraph 4.1 be amended to state that applicants (including directors/the company secretary where the applicant is a company and each of the partners if the applicant is a partnership) are required to submit a basic CRB disclosure.
- (8) that notices must be no smaller than A4, printed on white, with black font of a size equal to or larger than 16.
- (9) that the form of notice at Appendix 2 of the draft policy be amended to set out which forms of relevant entertainment and level of nudity the application proposes to operate at the premises.
- (10) that the application process within the policy be amended and a new condition added to provide that the Council requires applicants for variations to the terms, conditions or restrictions on a licence to comply with the same notice requirements as those which apply to an application for the grant or renewal of a licence.
- (11) that paragraph 3.10 of the draft policy be amended to clarify that the Council would seek to consult the Police in relation to any application for a waiver, and that the Council would require applicants to supply all of the information requested within the application form appended to the draft policy.

- (12) that the second paragraph of 4.4 in the draft policy be replaced with the following:

Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities are not in a position to consider objections which are not relevant to the grounds set out in paragraph 12.

- (13) that the hearing procedure be amended in order to clarify that objectors have the opportunity, having been asked questions by the other parties to the hearing, to clarify anything which may have been misunderstood.

- (14) that a further definition be added to condition 1 as follows (and subsequent amendments made throughout the following conditions to reflect the defined term):

‘Employee’ means all persons working on the premises including not only those directly employed by the management of the premises but the self-employed, contractors or their staff promoting or providing any service or Relevant Entertainment; and the term ‘employed’ shall be read in the same context.

- (15) that condition 9 be deleted.

- (16) that conditions 7 and 38 be amended to state that performers should be required to provide their names, home addresses and National Insurance Numbers.

- (17) that condition 21 be amended to state that, for the purpose of this condition, ‘performers’ include any employees on the premises who work in a state of nudity and that they shall not be in any public part of the Premises in a state of undress when not ‘on duty.’

- (18) that the following additional condition be included in the draft policy (as amended to ensure consistency with the existing conditions within the policy):

- A management operation manual detailing all aspects of procedure when the Premises is operating relevant entertainment shall be produced and approved by Cheshire Police. This document shall be on going and under constant review. The management operation manual should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.

- The premises must provide a copy of its Club Rules to the Council and Cheshire Police. The Club Rules should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.
 - All performers and staff shall be aware of the Club Rules.
 - All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.
- (f) That the Legal Team Leader (Regulatory) be authorised to carry out a further consultation exercise in relation to the proposed amendments to the draft policy on the licensing of sexual entertainment venues and submit a further report to this Committee for approval in accordance with the Terms of Reference of this Committee.
- (g) That consideration of the fee levels to apply in relation to sexual entertainment venue applications be deferred to the next meeting of the Committee, to be held on 7 March 2011.
- (h) That the Legal Team Leader (Regulatory) be requested to provide the Committee with a detailed breakdown of the costs involved in the processing of applications for sexual entertainment venue licences.
- (i) That the Constitution Committee be requested to recommend to Council that the Constitution be amended in order to make the amendments to the Licensing Committee's terms of reference and the officer delegations in relation to the exercise of functions in relation to the licensing of sexual entertainment venues, as set out in Appendix E of the report.

26 INFORMATION REPORT: POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

The Committee considered a report regarding the content of the Police Reform and Social Responsibility Bill which would, if enacted, make a number of amendments to the Licensing Act 2003.

RESOLVED – That the provisions in the Police Reform and Social Responsibility Bill which relate to the amendment of the Licensing Act 2003 be noted.

27 AMENDMENTS TO LICENSING DELEGATIONS

The Committee considered a report regarding proposed amendments to the licensing delegations, to clarify those functions which stand referred to the General Licensing Sub-Committee and those which stand referred to the Licensing Act Sub-Committee.

RESOLVED – That the Constitution Committee be requested to recommend to Council that the Constitution be amended as follows:

- (a) that references to the Licensing Sub-Committee within paragraph 25.3 of the Officer Management Arrangements within Part III of the Constitution be amended to “the General Licensing Sub-Committee;” and
- (b) that references to the Licensing Sub-Committee within paragraph 25.4 of the Officer Management Arrangements within Part III of the Constitution be amended to “the Licensing Act Sub-Committee.”
- (c) that references to the Licensing Sub-Committee within sub-paragraphs (i) to (iii), (v) and (vi) in relation to the General Licensing Functions at pages 160 and 161 of the Constitution be amended to “the General Licensing Sub-Committee;” and
- (d) that references to the Licensing Sub-Committee within sub-paragraphs (ii) to (xi) in relation to licensing functions under the Licensing Act 2003 and Gambling Act 2005 at page 161 of the Constitution be amended to “the Licensing Act Sub-Committee.”

The meeting commenced at 2.00 pm and concluded at 4.55 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 10th January, 2011 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor P Whiteley (Chairman)

Councillors W S Davies and M Parsons

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor

Mrs J Cornes, Licensing Officer

Mrs J Zientek, Democratic Services Officer

33 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

34 DECLARATIONS OF INTEREST

There were no declarations of interest.

35 VARIATION OF PREMISES LICENCE - LOUNGE BAR AP HEALTH AND FITNESS CLUB

The Sub-Committee considered a report regarding an application from Mr David Wright to vary the Premises Licence for Lounge Bar AP Health and Fitness Club, Station Road, Holmes Chapel, Cheshire CW4 8AA under section 34 of the Licensing Act 2003.

The following attended the hearing and made representations with respect to the application:

three local residents

a representative of the Chief Officer of Police

the applicant

a representative of the applicant

Councillor L Gilbert, one of the Ward Members for the Congleton Rural Ward

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 of the 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 oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED

1. That the variation to the Premises Licence for Lounge Bar AP Health and Fitness Club, Station Road, Holmes Chapel, Cheshire CW4 8AA be approved, as follows:

- (a) that the conditions within Annex 2 of the Premises Licence be removed
- (b) that the exhibition of film be added to the list of licensable activities, as follows:

Exhibition of Films Indoors:-

Sunday to Thursday	12:00 – 00:00 (Midnight)
Friday and Saturday	12:00 – 02:00

2. That the following conditions be added to the Premises Licence:
 - (1) No nuisance shall be caused by noise coming from the Premises.
 - (2) The proof of age scheme Challenge 25 will be operated for all sales of alcohol.
 - (3) The Designated Premises Supervisor, or other nominated responsible person, will regularly attend their local Pubwatch meetings.
 - (4) A minimum of one door supervisor will be on duty at the premises from 10pm and remain at the premises until they close to the public on every Friday and Saturday and on New Years Eve.
 - (5) There shall be no entry or re entry allowed into the premises after 00:30.
 - (6) No open or sealed vessel may be taken outside the premises after 10pm.
 - (7) No sales of alcohol for consumption off the premises may take place after 10pm.
 - (8) There shall be conspicuously displayed at each exit from the premises an A4 sized sign requesting customers to 'please leave the premises quietly and make your way home with respect to residents'.

- (9) A CCTV system will be installed at the premises to the satisfaction of the Police Licensing Officer and it must record at all times the premises are open to the public. Unedited images must be securely retained for at least 14 days and copies made freely available upon request to a constable or an employee of the Police Authority, Local Authority or SIA.

The meeting commenced at 9.30 am and concluded at 12.28 pm

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Wednesday, 2nd February, 2011 at The Tatton Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)

Councillors C Andrew, Rhoda Bailey, H Davenport and A Ranfield

OFFICERS PRESENT

Mrs N Cadman (Licensing Enforcement Officer), Mr J Hopper (Licensing Enforcement Officer) and Mrs K Khan (Licensing Solicitor),

29 APPOINTMENT OF CHAIRMAN

RESOLVED

It was moved and seconded that Councillor P Whiteley be appointed as Chairman for the meeting.

30 APOLOGIES FOR ABSENCE

None.

31 DECLARATIONS OF INTEREST

None.

32 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 paragraphs 1 and 2, pursuant to part 1 of Schedule 12 (A) of the Act.

RESOLVED

That the Exclusion Resolution be moved as printed.

33 10-11/10-CONSIDERATION OF FITNESS TO HOLD A HACKNEY CARRIAGE DRIVER LICENCE

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

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the Licence Holder was a "fit and proper" person to hold a licence.

The Licence Holder and his father were in attendance throughout the hearing and spoke in support of the Licence.

At this point in the proceedings, the Licence Holder, his Father and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the report, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the future of the Licence.

The Licence Holder, his Father and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED:

That the Licence Holder remained a fit and proper person to hold a hackney carriage drivers Licence and therefore resolved to take no formal action in relation to the future of the Licence.

However, the Sub-Committee wished to give the Licence Holder a formal warning about any future conduct. The Licensing Authority would take a very serious view of any future convictions and the Licence Holder was made aware that any such convictions could place the future of the Licence in jeopardy. The Licence Holder was also reminded about the importance of compliance with the conditions on the Licence, in particular those relating to the reporting of any convictions.

34 10-11/11-CONSIDERATION OF FITNESS TO HOLD A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE

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

Members were invited to consider if the Licence Holder was a "fit and proper" person to hold a Licence.

The Licence Holder was in attendance throughout the hearing and spoke in support of the Licence. In addition the complainant and a witness for the Licence Holder individually were called to provide evidence following which they withdrew from the hearing.

At this point in the proceedings, the Licence Holder and the Licensing Officers withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the report, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the future of the Licence.

The Licence Holder and the Licensing Officers re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED:

The Sub-Committee determined that whilst it took a very serious view of any form of inappropriate behaviour by taxi drivers, including public disputes between any driver and another driver on the rank, it was not proportionate in the circumstances to take any formal action in relation to the future of the Licence.

However, the Sub-Committee wished to highlight the fact that it expected a very high standard of behaviour from its Licensed drivers and expected the Licence Holder to conform to this standard. The Sub-Committee would take a very serious view of any further substantiated complaints made against the Licence Holder about his behaviour and conduct towards other drivers.

(The meeting adjourned at 1.25pm and reconvened at 1.30pm)

35 10-11/12-CONSIDERATION OF FITNESS TO HOLD A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE

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

Members were invited to consider if the Licence Holder was a "fit and proper" person to hold a Licence.

The Licence Holder was in attendance throughout the hearing and spoke in support of the Licence. In addition the two complainants and a witness for the Licence Holder individually were called to provide evidence following which they withdrew from the hearing.

At this point in the proceedings, the Licence Holder and the Licensing Officers withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the report, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the future of the Licence.

The Licence Holder and the Licensing Officers re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED:

The Sub-Committee has determined that, whilst it took a very serious view of any form of inappropriate behaviour by taxi drivers, including public disputes between any driver and another driver on the rank, it was not proportionate in the circumstances to take any formal action in relation to the future of the Licence.

However, the Sub-Committee wished to highlight the fact that it expected a very high standard of behaviour from its Licensed drivers and expected the Licence Holder to conform to this standard. The Sub-Committee would take a very serious view of any future substantiated complaints made against the Licence Holder about his behaviour and conduct towards other drivers.

The meeting commenced at 10.00 am and concluded at 3.00 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting:	7 March 2011
Report of:	Legal Team Leader (Regulatory)
Subject/Title:	Sexual Entertainment Venues - Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended)

1.0 Report Summary

- 1.1 The report provides background information in relation to decisions made previously by the Licensing Committee in relation to the regulation of 'sexual entertainment venues' and provides the details of the responses received in relation to the additional consultation exercise on the draft policy.

2.0 Recommendations

- 2.1 The Licensing Committee is requested:
- 2.1.1 to consider the additional consultation responses received in relation to the draft policy on the licensing of sexual entertainment venues; and to determine the content of the policy.
- 2.1.2 to determine the fee levels to apply in relation to sexual entertainment venue applications.

3.0 Reasons for Recommendations

- 3.1 On 10th January 2011 the Licensing Committee resolved to recommend to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act'), as amended by section 27 of the Policing and Crime Act 2009 be adopted and shall apply within the Borough of Cheshire East with effect from 4th April 2011. This resolution was made by Council at its meeting on 24th February 2011.
- 3.2 As Members are aware, on 10th January 2011, subject to Council's decision, the Licensing Committee considered the responses received relating to the draft policy on the licensing of sexual entertainment venues. The Committee resolved, subject to a further period of consultation, to make a number of amendments to the policy. The Licensing Committee is requested to consider the responses received and to determine the policy.

- 3.3 At the meeting on 10th January 2011 the Committee requested that a detailed breakdown of the costs involved in the processing of applications for sexual entertainment licences be provided.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 The report requests that consideration is given to consultation responses received in relation to the policy on the licensing of sexual entertainment venues.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 Subject to the decision in relation to adoption, the Committee is requested to determine the level of fees to apply to applications in relation to sexual entertainment venues. The legislation provides the Council with the ability to determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Further information in relation to fees is set out within paragraph 10.9 of the report to Licensing Committee on 10th January 2011 (attached as Appendix 1) and paragraphs 10.6 of this report.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The legal implications are as those contained within paragraph 8.0 of the report to Licensing Committee on 10th January 2011 (attached as Appendix 1).

9.0 Risk Management

- 9.1 Full and thorough consideration of any consultation responses received would be required to reduce any risk of challenge to any subsequent decisions.

10.0 Background and Options

- 10.1 As Members are aware, on 10th January 2011 the Licensing Committee resolved to recommend to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act'), as amended by section 27 of the Policing and Crime Act 2009 be adopted and shall apply within the Borough of Cheshire East with effect from 4th April 2011. This recommendation was approved by Council at its meeting on 24th February 2011.

- 10.2 Members will also recall that on 10th January 2011 the Licensing Committee considered the consultation responses received in relation to the draft policy on the licensing of sexual entertainment venues. The Committee resolved that a number of amendments be made to the draft policy and that these amendments be subject to a further period of consultation.
- 10.3 Attached as Appendix 2 is a copy of the draft policy with the proposed amendments highlighted in red. Four responses were received during the additional consultation period, which concluded on 21st February 2011.
- 10.4 One of the consultation responses from a member of the public states that the proposed amendments are supported. A copy of the response received from HOPE in North East Cheshire is attached in full as Appendix 3, from David Rutley MP as Appendix 4, and from a further individual member of the public as Appendix 5.
- 10.5 At the meeting on 10th January 2011 details of the consultation responses in relation to the proposed fees were reported (see paragraphs 10.9.1 to 10.9.5 of Appendix 1). The fee levels which were originally proposed were as follows:
- New application: £2,260
Renewal application: £1,130
Transfer: £500
- 10.6 On 10th January the Committee requested that a detailed breakdown of the costs involved in the processing of applications for sexual entertainment licences be provided. Attached as Appendix 6 is a breakdown of the procedural steps which would be undertaken by officers in relation to an application for the grant of a sexual entertainment venue licence. The amount of time taken to complete each procedural step has been estimated based on the experience of Licensing Officers in dealing with similar applications. On the basis of an hourly rate of £60 (which includes on costs and internal recharges) the cost which would be associated with the total time shown (i.e. thirty-eight hours) would be £2,280.
- 10.7 Members are requested to consider the information in relation to fees within Appendix 1 together with the additional information within this report, and to determine the fees to be applicable in relation to (i) new applications; (ii) renewal applications; (iii) transfer applications; and (iv) variation applications.

11.0 Access to Information

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

Name: Mrs K Khan
Designation: Solicitor, Legal Services
Tel No: 01270 685847
Email: kate.khan@cheshireeast.gov.uk

Background papers:

Home Office Guidance – Sexual Entertainment Venues, Guidance for England and Wales
The European Services Directive: Guidance for Local Authorities
LACORS Guidance on the impact of the Service Directive on council's setting and administering local licence fees within the service sector.

Appendix 1 - Licensing Committee report (10th January 2011)
Appendix 2 – Draft policy (showing amendments in red)
Appendix 3 – Consultation response (HOPE in North East Cheshire)
Appendix 4 – Consultation response (David Rutley MP)
Appendix 5 – Consultation response (member of the public)
Appendix 6 – Breakdown of procedural steps

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 10th January 2011
Report of: Legal Team Leader (Regulatory)
Subject/Title: Sexual Entertainment Venues - Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended)

1.0 Report Summary

- 1.1 The report provides background information in relation to the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 'the 1982 Act' made by section 27 of the Policing and Crime Act 2009. The report sets out the statutory provisions in relation to the adoption of the power to regulate 'sexual entertainment venues' within the amended Schedule and details the consultation responses received in relation both to the principle of adoption and the draft policy.

2.0 Recommendations

- 2.1 The Licensing Committee is requested:

- 2.1.1 to consider the responses received in relation to the consultation exercise on the principle of adoption of the amendments to Schedule 3 of the 1982 Act;

- 2.1.2 in the light of the consultation responses, to resolve whether to recommend to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, are adopted and shall apply within the Borough of Cheshire East; and

- 2.1.3 if the Committee resolves to recommend to Council that the provisions should be adopted, to determine that the recommendation includes a statement that the provisions of Schedule 3, as amended, will come into force in the Borough of Cheshire East on 4th April 2011.

- 2.2 Subject to the decision in 2.1.2 above, and without prejudice to the subsequent decision of Council, the Licensing Committee is requested:

- 2.2.1 to consider to the consultation responses received in response to the consultation exercise on the draft policy in relation to the licensing of sexual entertainment venues; and

- 2.2.2 to resolve whether:

- (a) to approve the policy as originally drafted; or
- (b) to make amendments to the policy.

and, if amendments to the policy of a significant nature are proposed, to approve a further period of consultation on the proposed amendments.

- 2.2.3 to determine the fee levels to apply in relation to sexual entertainment venue applications;
- 2.2.4 to recommend to the Constitution Committee that Council be requested to amend the Constitution in order to make the amendments to the Licensing Committee's terms of reference and the officer delegations set out in Appendix E in relation to the exercise of functions in relation to the licensing of sexual entertainment venues.

3.0 Reasons for Recommendations

- 3.1 The consultation period in relation to the regulation of sexual entertainment venues has concluded and a number of responses have been received. The Licensing Committee is asked to consider the consultation responses and to make a number of decisions in the light of the consultation responses.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 The report requests that consideration is given to consultation responses received in relation to a draft policy.

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

- 7.1 There will be a cost implication relating to publication of the requisite statutory notices. Whilst the costs will be dependant upon the charges made by the newspapers in question, the costs may be in the region of £3,500. Budget provision in relation to these costs will be met from in relation to these costs will be met by way of budget virement from the Licensing Printing & Stationery budget.
- 7.2 Subject to the decision in relation to adoption, the Committee is requested to determine the level of fees to apply to applications in relation to sexual entertainment venues. The legislation provides the Council with the ability to

determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Further information in relation to fees is set out within paragraph 10.9 of the report.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 27 of the Policing and Crime Act 2009, which came into force on 6th April 2010, amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in order to provide local authorities with the power to regulate 'sexual entertainment venues.' Further details about the statutory definition of 'sexual entertainment venues' are provided within paragraph 10 of the report.
- 8.2 If a local authority wishes to exercise the 'new' powers within Schedule 3 of the 1982 Act it must formally resolve that the provisions are to have effect in its area. The procedure for adoption is set out within section 2 of the 1982, which provides that the local authority must pass a resolution specifying that the amendments made by section 27 of the 2009 Act to Schedule 3 shall apply to its area and must specify the date on which the resolution shall come into force. The specified day must be more than one month after the date on which the resolution was passed. The local authority is also required to publish notice that a resolution has been made for two consecutive weeks in a local newspaper circulating in the area. The first publication may not be later than twenty-eight days before the date specified in the resolution for the provisions to come into force.
- 8.3 Paragraph 13 of Schedule 3 provides the authority for the Council to "make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred.." Paragraph 13(1A) states that no standard condition may be prescribed in so far it "relates to any matter in relation to which requirements or prohibitions are or could be imposed under the Regulatory Reform (Fire Safety) Order 2005." Paragraph 13(3) provides that regulations may prescribe conditions regulating – (a) the hours of opening and closing of sex establishments; (b) displays or advertisements on or in such establishments; (c) the visibility of the interior of sex establishments to passers-by; and (d) any change from one kind of sex establishment to another kind of sex establishment. Where the authority has made standard conditions every licence granted, renewed or transferred is presumed to have been granted, renewed or transferred subject to the standard conditions unless they have been expressly excluded or varied.
- 8.4 Paragraph 12 of Schedule 3 sets out the grounds for refusal of an application. Certain grounds, for example that the applicant is under 18 years old or is disqualified, are mandatory grounds for refusal. Other grounds, including those relating to the appropriate number of such establishments in the 'relevant locality,' are discretionary grounds. Further information in relation to the grounds for refusal is set out within the body of the report.

8.5 Paragraph 19 of Schedule 3 provides that the applicant for the grant, variation renewal or transfer of a licence shall pay ‘a reasonable fee determined by the appropriate authority.’

8.6 Additional detail in relation to the interpretation of the legislation is provided in relation to specific issues within paragraph 10.0 of the report.

9.0 Risk Management

9.1 Full and thorough consideration of any consultation responses received would be required to reduce any risk of challenge to any subsequent decisions.

10.0 Background and Options

10.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 makes provision for the regulation of ‘sex establishments.’ Prior to the enactment of the Policing and Crime Act 2009, the definition of ‘sex establishments’ was limited to sex shops and sex cinemas. Section 27 of the Policing and Crime Act 2009, which came into force on 6 April 2010, extends the definition of ‘sex establishment’ to include ‘sexual entertainment venues.’

10.2 A ‘sexual entertainment venue’ for the purposes of the 1982 Act is “any premises at which relevant entertainment is provided before an audience for the financial gain of the organiser or the entertainer.” ‘Relevant entertainment’ means “any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).”

10.3 If a local authority has resolved before 6 April 2010 that Schedule 3 of the 1982 Act is to apply within its area, then the amendments in relation to sexual entertainment venues within the 2009 Act do not apply to the area of the local authority; however, the local authority may resolve that Schedule 3 of the 1982 Act, as amended by section 27 of the 2009 Act, is to apply to its area.

10.4 As members will recall, at the meeting on 13th September 2010, the Committee authorised the Licensing Manager to carry out a consultation exercise in relation to both the principle of adoption of the amended legislation and on the draft policy. The consultation exercise was carried out between 7th October 2010 and 29th December 2010. As Members will note there is some reference within some of the responses to moral issues. For the avoidance of doubt, Members are reminded (as per paragraph 3.23 of the Home Office Guidance) that objections in relation to applications should “not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12 [of Schedule 3].”

10.5 Principle of adoption

10.5.1 The Licensing Authority has received seventy-three consultation responses, details of which are set out Appendices B and C. As Members will note seventy

of the responses support the principle of adopting the legislation, one response is not in support of adoption, and two responses do not explicitly comment on the principle of adoption but make statements about the regulation of sexual entertainment venues.

10.5.2 As Members will note, paragraph 2.1.2 requests that, if the Committee resolves to adopt the amendments to the legislation, that the recommendation to Council includes a recommendation that the date that the resolution to adopt comes into force is 4th April 2011. As set out within the legal implications, the local authority the resolution must specify the date on which the resolution shall come into force. The specified day must be more than one month after the date on which the resolution was passed. The Council would also be required to publish notice that a resolution has been made for two consecutive weeks in a local newspaper circulating in the area. The first publication may not be later than twenty-eight days before the date specified in the resolution for the provisions to come into force. The Committee's recommendation will be reported to the meeting of Council on 24th February 2011, therefore the date of 4th April 2011 would provide sufficient time to comply with the statutory requirements.

10.6 Policy – discretionary grounds for refusal

10.6.1 As Members will be aware, one of the discretionary grounds for refusal is “*that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.*”

10.6.2 The draft policy (attached as Appendix A) currently states at paragraph 3.6 that:

The Council will consider the extent of the locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define ‘locality’ as the whole of the Council’s administrative area or an entire town.

A number of consultation responses suggest that paragraph 3.6 should be amended ‘to remove the idea that an entire town cannot be seen as a relevant “locality”.’ This suggestion is amplified within the representation made by HOPE in North East Cheshire which states: ‘The reference to “or an entire town” in the last sentence of paragraph 3.6 may be subject to misinterpretation, fetter council discretion and unnecessarily narrows the definition of locality in each case. It is therefore suggested that these words are deleted because case law does not appear to support this requirement.

10.6.3 Paragraph 3.36 of the Home Office Guidance states as follows in relation to locality:

When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, whilst a local authority is not prevented from defining the exact area of the

relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority's view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

The Guidance refers to the case of R v Peterborough City Council ex parte Quietlynn as authority for the final point within this paragraph.

10.6.4 As Members will recall, the policy as currently drafted, does not seek to place a figure on the number of sexual entertainment venues which it considers appropriate in any locality within the Council's administrative area but rather states (i) that each application will be determined on its own merits; and (ii) that consideration will be given to the locality in each case and to the number of Sexual Entertainment Venues suitable for that particular locality. A number of consultation responses suggest that the policy should be amended in this regard to 'have a zero tolerance policy for all sex establishments in the Borough of nil per ward.' The responses suggest that the Council should determine that each Ward is a 'relevant locality' for the purposes of the Act and that the policy should states that the appropriate number of sexual entertainment venues for each Ward is nil.

10.6.5 A further discretionary ground within paragraph 12 of Schedule 3 is on the basis that: *"that the grant or renewal of the licence would be inappropriate, having regard –*

- (i) to the character of the relevant locality; or*
- (ii) to the use to which any premises in the vicinity are put; or*
- (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.*

The draft policy currently sets out certain factors (such as the existence of 'sensitive uses' such as worship and education in the relevant locality) which would generally render the grant or renewal of a licence inappropriate.

Consultation responses received suggest that the policy should be changed so that it "covers a wide range of areas and explains a zero tolerance approach for the main town centres, smaller towns, villages and rural communities, business parks and industrial estates, as being unsuitable for sex establishments for various reasons." Responses also suggest an extended description and list of inappropriate locations for lap dancing venues. The responses suggest the addition of reference to, for example, community facilities including swimming pools, leisure centres, mental health centres, sheltered accommodation, disability centres; historic buildings, tourist attractions, conservation areas, restoration areas, improvement areas, planned improvement areas; pedestrian routes or transport links (such as stations or bus stops); residential accommodation (without the need for this to be a predominant use); shopping

areas, other retail units (and their uses); and other alcohol and entertainment licensed premises.

Members are requested to consider the representations made in relation to paragraph 3.8 of the draft policy and determine whether an amendment should be made to this paragraph.

10.7 Policy – Application process and hearing procedure

10.7.1 Submission of application

- (a) The representation from HOPE in North East Cheshire suggests that the requirements in relation to plans should be expanded. It is acknowledged that the requirements in relation to plans may be clarified by stating that these must show the layout of the premises including: (i) performers changing facilities; (ii) those areas to which the public are to be admitted (shown outlined in red); (iii) toilets; (iv) entrances and exits from the premises (including emergency exits); (v) any stage area (including an annotation as to the height of the stage); (vi) the location of any fixed structures (such as bar area or fixed tables/seating); (vii) the area to be used for customer seating. The point about the size of the plans (i.e. large enough to be easily read) is noted.
- (b) At paragraph 16 of the HOPE representation it is suggested that the warning about false statements should be included in the policy. This warning is set out before the declaration on the final page of the application form. However, this could be repeated in the policy if Members felt that this was necessary.
- (c) A further point is raised about planning consents. Clearly any licence granted by the Licensing Authority would not override the need to obtain any relevant planning approval from the Local Planning Authority. Whilst the policy should not seek to duplicate the planning legislation, a reminder about the planning regime could be included within the policy if Members so wish.
- (d) Paragraph 22 of the HOPE representation states that there is no stipulation in the application process about accompanying fees. This is incorrect, within the bullet points at paragraph 4.1 it is stated that the application form is to be submitted together with the licence fee. To ensure clarity about what will be considered to be a valid application, it may be appropriate to amend the second sentence in paragraph 4.1 to read “The following must be submitted with the completed application form in order to form a valid application:..”
- (e) It is acknowledged that the following amendments to the application form may be of assistance to ensure clarity: (i) the inclusion of a question about the form of ‘relevant entertainment’ which is proposed to be provided at the premises; and (ii) an amendment which would enable the form to be utilised

for renewal, variation and transfer applications in addition to applications for grant.

- (f) In the light of the comments submitted by the Sustainable Communities Scrutiny Committee in relation to CRB checks, it is suggested that paragraph 4.1 could be amended to state that applicants (including directors/the company secretary where the applicant is a company and each of the partners if the applicant is a partnership) are required to submit a basic CRB disclosure.

10.7.2 Advertising requirements

- (a) The representation from HOPE in North East Cheshire suggests that advertising requirements “should state that any notice must be posted in a prominent position for the whole of the time period allowed and so it can be easily read by passers-by”. The current drafting of the policy in this regard (paragraph 4.3) mirrors the requirement within paragraph 10(10) of Schedule 3, i.e. “notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.” It is suggested that advertising requirements, which went beyond the statutory requirements in this regard, would be challengeable.
- (b) The representation further suggests that the size of the notice should be A3 with details printed legibly in black ink or typed in black in a font of a size equal to or larger than 16. Paragraph 10(13) of Schedule 3 states that subject to the requirement that the notice must identify the premises in question, the local authority may prescribe the form of notice. Members are requested to determine what is reasonable in terms of the form of notice. For assistance, Members may be interested to note that the Licensing Act 2003 (Premises Licence and Club Premises Certificate) Regulations 2005 prescribe that notices in relation to application under the 2003 Act must be no smaller than A4 and with font size equal to or larger than 16.
- (c) The representation suggests that it would be helpful to state that the application will not be considered if the advertising requirements have not been met. As a matter of law, if the application is not advertised in accordance with statutory requirements then the application will be invalid, however the policy may be amended to clarify this if Members so wish.
- (d) Form of notice – it is suggested within the HOPE representation that the form of notice at Appendix 2 of the draft policy be amended to set out which forms of relevant entertainment the application proposes to operate at the premises.
- (e) It is suggested the Members may wish to consider an amendment to the application process within the policy and/or an additional condition which provides that the Council requires applicants for variations to the terms, conditions or restrictions on a licence to comply with the same notice

requirements as those which apply to an application for the grant or renewal of a licence.

10.7.3 Waiver – Paragraph 7 of Schedule 3 makes provision for the local authority to ‘waive’ the requirement for a licence where it considers that requiring a licence would be unreasonable or inappropriate. The draft policy states, at paragraph 3.11 that waivers are unlikely to be appropriate in relation to relevant entertainment and would only be considered in exceptional circumstances. The Police have requested confirmation that they would be consulted in relation to any application for a waiver. There is no officer objection to an amendment which clarifies that the Council would seek to consult the Police in relation to such applications. It may also be of assistance to clarify that the Council would require applicants to supply all of the information requested within the application form appended to the draft policy.

10.7.4 Paragraph 18 of the HOPE representation seeks an amendment to paragraph 4.4 in relation to those who may object. It should be clarified that the existing drafting was in no way intended to suggest that there was a limit on the individuals/groups that can object to such applications, but rather merely sought to provide examples. Given the concern about misinterpretation which has been raised, it may be simplest to remove the examples from paragraph 4.4 and to replace the second paragraph of 4.4 with the following (mirroring the Home Office Guidance):

Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities are not in a position to consider objections which are not relevant to the grounds set out in paragraph 12.

10.7.5 Hearing procedure – the representation from HOPE (paragraphs 43- 46) makes comment about the hearing procedure. There is no officer objection to an amendment to the hearing procedure in the manner proposed in order to clarify that objectors have the opportunity, having been asked questions by the other parties to the hearing, to clarify anything which may have been misunderstood.

10.8 Policy – standard conditions

10.8.1 In addition to setting out the proposed policy relating to the factors relevant to the determination of an application, the policy document sets out the application process to be adopted by the Council together with a set of proposed standard conditions. The provisions of paragraph 12 of Schedule 3 in relation to standard conditions are detailed within paragraph 9.3 above. The proposed standard conditions within the attached policy deal with matters including: hours of opening, conduct of the premises, signs doors and window displays, and the employment of persons on the premises, and are based on the conditions which were previously endorsed on Public Entertainment Licences (issued under the 1982 Act). Members are reminded that any conditions imposed on a licence must be necessary and proportionate.

10.8.2 Opening hours – at present condition 3 does not seek to impose standard opening hours and the licensed hours would therefore be determined on a case by case basis depending on the hours applied for and other relevant factors, including the nature of the area in which the premises were located and the content of any objections received. A number of representations (including that from HOPE) suggest that “the opening times in the day should be restricted from 9am and 6pm” and that there should be a restriction on opening on Sundays and Bank Holidays. Members are requested to consider the issue of opening hours. In doing so, Members are reminded that any conditions imposed must be necessary and proportionate in the light of the aims the Act seeks to achieve.

10.8.3 Definitions – in the representations from both the Police and from HOPE a point is raised about individuals working at the premises who are self-employed. It is suggested, in line with the recommendation from the Police, that a further definition be added to condition 1 as follows (and subsequent amendments made throughout the following conditions to reflect the defined term):

‘Employee’ means all persons working on the premises including not only those directly employed by the management of the premises but the self-employed, contractors or their staff promoting or providing any service or Relevant Entertainment; and the term ‘employed’ shall be read in the same context.

10.8.4 Condition 9 – the responses from both HOPE and the Police have highlighted the fact that this condition is effectively duplicitous. In the light of the requirements within conditions 23 – 29 it is acknowledged that condition 9 may be deleted.

10.8.5 Conditions 7 and 38 – the Police have suggested that performers should be required to provide their names and home addresses, rather than just ‘addresses,’ to ensure that they can be identified at a later date if required. There is no officer objection to such an amendment.

Condition 21 – this condition states “Performers not currently performing shall not be in any public part of the Premises in a state of undress.” In the light of the representation from the Police in this regard, Members are asked to consider whether they wish to clarify this condition by stating that, for the purpose of this condition, ‘performers’ include any employees on the premises who work in a state of nudity and that they shall not be in any public part of the Premises in a state of undress when not ‘on duty.’

10.8.6 Conditions general

The representation from HOPE provides additional suggestions in relation to the standard conditions (paragraphs 29 – 32). Members are asked to consider the suggestions contained therein. The following points are highlighted in this regard for consideration:

- (a) the current conditions within the draft policy include a requirement that there shall be no physical contact between performers or customers (condition

19). There is a suggestion within the representations that there should be a prescribed separation distance of one metre. Members are asked to consider whether such a condition is necessary in the light of condition 19 and also whether such a condition is proportionate in the light of the difficulty of enforcement of a precisely prescribed separation distance.

(b) The current conditions include a requirement that a CCTV system be installed to the satisfaction of the Police Licensing Officer. The representation from HOPE cites CCTV conditions suggested by other authorities. It may be suggested that the drafting of the existing condition, by requiring the approval of the Police, is sufficient to ensure that the system is appropriate.

10.9 Fees

10.9.1 As set out above, the Council is able to determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Paragraph 3.22 of the Home Office Guidance states that local authorities should have regard to the following documents when determining their fees: (i) The European Services Directive: Guidance for Local Authorities; and (ii) LACORS Guidance on the impact of the Service Directive on council's setting and administering local licence fees within the service sector.

10.9.2 Paragraph 12d of the European Services Directive: Guidance for Local Authorities states:

Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should a service provider feel that the levels of fees are being used as an economic deterrent or to raise funds for Local Authorities. Enforcement costs should not be assimilated with this application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.

10.9.3 The LACORS guidance reiterates the point about economic deterrent, stating: "The principles of Article 13(2) of the EC Directive 123/2006 mean that any fees charged for establishing a service that falls within the scope of the Directive can only be based on cost recovery and cannot be set at an artificially high level to deter specific service sectors from an area." The Guidance also provides information in relation to what elements may be included when a local authority sets its fees. A relevant extract from the Guidance in this regard is reproduced as Appendix D.

10.9.3 Members will recall that in December 2008 the Licensing Committee set the fee levels to apply to the grant and renewal of sex shop licences (also issued under the provisions of Schedule 3 of the 1982 Act). In setting those fees Members were aware that fees must be limited to covering the Council's costs in carrying out the function under the Act. The procedure relating to the processing of an

application for a Sexual Entertainment Venue Licence is the same as that in relation to an application for a Sex Shop Licence; it was therefore suggested that the fee levels in relation to a Sexual Entertainment Venue Licence should mirror those in relation to Sex Shops, i.e.

New application: £2,260

Renewal: £1,130

In addition, it was suggested that the fee level in relation to a transfer application should be set as £500.

10.9.4 A number of consultation responses suggest that the Council should charge fees at the following levels: new application £8,000, renewal £5,000, transfer fee £1,100.

10.9.5 Members are asked to consider the level of fees in relation to new applications, renewals and transfers. In addition, it is noted that the legislation makes provision for a fee to be charged in relation to variation applications.

10.10 Delegations

10.10.1 The existing licensing delegations within the Council's Constitution make provision for applications in relation to sex shops and sex cinemas to be dealt with by the Licensing Committee, subject to certain delegations to the Head of Safer and Stronger Communities. The detail of the existing delegations is set out within paragraphs 1A and 2A of Appendix E.

10.10.2 If the Committee resolves to recommend adoption, it is suggested that it will be necessary to amend the delegations to ensure that they include the power to deal with applications for sexual entertainment venues. The proposed delegations at paragraphs 1B and 2B of Appendix E suggest an amendment to refer to 'sex establishments' (thereby including sexual entertainment venues).

10.11 Policy in relation to sex shops and sex cinemas

10.11.1 As is set out above 'sex establishments' for the purposes of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 include sex shops, sex cinemas and sexual entertainment venues. The policy before the Committee today, relates solely to sexual entertainment venues. The Council does not currently have a policy in relation to the licensing of sex shops and sex cinemas (although standard conditions in relation to sex shops have been approved) and each application for such a licence is determined on its own merits.

10.11.2 A number of the consultation responses received suggest that the Council should develop a policy in relation to the licensing of sex shops and sex cinemas. The Legal Team Leader (Regulatory) recognises the benefits of adopting a policy in relation to such licences and proposes that a further piece of work in relation to this policy is undertaken in due course.

12.0 **Overview of Year One and Term One Issues**

12.1 None

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, Legal Services
Tel No: 01270 685847
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Background papers:

Home Office Guidance – Sexual Entertainment Venues, Guidance for England and Wales
The European Services Directive: Guidance for Local Authorities
LACORS Guidance on the impact of the Service Directive on council's setting and administering local licence fees within the service sector.

Appendix A - Draft Policy
Appendix B - Table of representations
Appendix C – Representation from HOPE in North East Cheshire
Appendix D – Extract from Guidance (re fees)
Appendix E - Delegations

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APPENDIX 2



CHESHIRE EAST BOROUGH COUNCIL

DRAFT

POLICY ON THE LICENSING OF SEXUAL ENTERTAINMENT VENUES

**Schedule 3, Local Government
(Miscellaneous Provisions) Act 1982 (as
amended)**

1.0 PREFACE

- 1.1 On [insert date] Cheshire East Borough Council resolved to adopt the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') by section 27 of the Policing and Crime Act 2009 with effect from [insert date].
- 1.2 Any person wishing to operate a Sexual Entertainment Venue as defined by Schedule 3 requires a licence, unless the requirement for a licence has been waived by the Council. This document sets out the Council's policy in relation to the licensing of Sexual Entertainment Venues within its administrative area.
- 1.3 A consultation on this policy was undertaken between [insert date] and [insert date] and was formally adopted on [insert date].
- 1.4 This policy will be kept under review and amendments proposed in the light of any changes in the relevant legislative provisions.

2.0 INTRODUCTION

- 2.1 It is intended that this policy will be a guide for both applicants and those other parties who have an interest in the licensing of sexual entertainment venues. Whilst the policy provides framework guidance, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.
- 2.2 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.

3.0 POLICY

3.1 Meaning of 'Sexual Entertainment Venue'

'Sexual Entertainment Venue' is defined within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the Act') as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." The following are not Sexual Entertainment Venues for the purpose of Schedule 3 of the Act

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

3.2 Relevant Entertainment

‘Relevant Entertainment’ means “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).”

In accordance with the Guidance from the Home Office, the Council expects that ‘Relevant Entertainment’ will generally apply to the following types of activity:

- Lap dancing;
- Pole dancing;
- Table dancing;
- Strip shows;
- Peep shows;
- Live sex shows

However this list is not exhaustive and, taking into account that the exact nature of these descriptions may vary, each case will have to be dealt with on its own merits.

3.4 Mandatory grounds for refusal

Paragraph 12 of Schedule 3 to the 1982 Act prescribes that a licence for a sexual entertainment venue shall not be granted to:

- (a) a person under the age of 18; or

(b) to a person who is for the time being disqualified under paragraph 17(3) of the Schedule; or

(c) to a person, other than a body corporate, who is not resident in the United Kingdom, or was not so resident throughout the period of six months immediately preceding the date when the application was made; or

(d) to a body corporate which is not incorporated in the United Kingdom; or

(e) to a person who had, within a period of twelve months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

The application form, a copy of which is attached at Appendix 1 asks questions in relation to the above issues.

3.5 Discretionary grounds for refusal

Paragraph 12 of Schedule 3 also provides that the authority may refuse (i) an application for the grant or renewal of a licence on one or more of the grounds listed at (a) to (d) below; and (ii) an application for a transfer on either or both of the grounds at (a) and (b):

(a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

(c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;

(d) that the grant or renewal of the licence would be inappropriate, having regard –

- (i) to the character of the relevant locality; or
- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.6 Relevant locality

'Relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

- (i) in relation to the premises, the locality where they are situated;
and
- (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

The Council will consider the extent of the locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define 'locality' as the whole of the Council's administrative area. [note: ' or an entire town' removed]

3.7 Relevant number

As set out within paragraph 3.5 above paragraph 12 of Schedule 3 provides that a local authority may refuse an application if it is satisfied that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.

The Council does not seek within this policy to place a figure on the number of sexual entertainment venues which it considers appropriate in any locality within the Council's administrative area.

Consideration will be given to the locality in each case and to the number of Sexual Entertainment Venues suitable for that locality.

The Council is able to determine that the appropriate number for a locality is nil.

3.8 Character of relevant locality and uses of premises in the vicinity

When considering whether it would be appropriate to grant the licence the Council will take into consideration factors such as:

- the uses to which premises in the vicinity are put, for example whether they are commercial, industrial or residential;
- the users of premises in the area;

Whilst each application will be determined on its own individual merits, the grant of a licence will generally be considered inappropriate where the characteristics of the locality include the following sensitive uses:

- (a) an area predominantly comprising residential accommodation;
- (b) parks and children's play areas;
- (c) schools and youth centres;

- (d) places of worship; and
- (e) community facilities.

3.8 Duration of licence

Unless previously cancelled or revoked a licence will remain in force for twelve months or such shorter period specified in the licence as the Council determines is fit.

3.9 Conditions

Where a licence is granted the standard conditions attached at Appendix 3 will be attached.

Where it is reasonable and proportionate to do so, additional conditions may be imposed on a licence.

3.10 Waiver

The Act makes provision for the Council to grant a waiver from the requirement to hold a Sexual Entertainment Licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such period as the Council thinks fit.

The Council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

Whilst each application will be considered on its own merits, in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis¹, the Council takes the view that waivers are unlikely to be appropriate in relation to Relevant Entertainment and would only be considered in exceptional circumstances.

The Council will require applicants to supply all of the information required within the application form at Appendix 1 in relation to a waiver application. The Council will consult the Police as part of its decision-making process in relation to waivers.

4.0 APPLICATION PROCESS

4.1 Submission of application

The Council's application form in relation to Sexual Entertainment Venues is attached as Appendix 1. [note: 'The Council requests that the application form is submitted together with:' deleted and replaced with] The

¹ See paragraph 3.1 above and paragraph 2A(3)(b) Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

following must be submitted with the completed application form in order to form a valid application:

- a scale plan of the Premises which should be large enough to be easily read (which must show the layout of the Premises including: (i) performer's changing facilities; (ii) those areas to which the public are to be admitted (shown outlined in red); (iii) toilets; (iv) entrances and exits from the premises (including emergency exits); (v) any stage area (including an annotation as to the height of the stage); (vi) the location of any fixed structures (such as the bar area, fixed tables/seating or private booths); the area to be used for customer seating);
- The Licence Fee²
- A copy of the completed notice to be displayed on the Premises (see notification requirements below);
- A basic CRB disclosure [note 'where the applicant is an individual' deleted and replaced with] from the applicant (including each of the directors/the company secretary where the applicant is a company and each of the partners if the applicant is a partnership).
- A copy of the management operation manual and club rules (see condition 16 at Appendix 3)

Applicants are reminded that any person who, in connection with an application for the grant, renewal or transfer of a sexual entertainment venue licence makes a false statement which he knows to be false in any material respect or which he does not believe to be true, is guilty of an offence and liable on summary conviction to a fine not exceeding twenty thousand pounds.

A copy of the application must also be served on the Chief Officer of Police:

- (a) in a case where the application is made by means of a 'relevant electronic facility'³, by the appropriate authority not later than 7 days after the date the application is received by the authority;
- (b) in any other case, by the applicant not later than 7 days after the date of the application.

The relevant addresses for service on the Police are as follows:

Area of former Boroughs of Crewe & Nantwich and Congleton:
Police Licensing Officer

² Information in relation to fees is published on the Council's website and are available from the Licensing Section

³ "relevant electronic facility" means— (a) the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009, or (b) any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

Cheshire Constabulary
Crewe & Congleton Area
The Police Station
Middlewich Road
Sandbach
Cheshire
CW11 1HU

Area of former Borough of Macclesfield:
Police Licensing Officer
Cheshire Constabulary
Macclesfield Division
Brunswick Street
Macclesfield
Cheshire
SK10 1HQ

Applicants are reminded that the grant of a licence in relation to a sexual entertainment venue under the 1982 Act does not provide authorisation under any other statutory regime, and separate permissions may be required e.g. planning permission.

4.2 Renewal applications

Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force until the withdrawal of the application or its determination by the Council.

4.3 Variations

The Council's conditions provide that applications for the variation of the terms, conditions or restrictions on or subject to which a sexual entertainment venue licence is held is subject to the same application and advertising requirements as applications for the grant of a licence.

4.4 Advertising requirements

In accordance with paragraph 10 of the Schedule, applicants for the grant, renewal or transfer of a licence are required to give public notice of the application. Notice shall be given:

- by displaying a notice in a prescribed form (see Appendix 2), with text in black in a minimum font size of 16 on white paper of a size no smaller than A4, on or near the Premises in a place where the notice can be conveniently read by the public for a period of at least 21 days beginning with the date on which the application was made to the Council; and

- by publishing an advertisement (in the form prescribed) in a local newspaper circulating in the Council's area not later than 7 days after the date the application was made to the Council.

Applicants are requested to: (i) send a copy of the completed notice to the Council with the application form; and (ii) to notify the Council of the name of the newspaper in which the advertisement is to appear together with the date of publication.

4.5 Objections

Objections to an application for the grant, renewal or transfer of a Licence must be made in writing stating in general terms the grounds of the objection. Objections should be made not later than 28 days after the date of the application.

[note: 'The Act permits a wide range of persons to raise objections in relation to applications for Sexual Entertainment Venues. Objectors may include local residents, residents associations and local businesses. Cheshire Constabulary is a statutory consultee in relation to applications for Sexual Entertainment Venues.' deleted and replaced by]

Any person can object to an application but the objection should be relevant to the grounds set out within paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities are not in a position to consider objections which are not relevant to the grounds set out in paragraph 12.

Where objections in relation to an application for the grant, renewal or transfer of a licence are received by the Council, copies of the objections will be provided to the Applicant. However, the name and address of an objector will not be disclosed to the Applicant without the consent of the objector to such disclosure.

4.6 Determination of applications

In cases where objections have been made (other than objections which are outside the remit of the 1982 Act) the determination of applications will be referred to a meeting of the Council's Licensing Committee or Licensing Sub-Committee.

4.7 Hearing procedure

A Committee or Sub-Committee determining an application in relation to a Sexual Entertainment Venue will follow the hearing procedure set out at Appendix 4. A copy of the hearing procedure will be sent to the relevant parties when they are notified of the date of the meeting.

4.8 Tacit authorisation

The Council has determined that tacit authorisation (for the purposes of the Provision of Services Regulations 2009) is not to apply to applications for Sexual Entertainment Venue Licences. In making this decision the Council has considered the public interest inherent in ensuring that applications are fully considered before a licence is granted, particularly in the light of the potential significant adverse impact on local communities of inappropriately located or inadequately managed premises.

4.9 Appeals

In cases where the Council refuses an application for the grant, renewal or transfer of a Sexual Entertainment Venue licence the applicant may appeal the decision to the Magistrates' Court within 21 days (of the date when the applicant is notified of the decision), unless:

(1) the application was refused under the grounds in paragraph 12(3)(c) or (d) in which case the applicant can only challenge the refusal by way of judicial review; or

(2) the application was refused on any of the grounds specified in paragraph 12(1) of Schedule 3 of the 1982 Act, in which case the applicant shall not have a right of appeal unless he seeks to show that the ground did not apply to him.

APPENDIX 1



Application Form: Sexual Entertainment Venue Licence
Schedule 3, Local Government (Miscellaneous Provisions) Act 1982

NOTE: If additional information is submitted on separate sheets please quote the relevant question number in relation to the additional information provided.

Is the application an application for:	(please tick where appropriate)
(a) grant of a sexual entertainment venue licence	
(b) renewal	
(c) transfer	
(d) variation	

1	Applicant's details	
1.1	Is the Applicant:	(a) an individual (b) a partnership or other unincorporated body (c) a body corporate [please delete as appropriate]
1.2	Full name of applicant	
1.3	Give the following information on behalf of the applicant: (a) Telephone number(s) (b) Address to which communications are to be sent (c) If different from the address in (b) above, the Applicant's permanent address (if an individual) or registered or principal office (if a company etc)	
1.4	If the applicant is an individual please	

	<p>supply the following information:</p> <p>(a) Date of Birth</p> <p>(b) Place of Birth</p> <p>(c) Date on which became a UK resident (if not born in the UK)</p>	
1.5	<p>If the applicant is a body corporate or an unincorporated body please provide the following information in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body. In the case of a partnership provide details of each partner</p> <p>(a) Full name</p> <p>(b) Address</p> <p>(c) Capacity</p> <p>(d) Date of Birth</p> <p>(e) Place of Birth</p> <p>(f) Date on which became a UK resident (if not born in the UK)</p>	[Please continue on a separate sheet if required]
1.6	<p>Where the applicant is a company please answer the following questions.</p> <p>(a) Is the applicant a wholly or partly owned subsidiary of another company?</p> <p>If the answer to (a) is yes please provide details of the parent company or holding company.</p> <p>(b) What type of company is the applicant?</p> <p>(c) In what country is the company incorporated?</p> <p>(d) What is the date of incorporation of the company?</p>	

	(e) Is the applicant or any person whose name is given in response to question 1.5 concerned in any way with other businesses which controls or manages sex establishments? If yes please provide details.	
1.7	<p>What is the nature of the applicant's interest in the Premises?</p> <p>If the applicant's interest is leasehold please provide the details of the landlord.</p>	<p>(a) Freehold (b) Leasehold</p> <p>[please delete as appropriate]</p>
1.8	<p>Is the whole of the business owned by the applicant?</p> <p>If not, please provide details of the individual/company which owns the remainder of the business</p>	

2	Premises Details	
2.1	Address of Premises	
2.2	Telephone number of Premises	
2.3	<p>Are the whole of the Premises to be used under the Licence?</p> <p>If no, please describe (by reference to a plan if necessary):</p> <p>(a) which part of the Premises are to be used for the purposes of the Licence;</p> <p>(b) the use to which the remainder of the Premises are put;</p> <p>(c) the names of those who are responsible for the management of the remainder of the Premises.</p>	

2	Premises Details	
2.4	<p>Are the Premises constructed or adapted so as to permit access to and from the Premises for members of the public who are disabled?</p> <p>If the answer is no, please provide information in relation to the applicant's proposals for affording such access.</p>	[please continue on a separate sheet if required]
2.5	<p>Are the Premises in use as a Sexual Entertainment Venue at the date of this application?</p> <p>If the answer is yes, please give the name and address of the persons or body who now operate the business and (if known) the date upon which the Premises were first used for these purposes.</p>	

3	Details of the Business	
3.1	Under what business or trading name will be the business be known?	
3.2	Please provide details of the times (days and hours) during which the Premises is proposed to be open to the public.	

3	Details of the Business	
3.3	Please provide details of the form of 'Relevant Entertainment' to be provided at the premises and the level of nudity proposed.	

4	Persons responsible for management
---	------------------------------------

4	Persons responsible for management	
4.1	<p>Please provide the following information in relation to each individual who is to be responsible for the management of the Premises in the absence of the Licence Holder:</p> <p>(a) Full name</p> <p>(b) Address</p> <p>(c) Capacity</p> <p>(d) Date of Birth</p> <p>(e) Place of Birth</p> <p>(f) Date on which became a UK resident (if not born in the UK)</p>	[please continue on a separate sheet if required]

7	Previous refusals and convictions		
7.1	<p>Have the Applicant ever been refused or had a Sexual Entertainment Licence revoked by any licensing authority?</p> <p>If yes, please provide full details (please continue on a separate page if necessary)</p>	Yes / No	
7.2	<p>Does the Applicant or any individual named in response to questions 1.5 or 4.1 have previous convictions or cautions?</p> <p>If the answer is yes, please provide of a separate sheet the following information in relation to each individual who has a previous conviction or caution:</p> <p>(a) Name</p> <p>(b) Date of conviction</p> <p>(c) Convicting court</p> <p>(d) Nature of conviction</p> <p>(e) Sentence</p>	Yes / No	

7	Previous refusals and convictions	
7.3	<p>Have you any reason to believe that a prosecution may be pending against the Applicant or any of the individuals named in response to questions 1.5 or 4.1?</p> <p>If yes please provide details</p>	Yes / No
7.4	<p>Is there in force against the applicant or any of the persons named in response to question 1.5 a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?</p>	Yes / No

8	Additional details	
8.1	<p>Please provide any additional information which the applicant would wish the Council to take into account when considering this application.</p>	[please continue on a separate page if necessary]

APPLICANTS ARE REMINDED THAT ANY PERSON WHO, IN CONNECTION WITH THE APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A SEXUAL ENTERTAINMENT VENUE LICENCE MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING TWENTY THOUSAND POUNDS (£20,000)

	Declaration	
	I hereby declare that the above information is true to the best of my knowledge and belief.	
	Signature	
	Name	

	Declaration	
	Capacity	
	Date	

We will use the information you give in this form and in any supporting documentation you send us, to process your application. We may check information you have provided, or information about you that someone else has provided with other information held by us. We may also get information about you from certain third parties, or give them information to:

- make sure the information is accurate
- prevent or detect crime, and
- protect public funds

These third parties include Government departments, other departments of the Council and other local authorities. We will not give information about you to anyone else unless the law allow us to.

Please submit the completed application to the Licensing Section at the relevant address provided below:

	Congleton (01270) 537112	Crewe & Nantwich (01270) 537114	Macclesfield (01625) 504206
LICENSING AUTHORITY Cheshire East Borough Council	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Macclesfield Town Hall Market Place, Macclesfield, Cheshire SK10 1DX



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT
1982**

**Notice of Application for the [Grant] [Renewal] [Variation]
[Transfer] of a Sexual Entertainment Venue Licence**

NOTICE IS HEREBY GIVEN that on

I/we

of

.....

made application to Cheshire East Borough Council for the [grant] [renewal]
[variation] [transfer] of a Licence to use the premises named below as a
Sexual Entertainment Venue.

Address of Premises:.....

.....

[The applicant seeks to use the Premises for the following form(s) of 'relevant
entertainment']⁴

[The applicant seeks to vary the licence as follows]
.....]

Any objections to this application should be made not later than 28 days after
..... being the date of the application. Objections must be made
in writing, stating in general terms the grounds of objection, to The Licensing
Section, Cheshire East Borough Council [Town Hall, Market Place,
Macclesfield SK10 1DX] [Municipal Buildings, Earle Street, Crewe, CW1 2BJ].

Signed:

⁴ Insert form of relevant entertainment to be provided and the level of nudity involved

SEXUAL ENTERTAINMENT VENUES**Local Government (Miscellaneous Provisions) Act 1982 (Schedule 3)****CONDITIONS**

These conditions are imposed by the Council pursuant to its powers under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the 1982 Act')

Definitions	<p>1. In these conditions, unless the context otherwise requires:</p> <p>'Council' means Cheshire East Borough Council</p> <p>'Employee' means all persons working on the premises including not only those directly employed by the management of the Premises but the self-employed, contractors or their staff promoting or providing any service or Relevant Entertainment; and the term 'employed' shall be read in the same context.</p> <p>'Licence Holder' means the holder of a Sexual Entertainment Venue Licence</p> <p>'Premises' means any premises within the Council's area licensed as a Sexual Entertainment Venue</p> <p>'Relevant Entertainment' shall have the meaning given within paragraph 2A of Schedule 3 of the 1982 Act.</p> <p>'Sexual Entertainment Venue' has the meaning set out within Schedule 3 of the 1982 Act.</p> <p>For the purposes of these conditions:</p> <p>(a) Words importing the singular meaning where the context so admits include the plural meaning and vice versa; and</p> <p>(b) Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed</p>
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	interchangeable in that manner.
Display of Licence	2. The Licence or a clear copy and any special conditions attached thereto shall be prominently displayed at the Premises at all times so as to be readily and easily seen by all persons using the Premises. The licence shall be adequately protected against theft, vandalism or defacement.
Hours of opening	3. The Premises shall not be open for any purpose of the Licence except during the following hours: [insert hours granted]
Responsibility of Licence Holder	<p>4. The Licence Holder shall maintain good order and take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.</p> <p>5. The Licence Holder shall in particular ensure that none of the following shall take place:</p> <ul style="list-style-type: none"> • Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971; • Indecent behaviour, including sexual intercourse; • The offer of any sexual or other indecent service for reward; • Acts of violence against person or property and/or the attempt of threat of such acts. <p>6. The Licence Holder shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been specified in the Licence.</p> <p>7. The Licence Holder will maintain a register which shall be kept on the Premises to clearly record the identity of persons nominated in accordance with conditions 30 and 31 hereof on duty during the entertainment, the day and times of the start and finish of the entertainment, and the names, home addresses and national insurance numbers of the performers. The register shall be retained for a period of not less than twelve months after the last entry in the register. The register shall be available at all times for inspection by the Police or an authorised officer of the Council.</p>

	<p>8. Where the Licence Holder is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the control or management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director secretary or manager are to be furnished within 14 days of a request in writing from the Council.</p> <p>[note: "9. The Licence Holder shall ensure that neither he, nor any person promoting or providing entertainment on the Premises (or any person acting on behalf of such a person), shall display advertisements promoting Relevant Entertainment or the Premises in an unlawful manner." Deleted]</p> <p>9. The Licence Holder shall inform the Council within seven days if he is convicted of any offence</p>
<p>Conduct of the premises</p>	<p>10. The Licence Holder or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes. Solicitation shall be taken to include the distribution of leaflets.</p> <p>11. The Premises shall be used only for the purposes specified in the Licence.</p> <p>12. No person under the age of eighteen years shall be admitted to the Premises or be employed in the business of the Sexual Entertainment Venue.</p> <p>13. Customers who appear to be under the age of 21 must be asked to provide photographic proof of their age. The only means of identification which may be accepted are a photocard driving licence, a passport or a recognised proof of age card which includes the 'PASS' hologram on it.</p> <p>14. The Licence Holder shall ensure that performers and members of the public have separate entrances for entering and exiting from the Premises, performers to use staff entrances.</p> <p>15. There shall be agreed in writing with the Council arrangements for restricted access to the dressing rooms used by the performers and such restricted access shall be maintained at all times until all</p>

	<p>performers using the dressing rooms have vacated the room.</p> <p>16.</p> <p>(a) A management operation manual detailing all aspects of procedure when the Premises is operating Relevant Entertainment shall be produced and approved by Cheshire Police. This document shall be on-going and under constant review. The management operation manual should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.</p> <p>(b) The Premises must provide a copy of its club rules to the Council and Cheshire Police. The club rules should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.</p> <p>(c) All Employees shall be made aware of the club rules.</p> <p>(d) All Employees will be required to read a copy of the conditions relating to the operation of Relevant Entertainment and shall sign and date a copy, which shall be retained by the Licence Holder as part of due diligence.</p>
Provision of Relevant Entertainment	<p>17. The performance shall only take place in the designated area of the Premises approved by the Council and in accordance with the staging and seating plan approved by the Council.</p> <p>18. Performers shall only perform on the stage area or to seated customers or in such other areas of the Premises as may be agreed in writing with the Council. No audience participation in a performance shall be permitted. During the performance, performers shall not (a) touch customers, (b) climb onto furniture, or (c) simulate sex acts.</p> <p>19. There shall be no physical contact between the performers and customers before, during or after the performance.</p> <p>20. Notices setting out the restriction contained in Condition 19 shall be displayed in prominent positions within the Premises.</p>

	<p>21. Performers not currently performing shall not be in any public part of the Premises in a state of undress. For the purposes of this condition 'Performers' include any employees on the premises who work in a state of nudity; such employees shall not be in any public part of the Premises in a state of undress when not 'on duty.'</p> <p>22. Any person who touches or attempts to touch a performer or directs lewd, vulgar or obscene language or gestures thereto shall be immediately removed from the Premises by the Licence Holder or member of staff acting on his behalf.</p>
<p>Signs, doors and window display</p>	<p>23. A notice shall be displayed in a conspicuous position at each entrance to any part of the Premises where the performance is to take place stating that 'NO PERSON UNDER 18 YEARS WILL BE ADMITTED'. The notice must also include a statement that proof of age may be required.</p> <p>24. The business or trading title of the Premises which must have received the prior written approval of the Council (in accordance with condition 44 hereof) <u>may</u> be displayed in letters no more than 150mm high.</p> <p>25. With the exception of the signs required and permitted by condition 23 and 24 above, the Licence Holder must ensure that no sign, words, poster, photograph, sketch, painting, display or advertisement is displayed outside or in the vicinity of the Premises which indicate or suggest that Relevant Entertainment takes place at the Premises.</p> <p>26. The exterior design of the Premises shall be such that the interior of the Premises is invisible to passers by.</p> <p>27. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.</p> <p>28. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering</p>

	<p>or leaving the Premises.</p> <p>29. The windows and openings of the Premises shall be of a material or covered with a material which will render the interior or any items within the Premises invisible to passers-by.</p>
Employment of persons on the Premises	<p>30. The Licence Holder, or some responsible person over the age of eighteen nominated by him in writing for the purpose, shall be in charge of and upon the Premises at all times that the Premises is open to the public. Such written nomination shall be continuously be available for inspection at the Premises by a Police Officer or by an authorised officer of the Council.</p> <p>31. In addition to the Licence Holder or nominated person, there shall be a nominated female present to oversee the activities of female performers and a like nominated male present to oversee the activities of any male performers.</p> <p>32. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises</p> <p>33. A notice showing the name of the person in charge of the Premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be seen by customers throughout the period during which he is responsible for the conduct of the Premises.</p> <p>34. The Licence Holder shall at all times keep and maintain at the Premises a written record of the names, addresses and dates of birth of all persons employed within the licensed premises whether upon a full time or part time basis, and shall upon request by an authorised officer of the Council make such records available for inspection to him.</p> <p>35. Any individual employed on the Premises to conduct a security activity (within the meaning of the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.</p>

	<p>36. A register of SIA staff working at the premises shall be maintained, kept at the premises and made available for examination upon request to a Police Officer or authorised officer of the Council or the SIA.</p> <p>37. The Licence Holder must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises whilst performances are being given.</p> <p>38. Performers shall be aged not less than 18 years. The Licence Holder must maintain complete records of the names, home addresses, dates of birth and National Insurance number of performers including identity checks which are satisfactory to the Council.</p>
Alterations to the Premises	<p>39. No alterations (including temporary alterations) shall be made to the Premises without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.</p> <p>40. Where alterations necessitate the Premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work</p>
Change of use	<p>41. No change of use of any portion of the Premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex cinema).</p>
Variation	<p>42. An application to vary the terms, conditions or restrictions on or subject to which the licence is held must comply with the same application and advertising requirements as applications for the grant of a sexual entertainment venue licence.</p>
CCTV	<p>42. A CCTV system will be installed at the premises to the satisfaction of the Police Licensing Officer and it must record at all times the Premises are open to the public. Unedited images must be retained for at least 31 days and copies made freely available upon request to the Police or an authorised officer of the Council.</p>

	43. At all times the Premises are open to the public there will be a member of staff on duty who is competent to operate the CCTV system and to provide any copies requested
Business title	44. The Licence Holder must obtain the consent of the Council for the business or trading title to be used in relation to the Premises. An application must be made to the Council to change the business or trading title and the Council shall have the discretion to allow or refuse such a change.

SEXUAL ENTERTAINMENT VENUES
Schedule 3, Local Government (Miscellaneous Provisions) Act 1982

COMMITTEE PROCEDURE

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing;
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate.
5	Police (if they have made representations)	The Police may ask <u>questions</u> of the applicant, by way of clarification.
6	Objectors	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Police (if they have made representations)	Will make their representations (if any).
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of the Police by way of clarification.
11	Objectors	May ask <u>questions</u> of the Police, by way of clarification.
12	Committee Members	May ask <u>questions</u> of the Police
13	Objectors	The objectors will be invited to speak and to present the basis of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the objectors by way of clarification.
16	Committee Members	May ask <u>questions</u> of the objectors
17	Objectors	May clarify any matters which they feel are unclear or may have

		been misunderstood..
18	Chairman	To invite both Police and Objectors to make their closing addresses.
19	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the representations made.
20	Committee	<u>Will retire</u> to consider the application.
21	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing.

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4th February 2011

To: Mrs K Khan,
Legal Services,
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ
E-mail: kate.khan@cheshireeast.gov.uk
Closing Date: 21 February 2011
Your Ref: L.C31/162/KK

Dear Mrs Khan,

Re: Licensing of 'Sexual Entertainment Venues'.

I am writing on behalf of Hope in North East Cheshire, transforming society group to express our support for Cheshire East Borough Council introducing and adopting the new regime. On the whole, we are pleased with the changes the Committee has proposed to the draft policy and would like to thank the Licensing Committee for doing so, but like the majority of respondents to the initial consultation we would have liked to have seen a more robust draft policy.

In particular, we would have liked the Committee to have considered each of the suggestions for extending the list of inappropriate locations for lap dancing in paragraph 3.8 of the draft policy, as the list in the draft policy is still much shorter than a number of other Council's policies. Extending the list does not fetter the Committee's discretion as each case has to be considered on its merits and still allows the Committee to depart from any general list should they choose to do so. We would be grateful if the Committee could further consider this suggestion in our original response of adding to the list, when it looks at the responses to this further consultation.

Our more specific comments on the changes are as follows:

1. Sexual Entertainment Venues –License Conditions

- The application form at Appendix 1 page 11 has changed since the first consultation and now includes an application for a grant, renewal, transfer and variation of a licence. In view of this change, please consider changing the last sentence of condition 16(a) on page 22 to remove the words "application for a licence." and replace with "first application for a licence and any current version with any subsequent application for grant, renewal, transfer or variation of a licence." This change would allow the Committee to check on any current version of the management operation manual with each application. This is particularly important in terms of updating the Committee, as the duration of the SEV licence is only for up to one year.

- We would like to ask the Committee to reconsider the addition of an important and well known condition of lap dancing, namely, the one metre rule. Whilst condition 19 on page 22 does prevent physical contact, before, during or after the performance, the distance rule is still very important as it helps to prevent customers from being tempted to touch the performers. It was suggested that there may be difficulty in enforcing such a condition. However, last year at a lap-dancing club in Oxford known as The Lodge in Penny farthing place; there was no difficulty in enforcing this important licence condition. The Oxford police received complaints and found from CCTV footage that the rule was regularly being breached and this breach subsequently resulted in some lap dancers being dismissed. The suggested condition from Oxford City Council's standard conditions is as follows: "Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement."
- The main aim of condition 21 on page 23 is to prevent a state of full nudity in the public areas. We are very concerned that the added clarification because of topless barmaids simply confuses the issue. It could be misread, as both performers and other employees could claim to always be on duty and so always allowed to be in a state of undress in the public areas. The Committee did consider the option of not adding to condition 21 and this would seem to be the preferable option and prevent the opening of this particular Pandora's Box.
- In terms of employment of persons on the premises, should condition 34 on page 24 of the draft policy include the same additions as condition 38, in case other staff only give agency addresses?

2. Sexual Entertainment Venues –Committee Procedure

- Procedure 17 on page 27-typing error "of" should be "or".
- As mentioned in our initial consultation response, it would be helpful if the policy could clarify that representatives of an objector in the Committee procedure may include an MP, local Councillor, legal representative or a friend. As far as we know, this is similar to the situation for Licensing Act applications. This would be helpful since point 1 of the Committee Procedure, unlike the Licensing Committee Procedure, does not specify the need for the Chairman to consider any request for another person to appear at the hearing. It would be useful to also add that procedural point, as objectors may wish not only to be represented by a friend but to bring witnesses.

3. Level of Fees

- The initial consultation asked for a response on level of fees. The Committee decided to have a further Officer report on the level of fees. The Police commented that they did not seek to comment upon them, other than to note the disparity with some other authorities who have set levels significantly higher. Whilst fees have to be reasonable and proportionate, it is important that every single cost is included to ensure the service provided is cost effective and the Council does not subsidise applications that many Council tax payers may oppose.

Thanking you in anticipation for the Committee's further consideration of these points.

Yours sincerely,

(on behalf of Hope in North East Cheshire)

APPENDIX 4

I understand that Cheshire East Council have allowed a further 6 weeks for interested parties to comment on the changes made by the Licensing Committee to the draft sexual entertainment venue policy.

I have seen a copy of Dr Brown's letter dated 4th February to Mrs K Khan of Cheshire East Borough Council's Legal Services, expressing Hope in North East Cheshire's support for the new regime adopted by the Council, but also proposing amendments aimed at strengthening the draft policy, such as extending the list of inappropriate locations for lap dancing.

Once again, I am writing to you to register my continuing support for the stance taken by Hope in North East Cheshire, including the amendments listed in their latest submission to the consultation.

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APPENDIX 5

Today is the deadline for comments about amendments to the lap dance club on Grove Street. It is not possible to comment on moral grounds or values as I understand it from your site so I resort to those of child protection. The club is next to [a] child's shoe shop, opposite Barnardo's child charity, opposite a shop which caters for kids as young as 5. How do we as mothers explain it to our kids? The fact it has shutters is not enough to cease the questioning as to what a "gentlemen's" club (as stated on stripclub.com) is. Its mere presence elicits comment and questions. Please can you tell me how I explain to [my child that] it is there for sexual stimulation of men the age of her father and/or her brother [...] That in [...] years she will be eligible to dance for men their age. That there will probably be no job for her other than that because men in key positions at work take their clients to those places on "discrete" receipts - and may not trot back to work unaffected and unmindwarped to face another day with their female colleagues.

The school my child attends sends regular advice about how to block my child's access to internet sites but how do I block her knowledge that places like this even exist when we have to walk past them? If the government's intention is that I should explain it then are there guidelines on this? If this is to become part of my child's everyday world then can someone there point me in the direction of educational material in her school - in the way that other concepts regarding sex and sexuality are explored and explained?

The owner has stated in the press that females who complain are "blue rinse brigade" yet I am of child bearing age and not what anyone would label prudish - or even a Christian, as if I have to explain myself.... I actually think I speak for every woman like me. The fact many will not have mailed you is partially due to the complex nature of the material you offer on the site with its clause this and schedule. Which is sad really.

So please take this club off my high street. Look around Wilmslow on a Saturday afternoon or any other time for that matter. What purpose does it serve the community exactly? In the workplace if things make females feel embarrassed or degraded they are removed. On the high street this does not seem to count.

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PROCEDURAL STEPS REQUIRED	OFFICER TIME (in hours)
INITIAL PROCESSING OF APPLICATION (a) Check application form and accompanying documentation to ensure application is valid; (b) Input details of the application into the Licensing Section's software system; (c) Contact Police to consult on application; (d) Write to applicant to acknowledge receipt of application;	2 1 0.5 0.5
CHECK COMPLIANCE WITH ADVERTISING REQUIREMENTS (a) Check notice displayed on site; (b) Check notice published in local newspaper;	2 0.5
PREPARATION FOR HEARING (where objections received) (a) arrange a hearing date/time; (b) acknowledge receipt of objections and notify objectors of date and time of hearing; (c) notify the applicant of receipt of objections and of date and time of hearing; (d) prepare Committee report (including redaction of personal data within objections)	1 14 0.5 7
HEARING (a) attendance at hearing to present the report to the Committee/Sub-Committee	4
POST-HEARING (a) notify applicant of outcome of hearing (including issue of licence if granted) (b) notify objectors of outcome of hearing	1 4
TOTAL	38

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CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 7 March 2011

Report of: Head of Safer & Stronger Communities

Subject/Title: Review of Hackney Carriage Service

1.0 Report Summary

- 1.1 The report provides details of the responses received in relation to the recent consultation exercise carried out regarding the hackney carriage service. A copy of the consultation document is attached as Appendix A. The report analyses the responses received and makes suggestions about the next steps to progress the issues raised by the consultation exercise.

2.0 Recommendations

Quantity controls

- 2.1 The Licensing Committee is requested to consider both the consultation responses and the information within the report about the principles relating to restrictions on the numbers of hackney carriages, and to resolve which of the options (or combination thereof) within paragraph 10.2.9 to recommend to Cabinet or the Cabinet Member for Safer & Stronger Communities.

Table of fares

- 2.2 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage tariffs, and, having considered these responses:
- 2.2.1 to formulate proposals in relation to the variation to the table of fares in each of the three hackney carriage zones within the Borough, and if new tariffs are proposed, to authorise the Borough Solicitor, or an officer acting on her behalf, to publish notice of the proposals in each of the three zones, making provision for any objections to be submitted within the statutory consultation period of fourteen days;
- 2.2.2 to resolve that if no objections are received within the statutory consultation period, or if any objections that are received are withdrawn, that the table of fares published in accordance with the resolution under 2.2.1 above will come into operation in each of the three zones on the date of the expiration of the consultation period. If objections are received and not withdrawn, these will be reported to a subsequent meeting of the Licensing Committee for consideration.

Conditions

- 2.3 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage vehicle conditions and, having considered these responses:
 - 2.3.1 to determine any proposed amendments to the hackney carriage vehicle conditions for each of the three zones and to authorise officers to carry out a further consultation exercise in relation to these proposed conditions;
 - 2.3.2 subject to the decision in 2.3.1 above, to authorise officers to draft vehicle test guidelines which reflect the requirements of the conditions so that these guidelines may form part of the further consultation exercise;
 - 2.3.3 to resolve that if no objections are received within the consultation period, or if any objections that are received are withdrawn, that the conditions proposed in accordance with the resolution under 2.3.1 above (together with the accompanying vehicle test guidelines), will come into operation in each of the three zones on the day after the last day of the consultation period. If objections are received and not withdrawn, these will be reported to a subsequent meeting of the Licensing Committee for consideration.

Hackney carriage stands

- 2.4 The Licensing Committee is requested to recommend to the Cabinet Member for Safer & Stronger Communities that:
 - 2.4.1 the Borough Solicitor, or officer acting on her behalf, be authorised to provide notice in accordance with the requirements of section 63 of the 1976 Act, in relation to the proposed variation of hackney carriage stands set out within paragraph 10.5 of the report;
 - 2.4.2 officers are authorised to seek the consent of the Highway Authority in relation to the propose variation to hackney carriage stands set out within paragraph 10.5 of the report;
 - 2.4.3 subject to the consent of the Highway Authority being received, if no objections or representations are received within the statutory consultation period, the variation to the hackney carriage stands will come into effect on the day after the last day of the consultation period; and
 - 2.4.4 it be noted that if objections or representations are received within the statutory consultation period, these will be reported to a subsequent meeting for consideration.
- 2.5 The Licensing Committee is requested to consider the consultation responses received in relation to taxi ranks and is requested to authorise officers to engage in discussions with the Highway Authority about the location and number of taxi ranks in each of the three hackney carriage zones.

3.0 Reasons for Recommendations

- 3.1 A consultation exercise has been carried out in relation to the licensing of hackney carriages; the consultation period concluded on 18th February 2011. The report presents the results of the consultation exercise and requests that the Committee make resolutions in relation to a number of issues.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 The report suggests a review of a number of issues relating to the Council's existing policy on the licensing of hackney carriages. Full details are set out within the body of the report.

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 There would be significant cost implications in relation to the commissioning of an unmet demand survey. Any contract with a third party supplier to carry out an unmet demand survey would be subject to a procurement exercise, however it is understood, that the costs associated with surveys carried out on behalf of other local authorities have been in the region of £25,000. The costs of such a survey may be taken into consideration when setting fees in relation to hackney carriage licences. It should also be highlighted that in areas where a quantity restriction is imposed surveys are required on a regular basis (once every three years); therefore there would also be costs associated with additional surveys in coming years if a limit is maintained/imposed in any of the zones.
- 7.2 There would be a cost implication associated with the publication of statutory notices in relation to a variation of the 'table of fares'. The publicity costs relating to the statutory notices are estimated to be in the region of £2,000.
- 7.3 There would be a cost implication associated with printing and postage of any further consultation document relating to amended vehicle conditions. These costs are estimated to be in the region of £850 for postage (if send second class) and £300 for printing.
- 7.4 There would be a cost implication associated with the publication of statutory notices in relation to the appointment of hackney carriage stands. The

publicity costs relating to the statutory notice are estimated to be in the region of £500.

- 7.5 The costs in paragraphs 7.2 – 7.4 would be met from the Licensing Service's budget, although it is to be noted that these costs would put further financial pressure on the Service's limited budget in 2010-11.
- 7.6 There are also costs associated with the marking on the highway of the extent of hackney carriage stands and the purchase of signage to provide details about the relevant waiting restrictions. Costs for markings for a new stand on the highway will be recharged to the services budget. Maintenance of an existing marking is paid from Highways Maintenance Budget.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Quantity controls

- 8.1.1 Section 16 of the Transport Act 1985 provides that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis "if but only if the person authorised to grant licences [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet."
- 8.1.2 Any decision to refuse a hackney carriage proprietor's (vehicle) licence on the basis of numbers may be subject to appeal to the Crown Court. In order to successfully defend any such challenge, a local authority must be in a position to establish that it had, reasonably, been satisfied that there was no significant unmet demand. It is generally accepted that unmet demand can only genuinely be measured by conducting a comprehensive survey.
- 8.1.3 Any decision that the Council make about whether to place a limit on the number of hackney carriage vehicles or not, must be reasonable in the Wednesbury sense. In other words, account must be given to all relevant considerations and irrelevant considerations must not be taken into account. Any decision relating to the limitation of numbers may be subject to legal challenge.
- 8.1.4 There is a plethora of case law in relation to decisions about quantity restrictions. The principles which can be drawn from these cases include the following: (i) it is possible to delimit at any time, subject only to the requirement that such a decision must not be unreasonable in the Wednesbury sense (*R v Great Yarmouth Borough Council, ex parte Sawyer* [1987], *R v (on the application of Royden) v Metropolitan Borough of Wirral* [2003], *R v Council of the City and District of St.Albans* [2000] etc) or re-limit subject to the same requirements (*R v Halton Borough Council ex parte ex p Gunson* [1988]); (ii) full and genuine consultation must take place before a decision to delimit is taken (*Sadar v Watford Borough Council* [2006]); (iii) consideration must be given to the commercial impact of a delimitation decision, but provided that is done, commercial impact alone is not a ground

for challenge (*St Albans and R (on the application of Nemeth) v West Berkshire District Council*); (iv) if it cannot be demonstrated that there is no unmet demand the licences must be granted (*Tudor v Ellesmere Port and Neston Borough Council [1987]*, *Kelly and Smith v Wirral Metropolitan Borough Council [1996]*).

- 8.1.5 The Department of Transport “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” (the Best Practice Guidance) referred to throughout the report does not have statutory effect and therefore does not automatically bind the decision of the Council. However, if the Council is to depart from the recommendations within the Best Practice Guidance, it would need to carefully set out its reasons for so doing.

8.2 Table of fares

- 8.2.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the following is required when varying a table of fares:

- (i) publication of a notice setting out the variation to the table of fares (specifying the period within and manner in which objections can be made) in at least one local newspaper circulating in the district; and
- (ii) deposit of the notice for the period of fourteen days at the offices of the Council (for public inspection)

- 8.2.2 If no objection to the variation is made within the relevant fourteen day period (or if all such objections are withdrawn) the variation comes into operation on the date of the expiration of the period specified in the notice (or the date of withdrawal of the last objection (if any)). If objection is made and not withdrawn, a further date (not later than 2 months after the first specified date) shall be set on which the table of fares shall come into force with or without modifications as decided after consideration of the objections.

8.3 Conditions

- 8.3.1 Section 47(1) of the 1976 Act provides local authorities with the power to attach to hackney carriage licences such conditions as they may consider ‘reasonably necessary.’ Section 47(2) states that without prejudice to the generality of section 47(1), a council may require vehicles to be “of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.” The imposition of conditions on a hackney carriage vehicle licence is subject to a right of appeal to the Magistrates’ Court.

- 8.3.2 The imposition of policy requirements in relation to licensed vehicles must not be applied in such a way as to fetter the discretion of a local authority and each application which falls outside the policy must be considered on its own individual merits.

8.4 Hackney carriage stands

8.4.1 Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal procedure involved in the creation of hackney carriage stands (otherwise known as 'ranks'). Section 63(2) provides that notice must be given to the Chief Officer of Police and must be published in a local newspaper circulating in the district, making provision for objections or representations to be made within 28 days. Any objections or representations received need to be taken into consideration before any final determination is made.

8.4.2 Section 63(3) provides that stands may not be appointed:
(a) so as unreasonably to prevent access to any premises;
(b) so as to impede the use of any points authorised to be used in connection with a local service within the meaning of the Transport Act 1985 or PSV operator's licence granted under the Public Passenger Vehicles Act 1981, as points for the taking up or setting down of passengers, or in such a position so as to interfere unreasonably with access to any station or depot of any passenger road transport operators, except with the consent of those operators;
(c) on any highway except with the consent of the highway authority;
and in deciding the position of stands the Council is required to have regard to the position of any bus stops for the time being in use.

8.4.3 The amendment of existing ranks and the creation of new ranks may require amendments to traffic regulation orders made under the Road Traffic Regulation Act 1984.

8.4.4 The function of appointing hackney carriage stands under section 63 of the 1976 Act is, by virtue of the 2000 Regulations, an executive function. As a result, the Licensing Committee is requested to make a recommendation in relation to hackney carriage stands to the Cabinet Member for Safer and Stronger Communities.

9.0 Risk Management

9.1 The legal risks are set out within paragraph 8 above.

10.0 Background and Options

10.1 In accordance with the decision of the Licensing Committee taken at its meeting on 13th September 2010, a consultation exercise relating to the hackney carriage service within the Borough has been conducted; the consultation period concluded on 18th February 2011. The consultation document, a copy of which is attached as Appendix 1, dealt with issues such as quantity restrictions, tariffs, conditions and taxi ranks. Details of the responses received are set out within the table at Appendix 2.

10.2 Quantity controls

- 10.2.1 The Congleton zone (zone 1) is subject to a restriction on the number of hackney carriages; the current limit is set at forty-two. The Crewe & Nantwich zone (zone 2) and the Macclesfield zone (zone 3) are not subject to a restriction on the number of hackney carriage licences which may be issued. The number of hackney carriage proprietors (vehicle) licences issued in the Crewe & Nantwich zone as at the end of January 2011 was 162; the number in the Macclesfield zone was 315.
- 10.2.2 As set out with paragraph 8 above, the legal position in relation to quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed taxis “if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”
- 10.2.3 The consultation document asked the following questions in relation to the limitation of numbers of hackney carriages: *“What are your views on: (i) the removal of a limit on the number of hackney carriages in the Congleton zone; (ii) an unmet demand survey in relation to the quantity of hackney carriages in any of the zones; (iii) maintaining the status quo; (iv) an increase in licence fees to fund an unmet demand survey?”*
- 10.2.4 As Members will note from the table at Appendix 2, the majority of the consultation responses received are supportive of the imposition of a limit on the number of hackney carriages in each of the three zones; any such proposal would necessitate unmet demand surveys in each of the zones.
- 10.2.5 Recommendations to local authorities about the principle of quantity restrictions have been provided within the Office of Fair Trading (OFT) report “The regulation of licensed taxi and PHV services in the UK” published in 2003 and more recently within the Department of Transport Best Practice Guidance published in March 2010 (‘the Guidance’), a copy of which is attached as Appendix 3.
- 10.2.6 The OFT report found that: (1) Quantity regulation limiting the number of taxis reduces availability and lowers the quality of service to the public; (2) It is sensible to regulate quality and safety by means of driver and vehicle standards but any such regulation must be proportionate to the quality and safety goals to be achieved; and (3) There are sound reasons to regulate taxi fares, for example, to protect consumers in vulnerable situations. But there could be greater freedom for beneficial price competition below regulated fare caps. The recommendations made to the OFT as a result of the study were: (1) That regulation slowing local authorities to restrict the number of taxis in their areas should be repealed; (2) That best practice guidelines on driver and vehicle quality should be developed and disseminated to assist local

authorities; and (3) That local authorities should be encouraged to look at ways of encouraging fair competition on taxi services where appropriate.

10.2.7 The Government's response to the OFT report was published in March 2004. The Government did not accept the principle recommendation of the OFT (i.e. that local licensing authorities' power to restrict the number of taxi licences they issue should be repealed), taking the view that local authorities should continue to be responsible for making decisions about whether or not to control taxi numbers in their respective areas. However, the Government conveyed its belief that, in general terms, quantity restrictions were unlikely to be in the best interests of consumers. Local licensing authorities that imposed quantity controls were asked to review their policies with particular emphasis on benefits for consumers.

10.2.8 Paragraphs 45 to 51 of Guidance set out the recommendations of central government's in relation to quantity restrictions of taxi licences outside London. Paragraph 47 states:

Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in the interests of the travelling public – that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of the controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

10.2.9 The Licensing Committee may recommend to the Cabinet Member for Safer & Stronger Communities one (or a combination) of the following options:

(a) that a formal consultation is undertaken in relation to the removal of the existing quantity restriction within zone 1 (Congleton zone);

(b) that the current position of 'de-limitation' within either zone 2 (Crewe & Nantwich) or zone 3 (Macclesfield) is maintained;

(c) that an unmet demand survey is commissioned in one, two or all of the hackney carriage zones.

10.3 **Table of Fares ('Tariffs')**

10.3.1 As Members are aware, local authorities have the power, under section 65 of the 1976 Act, to set the 'table of fares' which apply to hackney carriage vehicles. As previously reported, due to the fact that the licensing of hackney carriages within Cheshire East remains on a zoned basis, it is not possible at present to set a 'table of fares' or 'tariff' which relates to the Borough as a whole and tariffs must still be set for each individual zone.

10.3.2 The tariffs which are currently in operation came into force within the areas of the predecessor district Councils during the course of 2008 (Congleton – 1 April 2008; Crewe & Nantwich – 29 September 2008; and Macclesfield – 16 April 2008). Copies of the existing tariffs are set out within appendices A, B & C of Appendix 1 to this report. The table below summarises the fares in a manner which allows a simple comparison to be made between the existing provisions:

	ZONE 1 Congleton	ZONE 2 Crewe & Nantwich	ZONE 3 Macclesfield
Flag drop	£2.60 (up to first 1,760 yards)	£2.20 (first 200 yards)	£2.60 (first 1,466.69 yards)
First mile	£2.60	£3.80	£3.00
Two miles	£4.40	£5.60	£4.80

10.3.3 The consultation document asked consultees to comment in response to the following questions: (a) *what are your views on how the differing tariffs should be brought into line?*; and (b) *whether or not the tariffs can or should be standardised across Cheshire East, what are your views on the current table of fares?*

10.3.4 Whilst the majority of consultees support the principle of standardising the tariffs across the three zones, a number of consultees suggest that the differentiation between the tariffs are too great to be harmonised and express concerns about the impact on trade/consumers in the zones where the existing fares are lowest.

10.3.5 As can be seen within the table at Appendix 2, a number of the consultation responses include proposals in relation to amended tariffs. For ease of comparison, details of these proposals are set out alongside the existing tariffs within the table at Appendix 3.

10.3.6 Paragraph 52 of the Department of Transport Best Practice Guidance states that fare scales should be designed with a view to practicality and that it is seen as good practice to “review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week.” The paragraph continues “The Department also suggests that in reviewing fares authorities should pay particular regards to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also so the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.” Members will also note the content of paragraphs 53 and 54 of the Guidance in relation to downward negotiation of fares between passengers and drivers.

10.3.7 The options which are available in relation to the future of tariffs are as follows:

- (a) to harmonise each of the tariffs to one of the existing tariffs;
- (b) to harmonise each of the tariffs to a new level;
- (c) to separately vary each of the existing tariffs; or
- (d) not to vary the existing tariffs.

10.3.8 Subject to the above, the Committee is requested to formulate proposals in relation to the variation to the table of fares in each of the three hackney carriage zones within the Borough and to authorise the Borough Solicitor, or an officer acting on her behalf, to publish notice of the proposals, making provision for any objections to be submitted within the statutory consultation period of fourteen days. As Members will note the consultation responses suggest a number of different approaches to tariffs, however these are not the only options available and Members have the discretion to consider differing fare structures.

10.4 **Hackney carriage vehicle conditions**

10.4.1 The existing vehicle conditions within the three zones are set out within appendices D, E & F of the consultation document at Appendix 1 to this report. As Members will note, there are differences between the conditions as they relate to matters such as the acceptable vehicle specification and frequency of testing. The consultation document asked the following questions in relation to existing terms and conditions: *“Which of the conditions do you think should be retained? Which do you think should be abolished or changed? Please provide reasons for your responses to this question.”*

10.4.2 The responses received appear to be broadly supportive of the harmonisation of vehicle conditions across each of the three zones. The responses received do make certain specific suggestions in relation to an amended set of vehicle conditions. If Members are minded, subject to consultation, to approve amendments to the hackney carriage vehicle conditions in each of the zones, the following conditions may be considered in order to address the points raised within the consultation responses.

10.4.3 Vehicle specification

The representatives of the Association have suggested the vehicle specification in relation to private hire vehicles within Cheshire East be adopted in relation to hackney carriages, with the addition of a requirement that all new hackney carriage vehicles must be wheelchair accessible (to MI specification) (whilst all existing saloon cars would have the benefit of ‘grandfather rights.’).

A copy of the Council’s existing Private Hire Vehicle conditions are attached as Appendix 5.

Paragraphs 13 to 25 of the Best Practice Guidance cover issues relating to accessibility. Paragraph 14 states:

Different accessibility considerations apply between taxis and PHVs. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with a driver. PHVs can only be booked through an operator. It is important that a disabled person should be able to hire a taxi on the spot with the minimum delay or inconvenience, and having accessible taxis available helps to make that possible. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet. The Department has produced a leaflet on the ergonomic requirements for accessible taxis that is available from: <http://www.dft.gov.uk/transportforyou/access/taxis/pubs/research>

Paragraphs 26 to 29 of the Best Practice Guidance deals with the specification of vehicles. Paragraph 27 states: “Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible....” Paragraph 28 continues: “It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicles or prescribes only one type or a small number of types of vehicle...”

As Members will note, condition 3 of the zone 1 (Congleton zone) currently makes provision for all new vehicle licences to be purpose built wheelchair accessible vehicles which are M1 type approved on manufacture.

10.4.4 Age limits

The consultation response from representatives of the Association suggests that the conditions should be amended to ensure that any new application for a hackney carriage vehicle must relate to a vehicle under eight years of age, and that no vehicle may remain licensed once it is over twelve years old. In addition the response suggests that the requirement for six monthly testing in relation to vehicles over seven years old be removed.

Paragraph 32 of the Best Practice Guidance states as follows in relation to age limits: “it is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles – for example, twice yearly tests for vehicles more than five years old.

The argument in support of an age limit would be that the condition seeks to ensure that licensed vehicles are as safe, reliable and comfortable as possible. Some local authorities have imposed age limits which subject to an exemption in relation to vehicles in ‘exceptional condition’ however any such exemption may itself be subject to appeal due to different interpretation of ‘exceptional condition.’

At present none of the existing vehicle condition seek to impose an age restriction on vehicles, however the zone 3 (Macclesfield zone) conditions require vehicles over seven years old to be subject to six monthly testing.

If Members are minded to approve a condition imposing an age limit, the following wording may be considered: "A hackney carriage vehicle licence will not be issued to a vehicle more than [insert] years after the date of first registration of the vehicle in the UK or any other country. A hackney carriage vehicle licence will not be renewed in relation to a vehicle more than [insert] years after the date of first registration of the vehicle in the UK or any other country."

10.4.5 Tow bars

The existing zone 3 (Macclesfield zone) conditions explicitly prohibit tow bars; this condition was originally imposed in the interests of safety (due to the additional risks inherent in towing trailers). The representation from the Association suggests that the conditions should not restrict the installation of tow bars on hackney carriage vehicles.

If tow bars are to be permitted then, it is suggested that conditions in relation to trailers are required. An example of conditions in relation to trailers is set out below (taken from the Halton Borough Council Hackney Carriage Vehicle Conditions):

- (a) trailers shall be subject to prior approval by the Council;
- (b) trailers shall be painted the same colour as the towing vehicle;
- (c) an identity plate supplied by the Council shall be affixed to the rear of the trailer;
- (d) a trailer shall be used in conjunction with one licensed vehicle;
- (e) trailers shall be tested initially before use at the Council's testing facility and thereafter tested annually at the same time as the towing vehicle;
- (f) trailers shall not be used while the towing vehicle is standing or plying for hire.

10.4.6 In addition to the specific issues raised above, Members are requested to consider the remainder of the points dealt with by the existing vehicle conditions, including matter such as taximeters, signs and notices, advertising, licence plates, safety equipment, insurance etc. It is recognised that Members may require additional information in order to formulate a new set of proposed conditions; if this is the case any such additional information will be reported to a future meeting of the Committee.

10.4.7 Independently of the consultation exercise, officers have been made aware of concerns raised by two residents about the location in which hackney carriage vehicles are parked when not in use. The residents have suggested to officers that conditions should be imposed which require the proprietor of the vehicle to park their vehicles 'at home' or at some approved 'off-road'

parking site when they are not in use. Legal advice has previously been provided about the lawfulness of any such condition, as any conditions imposed must be 'reasonably necessary.' As decisions in relation to vehicle conditions are dealt with by the Committee, this matter has been highlighted so that Members may consider it as part of their deliberation on conditions.

10.5 **Hackney Carriage Stands**

10.5.1 Section 63 of the 1976 Act provides the Council with the power, subject to statutory consultation and the consent of the owner of the land (or the highway authority where the land in question forms part of the highway), to appoint stands for hackney carriages.

10.5.2 The consultation document lists the current hackney carriage stands (or 'ranks') within each of the three zones. The document also recognises that a previous consultation was carried out by the Highways Authority in 2009 in relation to certain amendments to taxi ranks within the Macclesfield zone (zone 3). Following this consultation exercise two traffic regulation orders were made under the provisions of the Road Traffic Regulation Act 1984 which included limitations in relation to waiting in hackney carriage stands in Macclesfield and Wilmslow.

10.5.3 The Cheshire East Borough Council (Hackney Carriage Stands and Street Parking Places)(Wilmslow Town Centre) Order 2010 came into operation on 1st March 2010. The order has effect (a) of removing the existing stand on Water Lane, Wilmslow (on the south side of the road) and replacing it with a seven space stand on the north side of the road to be operational between the hours of 18.30 and 06.00; and (b) of removing the existing stand on Alderley Road, Wilmslow and replacing it with a rank adjacent to numbers 21 – 29 Alderley Road (operational between the hours of 21.00 and 06.00) and a stand adjacent to numbers 1 – 3 Alderley Road (operational between the hours of 06.00 and 21.00). The plan attached as Appendix 6 shows the relevant restrictions.

10.5.4 Similarly, the Cheshire East Borough Council (Hackney Carriage Stands and Street Parking Places)(Macclesfield and Knutsford) Order 2010 came into operation on 1st March 2010. The order has the effect, amongst others, of (a) adding an additional space to the existing stand on Exchange Close, Macclesfield (to be operational on a 24 hour basis); (b) creating an additional stand with five spaces further along Exchange Close (to be operational on a 24 hour basis); and (c) creating a new stand with two spaces at Pickford Street, Macclesfield (to be operational on a 24 hour basis). The plan attached as Appendix 7 shows the restrictions in relation to Exchange Close, the plan at Appendix 8 shows those relating to Pickford Street.

10.5.5 The changes to hackney carriage stands made within the orders were subject of a report to the then Macclesfield Local Joint Highways Committee in March

2009. The report indicated that the proposed hackney carriage stands in Wilmslow had been 'agreed with local councillors through the Town centre review.' In relation to Exchange Close, the report noted that the previous rank was a very busy one alongside Tesco and that whilst only being a 14 metre long stand, "more than 10 taxis can be observed during daytime queuing around the corner of the building." Traffic regulation orders are subject to statutory consultation in accordance with the Local Authorities Traffic Orders (Procedure)(England and Wales) Regulations 1996, including publication of a notice in local newspapers and a twenty-one day consultation period.

10.5.6 The Licensing Committee is requested to consider the factors within section 63(3) of the 1976 Act (see paragraph 8.4.2 of the legal implications) and to recommend to the Cabinet Member for Safer & Stronger Communities that the authorisation be given for the provision of notice relating to the appointment of stands to bring the designation of stands under section 63 of the 1976 Act in line with the provisions within the traffic regulation orders referred to in paragraphs 10.4.3 and 10.4.4 above and illustrated within the plans at Appendix 6, 7 and 8.

10.5.7 As Members may be aware, there is a bus stop on the south side of Water Lane, Wilmslow (between the junctions with Alderley Road and Kings Close). In addition, the Macclesfield bus station is located at the top of Pickford Street, although there is no vehicular access from Pickford Street into the bus station. Officers are not aware of any pick up points (for the purposes of the Transport Act 1985 or the Public Passenger Vehicles Act 1981) in the vicinity of the propose stands.

10.5.8 The consultation document asked consultees to respond to the following question: *"How suitable do you think the current provision of ranks is, and what, if any, changes do you think are necessary?"*

10.5.9 Hackney drivers from each of the three zones have stated that there is insufficient rank provision in their zones. Particular comment is made in relation to Swinemarket in Nantwich, Crewe town centre, Congleton and Macclesfield town centre. Knutsford Town Council have made specific comment about the ranks at Canute Place in Knutsford. The Congleton Neighbourhood Policing Team have advised that they feel there is a need for additional rank provision in High Street, Sandbach.

10.5.10 The Licensing Committee is requested to consider the consultation responses received in relation to hackney carriage stands. If Members are minded to do so, as the consent of the Highway Authority is required in relation to the appointment or alteration of a hackney carriage stand on the highway, the Committee and is requested to authorise officers to engage in discussions with the Highway Authority about the location and number of taxi ranks in each of the three hackney carriage zones.

11.0 Access to Information

Appendix 1 – Consultation Document

Appendix 2 – Table of consultation responses

Appendix 3 – Department of Transport Best Practice Guidance

Appendix 4 – Table of tariff comparisons

Appendix 5 – Private hire vehicle conditions

Appendix 6 – Plan showing hackney carriage stands (Wilmslow)

Appendix 7 – Plan showing hackney carriage stands (Exchange Close, Macclesfield)

Appendix 8 – Plan showing hackney carriage stands (Pickford Street, Macclesfield)

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

The Office of Fair Trading report “The regulation of licensed taxi and PHV services in the UK” is available on the Office of Fair Trading website: www.offt.gov.uk

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CHESHIRE EAST BOROUGH COUNCIL

Consultation in relation to the hackney carriage service

Cheshire East Borough Council

Cheshire East Borough Council is a unitary authority formed with effect from 1st April 2009 from four predecessor authorities, namely Cheshire County Council, Congleton Borough Council, Crewe & Nantwich Borough Council and Macclesfield Borough Council. The predecessor Borough Councils had different fare tables and approaches to the regulation of hackney carriage numbers.

Cheshire East has a population of approximately 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.



Because of the historic situation, outlined above, hackney carriages within the Borough of Cheshire East are licensed within three zones, i.e. Congleton zone (zone 1), Crewe & Nantwich zone (zone 2) and Macclesfield zone (zone 3).

Limitation of numbers

The Congleton zone has a policy of limiting the number of hackney carriages within its area, with the current limit being set at 42. The current policy within the Congleton zone of limiting the number of hackney carriages is pursuant to section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis “if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (with the area to which the licence would apply) which is unmet.”

Local authorities which operate a policy of quantity restrictions have been requested by the Department of Transport to keep such policies under review.

On 13th September 2010 the Licensing Committee resolved to authorise a consultation exercise relating to the principle of quantity control within the Borough as a whole.

This consultation document invites you to provide your views on the future policy in relation to numbers of hackney carriages within each of the three zones. This consultation does not form part of a formal ‘unmet demand survey,’ but rather seeks to establish the views of the trade, the public and relevant stakeholders in order to inform a future decision about hackney carriage service levels within the whole of the Borough.

Consultation question 1:

What are your views on: (i) the removal of the limit on the number of hackney carriages in the Congleton zone; (ii) an unmet demand survey in relation to the quantity of hackney carriages in any of the zones; (iii) maintaining the status quo; (iv) an increase in licence fees to fund any unmet demand survey?

Table of fares

The ‘table of fares’ or tariffs which apply to hackney carriages remain zoned. The Congleton tariff (zone 1) took effect on 1st April 2008 and is attached as Appendix A. The Crewe & Nantwich tariff (zone 2) took effect on 29th September 2008 and is attached as Appendix B. The Macclesfield tariff (zone 3) took effect on 16th April 2008 and is attached as Appendix C.

The Council is mindful of the provisions of Department of Transport Best Practice Guidance (February 2010) in relation to taxi tariffs, which states:

52.Fare scales should be designed with a view to practicality. The Department sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. Authorities may wish to consider adopting a simple formula for deciding on fare revisions as this will increase understanding and improve the transparency of the process. The Department also suggests that in reviewing fares authorities should pay particular regard to the needs of the travelling public, with reference both to what is reasonable to expect people to pay but

also to the need to give taxi drivers sufficient incentive to provide a service where it is needed. There may well be a case for higher fares at times of higher demand.

The Council wishes to review the tariffs applicable to each of the zones and is seeking comments on the existing tariffs together with any proposals in relation to amendments.

Any proposed variation to the tariffs will also be subject to statutory consultation in accordance with section 65 of the Local Government (Miscellaneous Provisions) Act 1976 (including publication of a notice in local newspaper(s)).

Consultation question 2:

What are your views on how the differing tariffs should be brought into line?

Consultation question 3:

Whether or not the tariffs can or should be standardised across Cheshire East, what are your views on the current tables of fares?

Existing terms and conditions

As a result of the 'zoning' of hackney carriages within the Borough, conditions inherited from the predecessor district councils still apply to hackney carriage vehicles. It is acknowledged that there are significant differences between the conditions, and the Council is seeking comments in relation to the conditions and any proposed amendments.

The Congleton conditions are attached as Appendix D, the Crewe & Nantwich conditions as Appendix E and the Macclesfield conditions at Appendix F.

In addition to the vehicle conditions, byelaws have been made in relation to hackney carriages in each of the zones. The Congleton byelaws are attached as Appendix G, the Crewe & Nantwich byelaws as Appendix H and the Macclesfield byelaws at Appendix I.

Consultation question 4:

Which of the conditions do you think should be retained? Which do you think should be abolished or changed?

Please provide reasons for your responses to this question.

Hackney carriage ranks

At present the following hackney carriage 'stands' or ranks have been designated:

Congleton zone (zone 1)

Town	Location	Number of spaces	Hours of operation
Congleton	Bus Station area	9	
Sandbach	The Commons		
	Bus Station	1	24 hours
Middlewich	Bull Ring	1	

Crewe & Nantwich zone (zone 2)

Town	Location	Hours of operation
Nantwich	Swinemarket	22.00 – 06.00
Crewe	Nantwich Road	22.00 – 06.00
Crewe	Market Square	
Crewe	Railway Station	24 hours

Macclesfield zone (zone 3)

Town	Location	Number of spaces	Hours of operation
Macclesfield	Waters Green	5	24 hours
Macclesfield	Queen Victoria Street	1	24 hours
Macclesfield	Park Lane	3	24 hours
Macclesfield	Exchange Close	3	24 hours
Macclesfield	Westminster Street	2	24 hours
Wilmslow	Church Street	2	24 hours
Wilmslow	Water Lane	2	24 hours
Wilmslow	Alderley Road	6	24 hours
Knutsford	Canute Place (north)	3	24 hours
Knutsford	Canute Place (south)	2	18.00 – 02.00
Alderley Edge	London Road	1	24 hours

The Council seeks views on the number and location of taxi ranks throughout the Borough.

Where a rank is located on the public highway the consent of the Highway Authority is required before a rank may be created or varied. In addition, any amendments to rank provision would be subject of statutory consultation in accordance with section 63 of the Local Government (Miscellaneous Provisions) Act 1976. It should also be noted that amendment of existing ranks and the creation of new ranks may require amendments to traffic regulation orders made under the Road Traffic Regulation Act 1984.

The Licensing Section is mindful of a previous consultation exercise carried out by the Highways Authority on certain amendments to the waiting times relating to taxi ranks in Macclesfield, Wilmslow and Alderley Edge. The amendments to traffic regulation orders made by the Highway Authority include the following changes:

- Exchange Close, Macclesfield - increasing the number of spaces to 9;
- Pickford Street, Macclesfield – a new rank with 2 twenty-four hour spaces;

- Water Lane, Wilmslow – removal of existing rank (on south side of the road) with two spaces and replacement with a 18.30 – 06.00 rank with seven spaces (on the north side of the road);
- Alderley Road, Wilmslow – amendment to hours of operation to 21.00 to 06.00 rank together with 3 spaces outside Wildings;

It is proposed that authority will be sought in the near future to publish formal notices under section 63 to formally consult on these changes.

Consultation question 4:

How suitable do you think the current provision of ranks is, and what, if any, changes do you think are necessary? Please provide reasons for any changes you feel are needed.

General

Consultation question 5:

Do you wish to express any further views in relation to any other aspects of the licensed trade? If so, please provide reasoning for any other changes which you think should be made.

Submission of consultation responses

Consultation responses must be submitted in writing by **Friday 18th February 2011**.

Responses may be sent by post to:

FAO Mrs K Khan
Legal Services
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ

or by e-mail to: licensing1@cheshireeast.gov.uk

APPENDIX A

CHESHIRE EAST BOROUGH COUNCIL (CONGLETON ZONE)

HACKNEY CARRIAGE - SCALE OF FARES
WITH EFFECT FROM 1st APRIL 2008

1.	<u>Mileage</u>		
	If the distance does not exceed 1,760 yards or part thereof		£2.60
	For the second mile and further miles (metered in units of 20p for each 196 yards or part thereof)		£1.80
2.	<u>Waiting time</u>		£24.00 per hour
3.	<u>Soilage charge</u>		£40.00
4.	<u>Extra charges</u>		
(a)	(i)	For hiring begun between 11.30 pm and 7.00 am	Time and one half
	(ii)	Sundays and Bank Holidays	Time and one half
(b)	Christmas Eve	- 7.00 am to 6.00 pm	Ordinary time
		6.00 pm to 12 midnight	Time and one half
	Christmas Day	- 0.00 am to 7 a.m. on Boxing Day	Double time
	New Year's Eve	- 7.00 am to 6.00 pm	Ordinary time
		6.00 pm to 12 midnight	Time and one half
	New Year's Day	- 0.00 am (1 st January)	
		to 7.00 am (2 nd January)	Double time

APPENDIX B

CREWE and NANTWICH ZONE**TARIFF OF CHARGES FOR THE HIRE OF HACKNEY CARRIAGES IN THE CREWE and NANTWICH ZONE OF CHESHIRE EAST COUNCIL****FARES FOR DISTANCE****(1) MILEAGE**

TARIFF 1		£
I	DAY RATE (7am to 9pm)	

li	The first 200 yards	2.20
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lii	Subsequent 195 yards	0.20
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lv	Waiting time Each minute (or part of)	0.30
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TARIFF 2		£
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V	NIGHT RATE (9pm TO 7am) ALL SUNDAYS	
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Vi	The first 176 yards	2.20
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Vii	Subsequent 176 yards	0.20
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Viii	Waiting time Each minute (or part of)	0.30
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TARIFF 3		£
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lx	ALL BANK HOLIDAYS (midnight to midnight) CHRISTMAS & NEW YEAR (from 6pm 24th December to 8am 27th December and from 6pm 31st December to 8am 2nd January)	
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X	The first 146 yards	3.20
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Xi	Subsequent 146 yards	0.20
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Xii	Waiting time Each minute (or part of)	0.30
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(2) EXTRA CHARGES		£
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Xiii	Per person (over one)	0.30
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Xiv	Soiling Charge	40.00
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(3) VALUE ADDED TAX

Xv	The above tariff is inclusive of VAT where applicable	
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Tariffs effective from 1st April 2009

NOTE: These tariffs came into effect from 29th September 2008 in the area of the former Borough of Crewe and Nantwich.

MACCLESFIELD ZONE

Fares for Distance

Tariff 1 Monday to Saturday 7.30am to 11.30pm

First mile (1760 yards) **£3.00**

Subsequent miles **£1.80**

Initial or minimum fare

First 1466.69 yards **£2.60**

Each subsequent 97.77 yards **10p**

Waiting time (£13.19 per hour)

Up to every 27.3 seconds of waiting time **10p**

Tariff 2 Monday to Sunday 11.30pm – 7.30am **(Night rate)**

Tariff 1 + 50%

Tariff 3 Sun + Bank Holidays except Christmas, Boxing Day and New Year's Day
7.30am – 11.30pm

Tariff 1+ 33.3%

Tariff 4 Christmas Day, Boxing Day 7.00pm 24 Dec to 7.00am 27 Dec
New Year's Day 7.00pm 31 Dec to 7.00am 2 Jan

Tariff 1+100%

Extra charges

For each person in excess on one **20p**

Use of luggage space **10p per item and not to exceed 40p**

Wheel chairs, guide dogs and other assistance dogs **No charge**

Extra charges **will not exceed £1.00**

Except in vehicles licensed to carry up to 8 passengers and are carrying in excess of 5 -
then excess charges will not exceed £1.80

Soilage charge **£45.00**

Cheshire East Council (Congleton)
CONDITIONS ATTACHED TO HACKNEY CARRIAGE PROPRIETOR/VEHICLE LICENCES

These conditions to be read in conjunction with the appropriate provisions of the Town Police Clauses Act, 1847, the Local Government (Miscellaneous Provisions) Act 1976, Part II and the Borough Council Byelaws relating to Hackney Carriages.

1. The vehicle shall be suitable in type and design for use as a Hackney Carriage. In the event of a vehicle being unroadworthy for a period of two days, an alternative vehicle may be used provided the vehicle is hired from a reputable dealer and prior approval has been obtained from the Council. The insurance to be obtained from the proprietor's own insurance.
2. All Hackney Carriages shall be fitted with the roof sign bearing only the word "TAXI" and no other signs or distinguishing marks shall be permitted, unless written approval has first been obtained from the Borough Council, except for the licence plate issued by the Borough Council and a sign painted on or affixed to the driver's door and the front passenger door stating the trading name and telephone number of the firm. The letters of such sign shall not exceed two inches in height and all letters other than capitals shall be of equal dimensions.
Purpose built taxis, e.g. Austin FX4s are exempt from the requirements to display the roof sign.

3. The minimum standard of vehicle to be used for renewal or transfer of vehicle licences for Hackney Carriage/Private Hire purposes shall be a four-door passenger saloon/estate or hatchback with adequate rear seating and a minimum engine capacity of 1600cc.

The minimum standard of vehicle for all new vehicle licenses issued shall be:

- (a) a purpose built wheelchair accessible four door passenger saloon/estate or hatchback with minimum seating space of 16" per person
 - (b) the vehicle must be M1 type approved on manufacture by the Vehicle Certification Agency (VCA) (i.e. have been certified by the VCA as meeting their standard for passenger carrying vehicles, with capacity for up to 8 passengers plus driver).
 - (c) it shall be the responsibility of the Hackney Carriage Proprietor to produce to the Council an application for a vehicle licence either the M1 certificate (or copy thereof) or written confirmation from the vehicle manufacturer that the vehicle is M1 type approved by the VCA.
4. During the hours of darkness, the "TAXI" sign shall be illuminated only when the carriage is standing or plying the hire within the Borough and shall be extinguished as soon as the vehicle is hired. For the purpose of this condition, the "hours of darkness" shall be the hours on which lighting up times operate in the Borough.
 5. Before the vehicle is used as a Hackney Carriage such insurances or securities as are required under Part VI of the Road Traffic Act, 1972, shall be obtained in respect of the vehicle and the certificate in respect of the policy of insurance or security shall be produced to the Council for inspection. An insurance cover note will suffice but on the expiry of 30 days a certificate shall be produced.
 6. The proprietor of a Hackney Carriage/Private Hire vehicle shall submit a copy of his certificate and also policy of insurance when applying for a new/renewal vehicle licence and depending on the insurance this may be a block or individual policy and certificate of insurance. It is the responsibility of the applicant to prove that the policy and certificate(s) cover all Hackney Carriage/Private Hire vehicles licensed in their name and likewise any drivers employed to drive

the said vehicle.

7. Every proprietor of a Hackney Carriage shall provide the carriage with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say:
 - (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
 - (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) when the machinery of the taximeter is in action, there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate of fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
 - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply the fare recorded thereon;
 - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
 - (f) the taximeter and all fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals and other appliances.
8. The licence plates must be affixed to the front and rear of the exterior of the vehicle, the plates must display the name of the licensing Authority, licence number, the vehicles registration number, description and number of passengers that is permitted to carry. The plates must be easily removable by any authorised officer of the Council or a Constable.
9. Licensees are required to issue on request, receipts in respect of fares charged for hiring.
10. A copy of the current "Table of Fares" shall be exhibited inside the vehicle in clearly distinguishable letters and figures in such a position that hirers can conveniently see it.
11. Transfer of licences:
 - (a) In the event of a person showing proof of ownership of a Hackney Carriage and the transfer notified to the Council in accordance with Section 49(1) of the Local Government (Miscellaneous Provisions) Act, 1976, the licence in respect of that vehicle will be transferred to that person for the remainder of its validity. Thereafter the licence will not be renewed to the new owner except with the express permission of the Borough Council.
 - (b) Applications from widows for the licences previously held by their husbands will normally be accepted;
 - (c) Applications from other close relatives for the transfer of licences will be dealt with on the merit of each application.
12. The proprietor shall within 7 days disclose to the Council in writing details of any conviction imposed on him (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.
13. The interior and exterior of all Hackney Carriage/Private Hire vehicles shall be kept in a reasonable condition of cleanliness and safety. This includes all carpets, fire extinguishers, radios and other fixtures within the vehicle, which must be securely fitted so as not to cause

danger to passengers. The opinion of the Council's Inspector as to reasonableness shall be conclusive.

14. An administrative charge of £20.00 will be made in respect of any cancellation of vehicle tests whereby less than 7 days notice has been given.
15. Where an operator fails to present his Hackney Carriage/Private Hire vehicle for inspection as arranged and notice of cancellation is not received, the full fee of £45.00 will be charged.
16. Any damage to a Hackney Carriage/Private Hire vehicle, which in the opinion of the Council's Inspector adversely affects the vehicle's safety or appearance must be suitably repaired before a vehicle can continue to be used for Hackney Carriage/Private Hire purposes. The vehicle will then be subject to an inspection by the Council's Inspector to determine whether or not it is fit to be used for such purposes and the Inspector's decision shall be conclusive. If the vehicle fails to pass the inspection, a prohibition or defect notice may be issued. If a prohibition notice is issued the vehicle shall not be used for Hackney Carriage/Private Hire work until the necessary repairs have been completed and a further inspection has been made. A copy of the prohibition notice may also be forwarded to the local Police for their information.
17. If a hackney carriage/private hire vehicle fails its annual inspection because of more than 2 faults, a full re-test fee of £45 is payable. If the vehicle fails on 1 or 2 faults only no retest fee is payable UNLESS one or more of those faults are of the type which would affect the vehicles safety and attract a Prohibition Notice as in condition 16 above, in which case the retest fee is payable.
18. With effect from the 1st September 1992, all Hackney Carriage and Private Hire vehicles with a disabled access tail life, mobile lift or ramp facility fitted to the vehicle must comply with BS6109 document relating to "The Code of Practice for Passenger Lifts and Ramps" (a copy of this document is available on request from the Council's Transport and Mechanical Services Officer). In accordance with the BS6109 all operators with a tail lift, mobile lift or ramp facility will also be required to produce a current test certificate upon request of the Council's Transport and Mechanical Services Officer.
19. All Hackney Carriage/Private Hire vehicles must carry a fire extinguisher, the minimum size being 1 kilogram and of a dry powder or carbon dioxide nature, which shall be secured by a clip in the front of the vehicle where the extinguisher would be accessible at all times. The fire extinguisher must be serviced and tested on a regular basis by an independent company as agreed by the Council's Transport and Mechanical Services Officer.
20. The proprietor of a Hackney Carriage vehicle shall provide a first aid box containing the following:
 - (i) a card giving general first aid guidance;
 - (ii) 10 individually wrapped sterile adhesive dressings;
 - (iii) 2 sterile eye pads;
 - (iv) 1 triangular bandage;
 - (v) 2 sterile coverings for serious wounds;
 - (vi) 12 safety pins;
 - (vii) 3 medium sized unmedicated dressings;
 - (viii) 1 large sterile unmedicated dressing;
 - (ix) 1 extra large sterile unmedicated dressing;
 - (x) 1 pair rustless blunt-ended scissors;
 - (xi) 10 antiseptic wipes, foil packed.
21. All Hackney Carriage Vehicles shall have a sign painted on or affixed in a conspicuous position in the vehicle stating the under-mentioned, providing the information can be seen from the inside of the vehicle only:
 - (a) The Trading Name of the Proprietor;
 - (b) The Telephone Number;

- (c) The words "HACKNEY CARRIAGE".

These signs are provided by the Council free of charge on first application. However, a fee of £1.50 will be charged for replacement signs.

22. Renewals

All forms required for renewal must be completed and returned, along with any other information required and the renewal fee and be received by the Council AT LEAST 4 WEEKS before the expiry of the current licence.

(NOTE: The licence will not be issued until any cheques for payment have been honoured)

NOTE

1. Appeals

A Licensee who is aggrieved by any of these conditions has a right of appeal to a Magistrates' Court.

2. Offences and Penalties

Contravention of these conditions constitutes an offence under the Town Police Clauses Act 1847, or the Local Government (Miscellaneous Provisions) Act, 1976, in respect of which specific penalties are provided. In addition it is also an offence to obstruct an authorised officer or Police Constable in his duty. There is a general penalty, applicable where specific penalties are not provided with a maximum fine.

3. Special attention is drawn to the following sections of the Local Government (Miscellaneous Provisions) Act, 1976:

Transfer of Hackney Carriage and Private Hire Vehicles

s49 (1) If the proprietor of a Hackney Carriage or of a Private Hire vehicle in respect of which a vehicle licence has been granted by a District Council transfers his interest in the Hackney Carriage or Private Hire vehicle to a person other than the proprietor whose name is specified on the licence, he shall within 14 days after such a transfer give notice in writing thereof to the District Council specifying the name and address of the person to whom the Hackney Carriage or Private Hire vehicle has been transferred.

- (2) If a proprietor without reasonable excuse fails to give notice to a District Council as provided by sub-section (1) of the section he shall be guilty of an offence.

Provisions as to Proprietors

s50 (1) Without prejudice to the provisions of Section 68 of this Act, the proprietor of any Hackney Carriage or of any Private Hire vehicle licensed by a District Council shall present such Hackney Carriage or Private Hire vehicle for inspection and testing by or on behalf of the Council as they may by such period and at such place within the area of the Council as they may by notice reasonably require.

Provided that a District Council shall not under the provisions of this Sub-Section require a proprietor to present the same Hackney

Carriage or Private Hire vehicle for inspection and testing on more than 3 separate occasions during any one period of 12 months.

- (2) The proprietor of any Hackney Carriage or Private Hire vehicle -
- (a) Licensed by a District Council under the Act of 1847 or under this Part of the Act; or
 - (b) In respect of which an application for a license has been made to a District Council under the Act of 1847 or under this Part of the Act;

shall, within such period as the District Council may by notice reasonably require, state in writing the address of every place where such Hackney Carriage or Private Hire Vehicle is kept when not in use and shall if the District Council so require afford to them such facilities as may be reasonably necessary to enable them to cause such Hackney Carriage or Private Hire vehicle to be inspected and tested there.

- (3) Without prejudice to the provisions of Section 25 of the Act, the proprietors of a Hackney Carriage or of a Private Hire vehicle licensed by a District Council shall report to them as soon as reasonably practicable and in any case within 72 hours of the occurrence thereof, any accident to such Hackney Carriage or Private Hire vehicle causing damage materially affecting the safety, performance or appearance of the Hackney Carriage or Private Hire vehicle or the comfort or convenience of persons carried therein.
- (4) The proprietor of any Hackney Carriage or of any Private Hire vehicle licensed by a District Council shall at the request of any authorised officer of the Council produce for inspection the vehicle licence for such Hackney Carriage or Private Hire vehicle and the certificate of the policy of insurance required by Part VI of the Act of 1972 in respect of such Hackney Carriage or Private Hire vehicle.
- (5) If any person without reasonable excuse contravenes the provisions of this Section, he shall be guilty of an offence.

Suspension and Revocation of Vehicle Licences

- s60 (1) Notwithstanding anything in the Act of 1847 or in this part of this Act, a District Council may suspend or revoke or (on application therefore under Section 40 of the Act of 1847 or Section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:
- (a) That the Hackney Carriage or Private Hire vehicle is unfit for use as a Hackney Carriage or Private Hire vehicle;
 - (b) Any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of the Act by the operator or driver; or
 - (c) Any other reasonable cause.
- (2) Where a District Council suspend, revoke or refuse to renew any licence under this Section they shall give to the proprietor

of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they refused to renew the licence within 14 days of such suspension, revocation or refusal.

- (3) Any proprietor aggrieved by a decision of a District Council under this Section may appeal to a Magistrates' Court.

Hackney Carriage used for Private Hire

- s67 (1) No Hackney Carriage shall be used in the District under a contract or purported contract for Private Hire except at a rate of fares or charges not greater than that fixed by the byelaws or table mentioned in Section 66 of this Act and when any such Hackney Carriage is so used, the fare or charge shall be calculated from the point in the District at which the hirer commences his journey.
- (2) Any person who knowingly contravenes this Section shall be guilty of an offence.
- (3) In Sub-Section (1) of this Section "Contract" means -
- (a) A contract made otherwise than while the relevant Hackney Carriage is plying for hire in the District or waiting at a place in the District which, when the contract is made, is a stand for Hackney Carriage appointed by the District Council under Section 63 of this Act; and
- (b) A contract made, otherwise than with or through the driver of the relevant Hackney Carriage, while it is so plying or waiting.
- s68 Any authorised officer of the Council in question or any Constable shall have the power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any Hackney Carriage or Private Hire vehicle licensed by a District Council, or any taximeter affixed to such a vehicle and if he is not satisfied as to the fitness of the Hackney Carriage or Private Hire vehicle or as to the accuracy of its taximeter, he may by notice in writing require of the proprietor of the Hackney Carriage or Private Hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or Constable is so satisfied.

Provided that, if the authorised officer or Constable is not so satisfied before the expiration of a period of 2 months, the said licence shall, by virtue of this Section, be deemed to have been revoked and Sub-Sections (2) and (3) of Section 60 of this Act shall apply with any necessary modifications.

Crewe and Nantwich

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

CONDITIONS ATTACHED TO HACKNEY CARRIAGE LICENCES**1. Construction and Size****1.1 Type Approval**

The vehicle itself or the generic vehicle manufactured by the vehicle manufacturer shall be certified as having one of the following levels of Type Approval;

European Community Whole Vehicle Type Approval (ECWVTA)
UK Low Volume Type Approval (LVTA)
UK Single Vehicle Type Approval (SVA).

1.2 Size

The vehicle shall not exceed 3.5 tonnes (3,500 kilogrammes) gross weight.

1.3 Doors and Seats

The vehicle shall not have less than four doors and not less than four passenger seats. Up to one rear door may be included in the total of four doors provided it is accessible as a means of exit to passengers from within the vehicle. Emergency exit windows, if fitted, shall not count towards the total of four doors.

1.4 Tinted Windows

The vehicle shall comply with the Construction and Use Regulations 1986 (No.1078) with respect to the fitting of tinted (ie; opaque, darkened or privacy glass) windows. For any vehicle which is fitted with windows which are exempt from the provisions of the Construction and Use Regulations, the visual transmission of light through those windows shall be not less than 70% when measured in accordance with the manner prescribed in the Construction and Use Regulations 1986 (No.1078).

2. Maintenance of Vehicle**2.1** The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations shall be fully complied with.

Without prejudice to the generality of the foregoing, the exterior of the vehicle shall be clean, free from unrepaired damage and finished to match existing paintwork after repair and the interior of the vehicle shall be clean, tidy and free of litter, any rubbish shall be removed after each journey and the upholstery, carpets and fittings be free from rips and tears.

2.2 Damage to Vehicle

The proprietor must report to the Council as soon as reasonably practicable, and in any event within 72 hours, the occurrence of any accident which has caused damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of its passengers.

[Note: failure to do so is also an offence under section 50 of the Act.]

3. Alteration of Vehicle

No alteration or change in the interior or exterior specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force. However, where condition number 10 is applicable, the configuration of the seating may be rearranged as operational circumstances require to allow the carriage of wheelchair bound passenger(s), provided that the seating in the vehicle has been installed in such a manner as to specifically enable its configuration to be rearranged in order to accommodate wheelchair bound passenger(s).

4. Interior Markings

The vehicle shall display at all times the notice supplied by the Council visible to passengers from within showing the licence number, vehicle registration number, seating capacity and telephone number of the Licensing Authority.

5. Safety Equipment

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable and efficient fire extinguisher, eg, 21B rating (dry powder or foam), to be carried inside the vehicle (but not in the boot) and to be readily accessible and available for immediate use in an emergency. The location of the extinguisher shall be marked if necessary. The extinguisher shall be permanently marked with the Hackney licence plate number.

6. Taxi Roof Sign

Hackney Carriages shall carry an illuminated roof sign bearing the word "TAXI" in letters of not less than 65mm in height and not less than 8mm thickness.

7. Adverts etc

Hackney Carriages may bear the business name, address and telephone number of the proprietor's taxi business on each side of the vehicle. No other advertisements, signs, notices, numbers, marks, plates, emblems, symbols or devices shall be displayed on, in or from the vehicle, without the prior written approval of the Council.

8. Licence Plates

- 8.1 Hackney Carriages shall at all times clearly display two licence plates supplied by the Council, the form and content of which shall also be prescribed by the Council.
- 8.2 One licence plate shall be affixed securely to the front of the vehicle and one licence plate shall be affixed securely to the rear of the vehicle.
- 8.3 The plates shall not be affixed to any vehicle except the vehicle identified in the vehicle licence application form.
- 8.4 The plates shall at all times remain the property of the Council and the Licensee shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.
- 8.5 The Licensee shall at all times ensure so far as is reasonably practical that the information contained on the plates is complete and legible and that the plates are maintained in a clean condition.
- 8.6 The Council shall be entitled to charge and retain a deposit of such sum as may from time to time be deemed reasonable upon the issue of each plate.

9. Taximeter

The taximeter fitted to the vehicle shall be of the calendar type.

10.* Carriage of a Wheelchair User (where the grant of the licence is conditional upon the vehicle being able to carry a passenger in a wheelchair)

- 10.1 The vehicle shall be constructed or adapted so as to be able to accommodate a wheelchair bound passenger.

10.2 Wheelchair accessible vehicles licensed to carry eight passengers

The vehicle shall either be fitted with seven passenger seats and shall have adequate space and fittings to carry one wheelchair bound passenger, or

the vehicle shall be fitted with eight passenger seats provided that the eighth seat can be rendered unusable either by means of being easily and immediately folded down or being moved along on fixed tracking in order to accommodate one wheelchair bound passenger.

A vehicle from which a seat has to be removed in order to accommodate a wheelchair shall be deemed not to comply with this condition.

A vehicle which is fitted with eight passenger seats and also has adequate space to carry a wheelchair bound passenger shall be deemed not to comply with this condition.

10.3 Wheelchair accessible vehicles licensed to carry less than eight passengers

The vehicle shall either be fitted with six or less passenger seats plus have adequate space and fittings to carry one wheelchair bound passenger, or

the vehicle shall be fitted with six or less passenger seats provided that one or more seats can be rendered unusable either by means of being easily and immediately folded down or being moved along on fixed tracking in order to accommodate one wheelchair bound passenger.

A vehicle from which a seat has to be removed in order to accommodate a wheelchair shall be deemed not to comply with this condition.

10.4 **All Wheelchair accessible vehicles**

The vehicle must be constructed or adapted to allow the entrance and exit of a wheelchair whilst its occupant remains seated in the wheelchair at all times.

- 10.5 Any entrance or exit which is intended to provide access for a wheelchair user shall be not less than 700mm in width.
- 10.6 The space inside the vehicle occupied by a wheelchair user (the wheelchair space) shall be not less than 1300mm in length, not less than 750mm in width and not less than 1350mm in height from the floor to the roof.
- 10.7 The wheelchair space may accommodate the wheelchair facing in either a forward or backward position. The wheelchair user shall not be conveyed facing sideways.
- 10.8 The wheelchair space shall be fitted with a wheelchair tie down system.
- 10.9 The wheelchair space shall be fitted with a three point lap and diagonal wheelchair user restraint system.
- 10.10 For vehicles in which the wheelchair passenger is to be conveyed facing backwards, a head and back restraint shall be fitted at the forward end (relative to the vehicle) of the wheelchair space.
- 10.11 The vehicle shall be equipped with either a ramp (fixed to the vehicle or portable) or a boarding lift. A portable ramp shall be marked by permanent means with the Hackney licence plate number of the vehicle to which it relates.
- 10.12 The incline of the ramp, where provided, shall not be greater than 16 degrees (1 in 3 ½). The incline shall be measured with the lower end of the ramp(s) resting on the same ground level as the wheels of the vehicle.
- 10.13 Where the vehicle is fitted with a boarding lift, it shall be fitted with a device to prevent the wheelchair from rolling off the lift platform. A power operated boarding lift shall be capable of being manually operated.
- 10.14 When not in use, any ramp or boarding lift shall not impede either the use of or access to any door or emergency exit.

* delete if condition no.10 is not applicable to the grant or renewal of the licence.

* * * * *

NOTE

A Hackney Carriage licence issued by Crewe and Nantwich Borough Council is subject to the above conditions.

Failure to comply with any condition may result in the suspension, revocation or non renewal of the licence.

[These Hackney Carriage licence conditions were revised by the Council on 14th October 2008 and came into effect on 1st January 2009].

MACCLESFIELD - ZONE 3

CONDITIONS FOR HACKNEY CARRIAGE VEHICLES

Definitions

- 1 In this licence 'authorised officer' has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

'The Council' means the Cheshire East Council

'The identification plate' means the plate issued by the Council for the purpose of identifying the vehicle as a Hackney Carriage vehicle

'The proprietor' has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

'The taximeter' has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976.

'Hackney carriage' has the same meaning as in the Town Police Clauses Act 1847 and the proprietor shall comply with those conditions made in pursuance of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

'Purpose Built Vehicles' mean vehicles which are manufactured exclusively as hackney carriages, commonly known as 'London' or 'black cabs.'

Type of vehicle

- 2 Each vehicle to be licensed, with the exception of Purpose Built Vehicles, shall be:-
- (a) a manufacturers standard right hand drive vehicle with a minimum engine capacity of 1500cc. The colour shall be a manufacturer's standard colour for the particular model, and only additional equipment approved by the Council shall be fitted.
 - (b) fitted with at least four doors, two to the nearside and two to the offside, which may be opened from the inside and the outside;
 - (c) of at least the four-wheel type
 - (d) Passenger seats must be at least 406mm (16") wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. There must be a minimum of 850mm/33" headroom for all passengers seats measured from the rear of the seat cushion to the roof lining. There must be a minimum of 150mm/6" legroom for all passenger seats measured from the front edge of the seat, dashboard or internal panel in front.
 - (e) in relation to Hackney Carriage, the vehicle must have a minimum overall length of 450cm (177"); the vehicle must have a maximum overall length of 503cm (198");
 - (f) have an seat configuration approved by the Council for the particular make and model of vehicle;
 - (g) Seats may be mounted on tracking fastened to the floor of the vehicle using Unwin Safety Systems Seat Fixings or similar make approved by the Council. These seats may be

removed as necessary to allow space for one or more wheelchairs. Tracking must be correctly aligned and spaced to allow easy removal of the seat. Fastenings for the track must be to the manufacturer's specification.

- (h) If the vehicle is fitted with an electronic locking system, the proprietor must ensure that the locking system is isolated so that the electronic system may be overridden and all doors are capable of manual operation.

Plates and identification of vehicle

- 3 No person shall use or permit to be used the vehicle as a hackney carriage vehicle unless the plate or disc issued by the Council is exhibited on the vehicle in the manner set out within these conditions.
- 4 The licence plates issued by the Council must at all times whilst the vehicle remains licensed be affixed to the exterior of the Hackney Carriage vehicle between the centre and off side of the vehicle by the proprietor at the cost of the proprietor, with one at the front and one at the rear of the Hackney Carriage in accordance with the reasonable instructions of the authorised officer of the Council. The identification plates shall be fixed to the vehicle in such a manner as to be easily removable by any authorised officer of the Council or a Police Constable.

Identification stickers issued by the Council must be fixed to:

- (i) the inside, lower near-side corner of the windscreen, so that the sticker is visible to passengers within the vehicle;
 - (ii) the top near-side rear window facing outwards; and
 - (iii) the top off-side rear window facing outwards.
- 5 The proprietor of the Hackney Carriage vehicle shall ensure the identification plates are maintained and kept in such condition that the information contained on the identification plates are clearly visible to the public view at all times.
 - 6 The identification plates issued to a licensed Hackney Carriage vehicle remain the property of Macclesfield Borough Council and both the plate and backing plate must be returned to the Council on either the expiry of the Hackney Carriage Vehicle Licence or the sale or transfer of the vehicle.

Vehicle testing

- 7 In relation to each licensed vehicle the age of the vehicle, for licensing purposes, shall be determined by the date of first registration on the V5 document (Log Book). All vehicles will be subject to a yearly test until that vehicle reaches the age of seven years (or ten years old in relation to purpose built vehicles). Thereafter they shall require six monthly mechanical fitness tests.

Condition of vehicle

- 8 The proprietor shall ensure that the Hackney Carriage vehicle shall be maintained in a sound mechanical and structural condition at all times and be capable of satisfying the council's mechanical and structural inspection at any time during the continuance of the vehicle's licence in respect of the vehicle.
- 9 The interior and exterior of the Hackney Carriage vehicle shall be kept in a clean condition and maintained in a safe condition and good state of repair by the proprietor.

- 10 The proprietor shall not allow the mechanical and structural specification of the Hackney Carriage vehicle to be varied without the written consent of the Council and the vehicle shall at all times be as the manufacturers specification.
- 11 Any damage to a Hackney Carriage vehicle materially affecting the safety performance or appearance of the vehicle shall be reported by the proprietor to the Council in accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 12 The proprietor of Hackney Carriage vehicle shall:
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver during the course of hiring.
 - (b) cause the interior of the vehicle to be kept wind and water tight.
 - (c) provide any necessary windows and means of opening and closing with not less than one window on each side of the passenger compartment.
 - (d) cause the seats in the passenger compartment to be properly cushioned and covered.
 - (e) cause the floor in the passenger compartment to be provided with a proper carpet, mat or other suitable covering.
 - (f) cause fitting and furniture of the carriage to be kept in a clean condition and well maintained and in every way fit and safe for public use.
 - (g) provide facilities for the conveyance of luggage safely and protected from inclement weather.

Seat belts and baby seats

- 13 The proprietor of a vehicle shall ensure that the vehicle is fitted with inertia reel seat belts of the three point type for all seats. All seat belts to be to the M1 approved standard.
- 14 The carriage of child passengers must be in accordance with the Motor Vehicles (Wearing of Seat Belts)(Amendment) Regulations 2006. If baby seats or booster cushions are used within a vehicle the proprietor shall ensure that they are fit for their purpose and are appropriately fitted within the vehicle.

Trailers / Roof racks

- 15 The proprietor of a vehicle shall ensure that the vehicle is not fitted with a tow bar. The proprietor of a vehicle shall ensure that any roof rack or roof pod fitted to the vehicle is done so securely and in accordance with the manufacturer's recommendations.

Liquefied Petroleum Gas (LPG)

- 16 A proprietor converting their licensed vehicle to run on Liquid Petroleum Gas (LPG) must notify the Council of such change and comply with the following conditions. These conditions will also apply to proprietors purchasing a new or used vehicle that runs on LPG.

- (a) That the installation of the LPG tank be undertaken by a Liquid Petroleum Association (LPGA) approved installer;
- (b) That the proprietor produces a certificate of compliance by an approved LPGA installer;
- (c) That the LPG tank fitted must be a multi-valve tank and be fitted with a sealed tank box made from aluminium and vented to the atmosphere;
- (d) That the vehicle displays on the front and rear screens, a sticker stating that the vehicle has been fitted with an LPG tank for the purpose of alerting the emergency services in the event of an accident;
- (e) If a doughnut tank is fitted in the spare wheel well of the boot, the spare wheel must be securely fixed in position not obstructing the entire luggage space;
- (f) The proprietor of the vehicle must notify DVLA Swansea of the change in fuel from petrol to both LPG and petrol; and
- (g) The vehicle must be serviced by a person competent in LPG powered vehicles.

Tinted windows

- 17 With the exception of the rear window of a vehicle, heavily tinted glazing and tinted films applied to vehicle windows are not permitted. All glazing shall comply with the Motor Vehicles (Construction and Use) Regulations 1986 (as amended), with regard to the level of tint. A minimum light transmission value of 70% shall be maintained in all side windows; windscreens shall have a minimum light transmission value of 75%.

Wheelchair accessibility

- 18 The proprietor of any vehicles, which has been constructed or adapted to carry passengers in wheelchairs, shall ensure that the vehicle meets the following specifications:
 - (a) there must be a minimum gangway width of 300mm to at least two exits from every seat or wheelchair position with any wheelchairs to be carried in a fixed position;
 - (b) where a vehicle has been adapted to carry passengers in wheelchairs, suitable independent restraint systems must be fitted for both wheelchair and passenger. The restraint system (Unwin or equivalent) must be installed and operated in accordance with the manufacturers instructions;
 - (c) the wheelchair and restraint system should be capable of meeting the test criteria set out in Annex A of the Code of Practice VSE87/1 with a combined mass of 180kg for passenger and wheelchair;

- (d) passengers must not be carried in wheelchairs facing sideways;
- (e) vehicles may be fitted with ramps or power operated lifts to facilitate entry and exit for passengers in wheelchairs. This ancillary equipment must be installed, operated and maintained in accordance with the manufacturer's instructions. A certificate of compliance must be supplied on request. All power operated lifts must comply with BS6109 (pt 2) Category A. This certificate must be kept on the vehicle at all times.
- (f) stowed ramps or lifts must not prevent service and emergency doors from being operated from inside and outside the vehicle.
- (g) internally stored lifts must fold down as designed to allow access to the emergency exit when the door is open;
- (h) if a power operated lift is fitted a secondary manual method of lowering the power operated lift must be provided;
- (i) vehicles with a floor height measured from the road of more than 610mm must be fitted with a power operated lift and the use of ramps will not be permitted;
- (j) where ramps are fitted a recognised 'non-slip' material should be used on the ramp and raised edges provided on each side of the ramp;
- (k) doorways which are to be used by passengers in wheelchairs must be at least 800mm wide up to a height of 800mm. The height of the door must be a minimum of 1300mm. There should be a minimum height of 1350mm for any part of the vehicle to be occupied by passengers in wheelchairs.
- (l) if a vehicle has a maximum carrying capacity of one passenger in a wheelchair and up to four seated passengers the minimum door width is 700mm, the minimum door height is 1170mm and the minimum internal height is 1300mm.

Safety Equipment

19 The proprietor of a Hackney Carriage vehicle shall:

- (a) provide and maintained to the satisfaction of the authorised officer an efficient fire extinguisher containing dry powder with a capacity of not less than 1.0kg and manufactured to European Standard BS EN3: 1996 having a fire rating of 5A/34/B or any other form of fire extinguisher required in writing from time to time by the authorised officer which shall be carried in such a position as to be easily available for use, and such apparatus shall be clearly marked with the appropriate European Standard specification number and with the name and address of the manufacturer or vendor thereof together with the date when it was last tested. The licence plate number is to be painted on the extinguisher.

- (b) provide and maintain a first-aid kit containing the following first aid dressing and appliances:

One large sterilised dressing (not less than 3" x 3") (75mm x 75mm)
Three medium sterilised wound dressings (gauze and wool or lint and wool not less than 2" x 2") (50mm x 50mm)
Cotton wool (not less than 2oz) (57 grams)
Three roller bandages (7.5 cm x 5m)

Two triangular bandages
One roll of surgical strapping (not less than 1.25cm x 5m)
One pair of rustless scissors
Licence plate number to be painted on First Aid container

All materials for dressing and bandages including cotton wool shall be those designated in and of a grade or quality not lower than the Standards prescribed by the current British Pharmaceutical Codex, and all instruments and appliances shall be of a reliable quality and suitable design and construction and shall be carried in such a position in the private hire vehicle as to be readily available for use and be prominently marked and the said dressings and appliances shall at all times be maintained in good condition and available for inspection by an authorised officer of the Council from time to time.

Signs and notices

20

- (a) The Proprietor shall not cause or permit any sign, notice or advertisement to be displayed in, on or from the Hackney Carriage unless such sign, notice or advertisement has been approved in writing by the Council.
- (b) The Proprietor shall cause to be fitted to the roof of the Hackney Carriage, a roof sign, not a sign fixed to the gutter of the roof, that the light of which is capable of being extinguished when the meter is switched on.

21 The proprietor shall cause to be affixed and maintained in a conspicuous position in or on the vehicle in accordance with the directions of the Council any sign or notices required from time to time by the Council.

22 Any advertising on the vehicle must be approved by the Council and must be restricted to the following:

- (a) the name (or registered company name) of the owner or operator of the vehicle;
- (b) the logo or insignia of the owner or operator of the vehicle;
- (c) the address, telephone number(s), fax number(s), e-mail address or website of the owner or operator of the vehicle

Advertising of other businesses or products or services is not permitted and no art works, slogans or displays of other kind are permitted without the Council's prior approval.

23 A sign must be affixed to the vehicle indicating that smoking is prohibited in the vehicle in accordance with the requirements of the Health Act 2006 and the Regulations made under that Act.

24 Illuminated signs, with the exception for Hackney Carriage Vehicles of the roof sign, shall not be displayed on the vehicle.

Passengers

- 25 The proprietor shall not permit the Hackney Carriage vehicle to be used to carry a greater number of passengers than the number prescribed in the licence and two children under the age of ten shall be counted as one person for fare purposes only.
- 26 The proprietor shall not allow any child under the age of 10 years to be conveyed in the front seats of the vehicle.

Animals

- 27 The proprietor shall not permit any animal belonging to the proprietor or the driver to ride in the vehicle and any animal of the hirer is to be conveyed in the rear of the vehicle. The proprietor will ensure that no extra charge is made for the carrying of a guide dog or a hearing dog as described in section 37 of the Disability Discrimination Act 1995.

Taximeters

28

- (a) The Proprietor shall cause the Hackney Carriage to be fitted with a taximeter of a type and make approved by the Council before plying for hire and fit it to be located within the vehicle in accordance with reasonable instructions of the authorised officer.
- (b) The Proprietor shall ensure that a copy of the fare table supplied by the Council from to time is exhibited inside the carriage at all times.
- (c) The Proprietor shall ensure that the fare table is not concealed from view or rendered illegible while the vehicle is plying for hire.

29

- (a) The proprietor shall cause the taximeter to be of a type approved by the Council and to be maintained in a sound mechanical condition at all times, and for it to be located within the vehicle in accordance with the reasonable instructions of the authorised officer.
- (b) The proprietor of a Hackney Carriage shall cause the taximeter to be set to display the proprietor's fare table approved by the Council
- (c) The proprietor shall not use or permit to be used a taximeter that the Council has not sealed.
- (d) The proprietor shall not permit the taximeter to be fitted with a second manual tariff.
- (e) The proprietor shall cause the taximeter to be fitted with a key or other device to bring the machinery into action and cause the word 'HIRED' to appear on the face of the meter as soon as the vehicle is on hire.
- (f) The proprietor shall ensure that when the vehicle is not hired the key or other device is to be locked and machinery kept inactive and the meter must show no fare at that time.
- (g) The proprietor shall ensure that when the taximeter is brought into action the fare and permitted extras will be shown legibly on the face of the meter and shall be no more than permitted by the approved tariff.
- (h) The proprietor shall ensure the 'FARE' shall be printed on the face of the meter in clear letters so as to apply the fare recorded thereon.

- (i) The proprietor shall ensure that the taximeter is in such a position in the vehicle that figures recorded thereon are clearly visible to any passenger being carried therein and the driver of the vehicle shall ensure that sight of the taximeter by passengers carried therein is not obstructed at any time.
- (j) The proprietor shall ensure that the taximeter is sufficiently illuminated that when in use it is visible to all passengers.
- (k) The proprietor shall ensure that the taximeter and all its fittings are affixed to the vehicle with seals or by other means so that it shall not be practicable for any person to tamper with the meter except by breaking or damaging or permanently displacing the seals and other fittings.
- (l) The proprietor undertakes to ensure that the taximeter will not be replaced without prior permission of the Council.

Insurance

- 30 The proprietor of the Hackney Carriage vehicle shall keep in force in relation to the user of that vehicle a Policy of Insurance for the use of the vehicle as a hackney carriage or private hire vehicle issued by an approved Insurance Company and comply with the requirements of Part VI of the Road Traffic Act 1988.
- 31 At all times during the currency of the vehicle licence, the proprietor of the vehicle must carry within the vehicle the original Certificate of Insurance or Cover Note relating to that vehicle which shows those persons entitled to drive the vehicle or a Certificate which complies with condition 32 above. The documentation must be available for inspection by an Authorised Officer of the Council or Police Officer at all reasonable times. Failure to hold or produce this documentation will, save in exceptional circumstances, lead to the consideration by the Council of the future of the licence.

Transfer / Change of Address

- 32 If the proprietor of a licensed vehicle transfers his/her interest or part interest in the vehicle to any other person, he/she shall be required to notify the Council in writing within fourteen days of such transfer, specifying the name and address of the person to whom such interest has been transferred. However the proprietor is strictly prohibited from transferring or purporting to transfer the vehicle licence itself.
- 33 If at any time during the period of a vehicle licence the proprietor for any reason does not wish to retain the vehicle licence he must immediately surrender and return the vehicle licence and identification plates (including backing plates) to the Council. If the proprietor surrenders a vehicle licence then the licence shall be treated as if it had expired on the date of surrender and cannot thereafter be re-instated.
- 34 The proprietor of a Hackney Carriage vehicle shall notify the Council in writing of any change in address within seven days of such change taking place.

Radio equipment

- 35 The proprietor shall ensure that no radio equipment is fitted to any of his vehicles without the prior written consent of the Council where that radio equipment will allow the driver to communicate with an operator.
- 36 The proprietor shall ensure that any radio equipment fitted to the vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

Notification of convictions

- 37 The proprietor of a Hackney Carriage vehicle shall immediately disclose to the Council in writing details of any convictions cautions, reprimands or warnings imposed on him during the currency of his/her private hire vehicle licence.

Vehicle Excise Licence

- 38 The proprietor shall ensure, that at all times whilst the vehicle is used on public roads, there is a current vehicle excise licence in force for the vehicle.

Applications and licences

- 39 Each application for a Hackney Carriage vehicle licence must be made on the prescribed forms and be accompanied by the vehicle's registration documents, insurance documentation and the appropriate fee as determined by the Council from time to time. Acceptance of the application forms and fee by the Council does not imply that a licence will be granted
- 40 Before a licence is granted, the applicant shall produce a current Certificate of Insurance or Cover Note showing:
- (a) that there is in force in relation to the use of the Hackney Carriage vehicle to which the application relates a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988. The Certificate of Insurance or Cover Note must clearly state the driver(s) and the vehicle;
 - (b) in the case of a vehicle covered by a block insurance policy, the Certificate or Cover Note must be produced showing that there is in force in relation to the use of the Hackney Carriage vehicle to which the application relates a policy of insurance of such security as complies with the requirements of Part VI of the Road Traffic Act 1988. Either the Certificate or Insurance or Cover Note must state the driver(s) and vehicle or the insurance policy documentation must be produced showing that the vehicle has been added to the insurance schedule.
 - (c) The insurance certificate or cover note should expressly indicate cover for public hire or the carriage of passengers for hire or reward.
- 41 A vehicle licence in respect of which the licence fee has been paid by cheque shall not be effective until the cheque has been cleared.
- 42 Each private hire and hackney carriage vehicle licence shall be valid for a period of one year or such shorter period as the Council may decide.
- 43 A proprietor shall retain the licence of all hackney carriage or private hire drivers driving their vehicle(s) and produce the same to an authorised officer or Constable on request
- 44 All licences in connection with the driving and operating of hackney carriages in accordance with the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Drivers and proprietors should be familiar with these provisions.

CONGLETON BOROUGH COUNCIL
AS AT JULY 1978

BYELAWS

Made under Section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the Congleton Borough Council with respect to hackney carriages in the district of Congleton.

Interpretation

1. Throughout these byelaws “the Council” means the Borough Council of Congleton and “the district” means the non-metropolitan district of Congleton comprising the former Borough of Congleton, the former Urban District of Alsager, Middlewich and Sandbach and the former Rural District of Congleton.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licences, shall be displayed.

2.
 - a. The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
 - b. A proprietor or driver of a hackney carriage shall:
 - i. not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - ii. not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:
 - a. provide sufficient means by which any person in the carriage may communicate with the driver;
 - b. cause the roof or covering to be kept water-tight;
 - c. provide any necessary windows and a means of opening and closing not less than one window on each side;
 - d. cause the seats to be properly cushioned or covered;
 - e. cause the floor to be provided with a proper carpet, mat, or other suitable covering;
 - f. cause the fittings and furniture generally to be kept in a clean condition, well maintained and in everyway fit for public service;
 - g. provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - h. provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - i. provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say
 - a. the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word “HIRED” to appear on the face of the taximeter;

- b. such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- c. when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the byelaw in that behalf;
- d. the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- e. the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed shall be capable of being suitably illuminated during any period of hiring;
- f. the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriage plying within the district in their several employments and determining whether such drivers shall wear any and what badges

- 5. The driver of a hackney carriage provided with a taximeter shall:
 - a. when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - b. as soon as the carriage is hired by distance, and before beginning the journey, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep machinery of the taximeter in action until the termination of the hiring;
 - c. cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Transport Lighting Act 1957, and also at any other time at the request of the hirer.
- 6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- 7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired,
 - a. proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;
 - b. if a stand, at the time of his arrival, is occupied by the full number of carriages authorized to occupy it, proceed to another stand;
 - c. on arriving at a stand not already occupied by the full number of carriages authorized to occupy it, station the carriage immediately behind the carriage or carriages on the stand so as to face in the same direction;
 - d. from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
- 8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
- 9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

11. The driver of a hackney carriage when hired to drive any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
13. If a badge had been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage,
 - a. convey a reasonable quantity of luggage;
 - b. afford reasonable assistance in loading and unloading;
 - c. afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provisions fixing the stands of hackney carriages

15. Each of the several places specified in the following list shall be a stand for such number of hackney carriages as is specified in the list:-
 - (a) The Fairground, Congleton (in a plot of land situate on the easterly side of Market Street and to the immediate south of the Omnibus Station) 9
 - (b) Wagg Street, Congleton (on the westerly side of the carriageway adjacent to the Lion and Swan Hotel) 3

Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares

16. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

Fares for Distance

[superseded by subsequent table of fares]

APPENDIX H

CREWE AND NANTWICH BOROUGH COUNCIL Byelaws for Hackney Carriages

Made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the Council of the Borough of Crewe and Nantwich with respect to hackney carriages in the Borough of Crewe and Nantwich.

Interpretation

1. Throughout these byelaws “the Council” means the Council of the Borough of Crewe and Nantwich and “the district” means the Borough of Crewe and Nantwich

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a hackney carriage shall:-
 - (i) Not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire; and
 - (ii) Not cause or permit the carriage to stand or ply for hire with any such painting marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:-
 - (a) Provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) Cause the roof or covering to be kept water-tight;
 - (c) Provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) Cause the seats to be properly cushioned or covered;
 - (e) Cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) Cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) Provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) Provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
 - (i) Provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

4. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say:-
- (a) The taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
 - (b) Such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
 - (c) When the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures, a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
 - (d) The word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
 - (f) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges

5. The driver of a hackney carriage provided with a taximeter shall:-
- (a) When standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - (b) Before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) Proceed with reasonable speed to one of the stands appointed by the Council;

- (b) If a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) On arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction: and
 - (d) From time to time, when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such a carriage.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
- (a) Convey a reasonable quantity of luggage;
 - (b) Afford reasonable assistance in loading and unloading; and
 - (c) Afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

Provisions fixing the rates or fares to be paid for hackney carriages within the district and securing the due publication of such fares

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by a combination of distance and time unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance and time the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

15. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
- (a) Carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
- (b) Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

Penalties

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

Repeal of Byelaws

19. The byelaws relating to hackney carriages which were made by Crewe and Nantwich Borough Council on the 30th day of August 1978 and 23rd June 1982 and which were confirmed by the Secretary of State on the 13th October 1978 and the 1st September 1982 respectively are hereby repealed.

THE COMMON SEAL OF THE CREWE AND NANTWICH BOROUGH COUNCIL WAS
HERETO AFFIXED THIS 13TH DAY OF JULY 2005 IN THE PRESENCE OF:

C J HENSHALL
Borough Solicitor

The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into force on the 15th day of January 2007.

Signed by authority of the Secretary of State PHILIP WEST

14th December 2006

Department for Transport
LONDON SW1P 4DR

I hereby confirm that the foregoing byelaws are a true copy of the byelaws as confirmed by the Secretary of State.

CJ HENSHALL
Borough Solicitor

5th January 2007

Crewe and Nantwich Borough Council
Municipal Buildings
Earle Street
Crewe CW1 2BJ

APPENDIX I

BYELAWS

Made under section 68 of the Town Police Clauses Act, 1847 and section 171 of the Public Health Act, 1875 by Macclesfield Borough Council (now Cheshire East Borough Council) with respect to:

HACKNEY CARRIAGES

in Macclesfield (now known as Zone 3 of Cheshire East Borough Council)

INTERPRETATION

1. Throughout these byelaws 'the Council' means (former) Macclesfield Borough Council and 'the district' means (former) Macclesfield Borough Council

Provisions regulating the manner in which the number of each hackney carriage, corresponding with the number of its licence, shall be displayed.

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto
- (b) A proprietor or driver of a hackney carriage shall:-
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:-
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept water-tight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means of securing luggage if the carriage is so constructed as to carry luggage
 - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed attached and maintained as to comply with the following requirements, that is to say:

- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter;
- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
- (d) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitable illuminated during any period of hiring;
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.

- 5. The driver of a hackney carriage provided with a taximeter shall:
 - (a) when standing or plying for hire, keep the key, flag, or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter
 - (b) as soon as the carriage is hired by distance, and before beginning the journey, bring the machinery of the taximeter into action by moving the said key, flag, or other device, so that the word 'HIRED' is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Transport Lighting Act, 1957, and also at any other time at the request of the hirer.
- 6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with seals affixed thereto.
- 7. The driver of a hackney carriage shall, when plying for hire on any street and not actually hired:-
 - (a) Proceed with reasonable speed to a stand fixed by the byelaw in that behalf;
 - (b) On arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand so as to face in the same direction;
 - (c) From time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. The driver of a hackney carriage when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to the destination by the shortest available route.
12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, either with the licence granted to him by the Council or afterward, he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
 - (a) convey a reasonable quality of luggage,
 - (b) afford reasonable assistance in loading and unloading,
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

Provisions fixing the stands of hackney carriages.

15. The following places shall be stands for such numbers of hackney carriages as is specified:

[The location of stands within the borough has changed since the adoption of the original bye-laws.]

Provisions fixing the rates of fares, as well for time as distance, to be paid for hackney carriages within the district, and securing the due publication of such fares

[Any reference to fares within these bye-laws refers to the current fare tariff]

16. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised, which it may not be possible to record on the face of the taximeter.

17.

- (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

- 18. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
- 19. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
 - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of it's owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving receipt for it;
 - (b) be entitled to received from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of it's estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

PENALTIES

- 20. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction thereof.

REPEAL OF BYELAWS

- 21. The following byelaws are hereby repealed:-

Date Byelaw made	By whom made	Date Confirmed	By whom confirmed
25 September 1963	Macclesfield Borough Council	6 July 1964	On Her Majesty's Principal Secretaries of State
20 December 1972	Macclesfield Borough Council	14 March 1973	"
22 January 1974	Macclesfield Borough Council	26 February 1974	"
20 January 1969	Wilmslow Urban District Council	13 May 1969	"
6 December 1971	Wilmslow Urban District Council	6 October 1972	"
16 November 1971	Macclesfield Rural District Council	8 May 1972	"
2 March 1948	Knutsford Urban District	5 July 1948	One of the Principal Secretaries of State of His Late Majesty King George VI

Given under the Common Seal of the Macclesfield Borough Council this tenth day of January, 1975.

THE COMMON SEAL of the MACCLESFIELD BOROUGH COUNCIL
Was hereunto affixed to the presence of:-

AUTHORISED SIGNATORY

The Secretary of State this day confirmed the forgoing byelaw and fixed the date on which the byelaw is to come into operation as the 1st day of April 1975.

K P WITNEY
An assistant Under Secretary of State Home Office

14 March 1975

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CONSULTATION RE: HACKNEY CARRIAGE SERVICE**CONSULTATION RESPONSES****Consultation question 1**

What are your views on: (i) the removal of the limit on the number of hackney carriages in the Congleton zone; (ii) an unmet demand survey in relation to the quantity of hackney carriages in any of the zones; (iii) maintaining the status quo; (iv) an increase in licence fees to fund any unmet demand survey?

RESPONDENT	COMMENTS
Representations of the East Cheshire Taxi Association at meeting with officers (11.02.11)	Suggested that the limit in Congleton should be retained and a limit imposed on the Macclesfield and Crewe zones. Suggested that rather than an increase in licence fees to fund an unmet demand survey there be a one-off payment.
Mottram St Andrew Parish Council	(i) We have no view, as we have no knowledge; (ii) we are in favour of an unmet demand survey; (iii) not sensible; (iv) yes.
x 2 hackney carriage drivers (zone 2)	Issuing hackney carriage plates should STOP. Too many hackney carriage plates in Zone 2 (Crewe & Nantwich), not enough jobs to cover even the expenses, with related to this Private Hire Vehicles working in Nantwich specially in Welsh Row as a hackney carriages as there is NOT ENOUGH CONTROL AND INSPECTION by the Council at the weekend nights.
Wilmslow driver (zone 3)	I think there should be a capping system in Macclesfield/Wilmslow borough as there are too many putting in for plates, when someone surrenders their plate then the next person on a waiting list should be nominated to put a car on as a taxi.
Driver (zone 2)	(i) Although I am not a driver in zone 1, my experience from our zone suggests that removal of the limit would have a detrimental effect on the livelihoods of current hackney drivers who would have to increase their working hours to make a living. (ii) This would be beneficial to our zone, as it would confirm what we already know and that is that zone 2 is saturated beyond any doubt to the point that it is increasingly difficult to earn a living. Although the number of taxis would be the same at least the problem would be recognised officially and that would be a major step forward. (iii) Maintaining the status quo would be the worst possible outcome because it would allow the situation to get worse which I feel would be like us all

	burying our head in the sand and hoping it will all go away. (iv) We are only just benefiting from lower licence fees which are slightly easing the situation. Given the financial burden we have anyway it would be inappropriate, also if the local drivers and taxi association had been listened to earlier and spoken to this situation may have been avoided.
Driver (zone 3)	The number of hackney carriages to be restricted. No survey necessary. We already know that there are too many hackney carriages. It would be a waste of time and money. Zoning to be removed. No increase in fees.
x 42 hackney carriage drivers (zone 1)	<p>(i) I think that removing the limit on the number of hackney carriages would have potentially disastrous consequences for the following reasons – in recent years the size of the Congleton taxi rank has been halved and, as such, we do not have sufficient rank space for the amount of taxis as it is. In addition to this, the presence of the buses mean that there is much juggling around of vehicles already, therefore even more taxis would only add to this problem and make the taxi rank a potentially hazardous place for both drivers and the customers wishing to use the public transport.</p> <p>(ii) There was a survey carried out only a few years ago which concluded that there was no unmet demands for taxis, but even so several extra wheelchair friendly plates were issued, meaning that there is surely more than enough taxis available in the Congleton area already.</p> <p>(iii) I strongly believe that we should maintain the status quo.</p> <p>(iv) I think it would be very unfair of the council to increase the licence fees to fund any unmet survey demands, as given the fact that the supply of taxis currently already meets the demand satisfactorily as aforementioned in answer to (ii), it therefore seems only fair to me that it is the council that should be responsible for paying any extra money towards this, as they are the people that wish to change the taxi boundaries, not the taxi drivers themselves.</p>
Driver (zone 3)	<p>(i) I can't really speak for the situation in Congleton as I am not allowed to work there.</p> <p>(ii) Unmet demand surveys are an expensive needles protocol. A town hall employee / official could do a similar survey at a fraction of the cost.</p> <p>(iii) No, I can't speak for Congleton and C&N but we already have too many hackneys in Macclesfield, and</p>

	<p>not enough work to go round. I would like to see the Council impose a moratorium on the issuing of new plates with immediate effect. The only exception to this would be for a quota of wheelchair friendly vehicles. Therefore I would propose that any new first grant licenses would be for wheelchair friendly vehicles only. This would in effect, kill two birds with one stone.</p> <p>(iv) No. Unmet demand surveys are expensive and needless. If you want one YOU pay for it. The trade neither wants one or can afford one.</p>
Driver (zone 1)	<p>In addition to this Congleton Taxi Drivers are concerned that if Hackney Carriage Licences are de-regulated in the Borough of Congleton then excessive numbers of taxis may appear in Congleton that we have little or no room for. To highlight the current situation I have attached a photograph below taken this week showing that at any one time taxis are finding it hard to fit into the nine spaces on the rank allocated by the Council. The picture shows 14 taxis jostling for space.</p> 
Driver (zone 2)	<p>My view, on removing the limit of hackney carriages in Congleton you will create the same mess as you have in all the other boroughs, we have ranking for 3 cars on the town and 3 to feed the town. The only</p>

	<p>other 24 hour rank in Crewe is that station feeder rank in Crewe (this is no use unless you buy a station permit to work Crewe station rendering it no use as a public rank).</p> <p>Of the 6 spaces we have there are around 200 hackney vehicles fighting for spaces. The traffic wardens are on our backs day and night but we have nowhere to go to ply our trade yet the council continue to issue plates as a cash cow for them without consideration to how the new or existing hackney owners will earn a living with nowhere to operate from. There is a desperate need to an unmet demand survey to be carried out and now.</p>
Twemlow, Somerford and Cranage Parish Council	The Council are disappointed that it has got as far as this to carry out a survey. They feel it is a pointless and expensive survey. They think that there should be no limit and regulation would never work. The thought of an unmet survey is concerning to say the least. To conclude Council feel that there should be natural supply and demand allowed to develop in each area with a standard guideline pricing for all zones.
Chorley Parish Council	Retain control on the limit on the number but continue to review demand on a regular basis.
Driver/Proprietor (zone 3)	<p>I believe that all zones should have a number restriction on the amount of Hackney carriages and feel Congleton has the correct format on this matter as it keeps the balance between Private Hire and Hackney.</p> <p>(ii) A higher licensing fee to cover costs of anything to do with Taxis and Private Hire should also include covering the costs of Policing i.e. it would be good to see back designated Taxi officers on the street sorting out illegal practices their sole job to enforce Taxi rules and regulations, test drivers, carry out demand surveys. A higher fee would also see people take more care in their efforts to keep the rules and treat as I do Taxi driving is a profession not a means to add income to benefits and by bringing in a higher cost to cover surveys policing the owners outlay is higher and the loss to them greater if they break the rules.</p>
Proprietor/Driver (zone 3)	<p>(i) I cannot answer the question, as I am not plates to work in that zone so have no local knowledge. (ii) If that is the only way we can stop any more taxis getting plated then so be it. (iii) Definitely not! There has been for many years, far too many taxis for the amount of work available. Because of this drivers are working for longer hours (50 – 70 hours per week is not uncommon) for less money, in fact, most of the time for less than the government's minimum wage. (iv) If that is the "ONLY WAY" to get the unmet demand survey done, to prove to the Council that there is far too many taxis. What a pity we weren't asked</p>

	5 or even 10 years ago.
x79 drivers	<p>Congleton limit should be kept. Increase limit all the way across East Cheshire. No extra to licence fees to do unmet demand survey. You should have the money already from licence fees.</p>
Proprietor/driver	<p>In my view, not only should the limitation of licences apply to Congleton, but to Macclesfield and right across the boundaries of Cheshire East. The stacking reality proves beyond doubt that with the economy not fully recovered, business is slow. Having too many taxis on the road when there is not enough work to go round is inciting animosity among the drivers because new drivers are going to be frowned on by drivers who have been at the rank much longer and feel they rule the roost. I am speaking from experience that although I have been at the rank for exactly [..] months to the day, I have never stepped out of my car to make friends with a lot of the drivers. Not because I never bothered to, or that I am selfish, no, it's all because when I appeared at the two taxi ranks, Tesco and the station, a lot of the drivers did not show me their approval and so I have kept myself to myself and that is the way I want it to stay.</p> <p>There are only two busy ranks where drivers can queue up: Tesco and Macclesfield train station. The later has only got 5 parking spaces and Tesco has 3 which most of the times are occupied. At times the queue at Macclesfield Train Station go all the way into the main road, causing mayhem to other road users, There may be other ranks elsewhere but they are not as busy as the station or Tesco. That's why these two ranks are always full at all times.</p> <p>The other reason why in my view I propose a limit on the number of licences is the one I have alluded to at the beginning, and that is the economy being so slow which has a knock on effect on most businesses and this is also affecting the taxi industry. Worse still, fuel and VAT have gone up, slowing the business even further. It would be better to compare the economic growth in the area before more licences are issued, or else we could end up with a situation where drivers start fighting for work.</p>
Proprietor/Driver (zone 3)	<p>(i) No Comment (ii) I believe there should be an unmet demand survey in Crewe paying particular attention to the following points: (a) The majority of people in Crewe are able bodied therefore why insist that any new plates can</p>

	<p>only be granted to vehicles with wheel chair access. There is a need for some wheel chair accessible vehicles but very few of the people who have been granted plates on this basis will actually undertake wheelchair work. If there is a market for wheel chair work somebody will fill that void. Business men do not want to be transported in vans why discriminate against them for the sake of a minority of the population</p> <p>(b) Once the decision has been made on the percentage of vehicles required in the zone to cope with the disabled maintain the status quo by making the transfer of plates between individuals a thing of the past. Instead every plate should be returned to the council with a refund of the last pass off fee (pro rata) and the council should then issue that plate to the next applicant who has applied for that particular type (ie restricted or unrestricted)</p> <p>(c) If the Council then feel there is an increased demand for a particular type of vehicle it would be easy for them to control.</p> <p>(iv) I feel the cost of the 'unmet demand survey' should be met jointly by the Council (who have caused the problems by the over issuing of plates) and by the Hackney Drivers (who desperately need the problem resolving) through a one off payment and not an increase in the license fee as this would then be ongoing.</p>
Proprietor/Driver	<p>1 (i) Removal of limit on the number of Hackney Carriages in the Congleton Zone.</p> <p>In order to maintain a sustainable quality service regulation must apply. If deregulation at entry is removed then the authority will need to have a leap change in its performance at regulating quality. World wide studies have shown that deregulation at entry has failed to achieve the benefits to the travelling public claimed by its' supporters. One of the main reasons for this is the increased cost to the authority of administering and PROACTIVELY ensuring the quality of service for a large number of vehicles and drivers. Failure to provide sufficient Rank space for the increased numbers have caused major traffic problems, and in some cases increased revenue for the authority from the issue of parking tickets to cabbies!</p> <p>1 (ii) An unmet demand survey in relation to the quantity of Hackney Carriages.</p>

	<p>This is totally unnecessary. If someone from the authority would " walk the Floor" as part of the regulatory quality aspect of regulation, it is plainly obvious that in other zones, Crewe and Macclesfield, ranks are overflowing. Similar things can be seen in bordering areas e.g. Stoke & Newcastle. This is the stock answer taken from the Dft guidelines which as Confucius says Guidelines are used by wisepersons but obeyed by The more forward looking authorities have found other means of assessing demand. As with all the surveys so far carried out by experts/consultants at great cost, the results are inevitably flawed because the survey relates only to Hackney carriages and takes no account of the service levels LEGITIMATELY provided by the PHV sector.</p> <p>1(iii) Maintaining the status quo.</p> <p>Not sure what this refers to. If it refers to maintaining the numbers of Hackneys licensed at today's figure for ALL 3 zones then YES YES YES. If it refers to maintaining numbers regulation of Congleton Zone then YES. Any "harmonisation" to give a consistent view from CEC's point of view should be to regulate numbers in Crewe and Macclesfield. The sight of streets full of cabs unable to rank is not desirable from any one's point of view.</p> <p>1(iv) An increase in licence fees to fund any unmet demand survey.</p> <p>ABSOLUTELY NO NO NO. This again is the stock easy answer from the DfT guidelines, which by the way are outdated and have been superseded by many other independent reports. How can it be justified to increase licence fees in perpetuity for a one off exercise! Furthermore we were informed at the inception of CEC that the enormous leap in licence fees at that time was based on the previous authorities costs. As CEC was formed on the basis of reducing costs then it was stated that as LGR progressed then the licence fees could be looked at again with a view to LOWER fees, based on the efficiencies gained through reorganisation. We have seen much reduction of staff from the Licensing Sections, on whose costs the fees were calculated, and are beginning to experience a reduction in service! Have fees come down? NO. Any increase in fees for this survey could not be justifiably applied to PHV licences. A final point on licence fees, legally the authority can only recover reasonable costs associated with their responsibilities.</p> <p>One point not addressed is the issue of Zones. It would be advantageous to have CEC standard conditions</p>
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	and may be CEC standard Tariffs but existing zones should be maintained. This to protect the urban nature of the Congleton Zone from the inevitable Turf wars involving large operators from the other two zones.
Sandbach Town Council	Members feel the status quo need be maintained without increase in licence fee to fund unmet demand survey.
Sutton Parish Council	<p>I submit below the response of Sutton Parish Council to the Consultation on Hackney Carriage Service within Cheshire East.</p> <p>Q1 - What are the Council's views on</p> <p>a) the removal of the limit on the number of hackney carriages in the Congleton zone. A - Unable to comment on Congleton zone except to say that any increase in the number hackney carriages, whatever zone, which may impact upon the Macclesfield zone would not be welcome.</p> <p>b) an unmet demand survey in relation to the quantity of hackney carriages in any of the zones A - Do not possess sufficient knowledge of demand to make any constructive comment.</p> <p>c) maintaining the status quo A - All zones should be subject to same criteria</p> <p>d) an increase in licence fees to fund any unmet demand survey. A - No.</p>
Driver (zone 2)	<p>I have worked as a taxi driver in Crewe & Nantwich since 1982, in that time the amount of taxis in the borough has increased by about 700% in the same time as the population has increased by 10%. The result of this is I can no longer take the minimum wage before overheads are taken away which means I have to work excessive hours in order to have a living wage, which cannot be fair and also cannot be in the public interests to get into a taxi with a driver who has already worked 12 -14 hours that day. It is imperative that you hold surveys as quickly as possible in order to bring Crewe & Nantwich and Macclesfield into line with Congleton. I realise that a survey would have to be done in Congleton also.</p> <p>I would not object to an increase in fees to fund a survey, however I feel I must point out the fact that</p>

	<p>around 1990 we had a survey in Crewe & Nantwich funded by an increase in our fees of £20.00 for 3 years however the £20.00 was never removed and so in Crewe & Nantwich we are already funding it.</p> <p>I feel the zoning should remain in place in the short term however the knowledge test should be changed in the way of having an extensive knowledge of the driver's chosen zone and a reasonable knowledge of the other two. I also think they should be fluent in English.</p>
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Consultation question 2:

What are your views on how the differing tariffs should be brought into line?

Consultation question 3:

Whether or not the tariffs can or should be standardised across Cheshire East, what are your views on the current tables of fares?

RESPONDENT	COMMENTS
Representatives of Association	Suggested that the tariffs should be harmonised to the Crewe rates inflated by 5% and 2.5% (to take account of the increased VAT rate). Stated that wished the legal position about charging less than the meter fare to be made clear.
	<p>A meeting was held in Macclesfield on the 22nd February 2011 to discuss the setting of a standard Hackney Tariff across East Cheshire.</p> <p>It is agreed by all that a standard Tariff would be the prelude to de-zoning and pave the way for rationalising of all other conditions, byelaws and regulations.</p> <p>The meeting was attended by representatives from Wilmslow, Knutsford Macclesfield and East Cheshire Taxi & Private Hire Association.</p> <p>The following proposal, with options, agreed after lengthy discussions, is presented via the Councils Officers to the Licensing committee for their consideration.</p> <p>The proposal reflects current costs to running a Taxi, which are escalating, customer expectation of a fare(</p>

	a very lengthy discussion), the different ways which the old Borough's calculated the Fare and the Councils duty to its electorate to agree a fair and equitable rate for all Hackney Drivers, Proprietors and their customers so ensuring the continuing high standard of service.	
	Tariff 1 7am to 9pm	
	Flag 200yds	2.35
	Consecutive 195yds	0.21
	Consecutive Mile	1.90
	Tariff 2 9pm to 12 midnight	+ 12%
	Option 1	
	Tariff 3 12 midnight to 7am	+ 33.3%
	Option 2	
	Tariff 3 12midnight to 7am	+ 50%
	Tariff 4 Sunday & Bank Holidays	+ 33.3%
	Tariff 5	
	7pm Christmas Eve to 12 midnight Boxing Day	
	7pm New Years Eve to 12 midnight New Years Day	+ 100%
	Waiting Time per hour	18.00
	Soilage	75.00

Mottram St Andrew Parish Council	(2) They should be standardised, average and simplify, 1 st mile charge and a fixed rate for subsequent 196 yards. (3) Yes – should be similar subject to 1 st mile charges.																		
Knutsford Town Council	The Town Council sees no reason for differing charges throughout the borough and would support common charges. The Town Council would welcome the publication of charges in the most effective way possible.																		
Wilmslow driver (zone 3)	I think the day rate should be increased by 20p and the night rate should stay the same as people do complain about the rates that's why Lynx get a lot of the work around the Wilmslow area, as they are cheaper.																		
Driver (zone 2) (PROPOSAL B in Appendix 4)	<p>With regard to the tariffs in the different zones, the logical solution for this would be recalculate all the tariffs with regard to how they run. i.e. all zones could just run the three tariffs. Although I would assess the judging by the documents shown, if fares were standardised the biggest reduction in income would be in zone 2 as our first mile is £3.80 compared to £2.60 in zone 1. This may not seem a large amount but over a night and week it will add up to a significant sum. For me this would require a lot of consultation and compromise. I myself would be happy with a combination of the tariffs in zones 1 – 2 something like this:</p> <p><u>Tariff 1 (Day rate)</u></p> <table> <tr> <td>First 1,500 yards</td> <td>£3.20</td> </tr> <tr> <td>Each 195 yards after</td> <td>£0.20</td> </tr> <tr> <td>Waiting time</td> <td>£0.30</td> </tr> </table> <p><u>Tariff 2 (Night rate)</u></p> <table> <tr> <td>First 1,300 yards</td> <td>£3.20</td> </tr> <tr> <td>Each 176 yards after</td> <td>£0.20</td> </tr> <tr> <td>Waiting time</td> <td>£0.30</td> </tr> </table> <p><u>Tariff 3 (Bank Holiday Rate)</u></p> <table> <tr> <td>First 1,100 yards</td> <td>£4.20</td> </tr> <tr> <td>Each 146 yards</td> <td>£0.20</td> </tr> <tr> <td>Waiting time</td> <td>£0.30</td> </tr> </table>	First 1,500 yards	£3.20	Each 195 yards after	£0.20	Waiting time	£0.30	First 1,300 yards	£3.20	Each 176 yards after	£0.20	Waiting time	£0.30	First 1,100 yards	£4.20	Each 146 yards	£0.20	Waiting time	£0.30
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Waiting time	£0.30																		

	<p>Soling Charge £40.00</p> <p>I believe if we dropped as low as zone 3 prices people would lose jobs and firms would go under.</p> <p>The current fares in zone 2 would seem to be slightly high but not when you consider the increase cost of fuel and insurance and not to mention VAT. Looking at the other zone I am confident I would be unable to run my taxi at them rates.</p>									
Hackney Carriage Firm (zone 3)	<p>We feel that in your next meeting you need to review the rate that the tariff is set at an increase the rate. Since the last rate increase a number of factors have changed and the result is that our company profit is getting less and less which penultimatly will cause the larger companies to close.</p> <p>The factors I mentioned which have changed since the last rate increase are as follows:</p> <ul style="list-style-type: none">(a) fuel has increased by at least 30p per litre(b) vehicle MOT has increased by over £100.00 per year(c) vehicle insurance has increased by 25%(d) vehicle maintenance costs have increased by 20%(e) VAT has gone up by 2.5%(f) You are allowing too many hackney carriage independent drivers in zone 3 <p>As I'm sure you will agree for companies like ourselves who are VAT registered and with costs going up as much as they have already and likely to increase further, a rate increase is the only viable option for all concerned.</p> <p>We have enclosed a list of our old rates with what we would consider a fair increase and I hope you will take this into consideration too.</p> <p>Tariff 1 Monday to Saturday 7.20am to 11.30 pm</p> <table><tr><td></td><td>Current</td><td>Proposed</td></tr><tr><td>First mile (1760 yards)</td><td>£3.00</td><td>£3.40</td></tr><tr><td>Subsequent miles</td><td>£1.80</td><td>£2.10</td></tr></table>		Current	Proposed	First mile (1760 yards)	£3.00	£3.40	Subsequent miles	£1.80	£2.10
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(PROPOSAL C in Appendix 4)										

	<p>Initial or minimum fare £2.60 £3.00 (first 1,466.69 yards)</p> <p>Each subsequent 97.77 yards 10p 13p</p> <p>Waiting time £13.19 /hour £20 /hour</p> <p>Up to every 27.3 seconds 10p 15p</p> <p>Soilage charge £45.00 £50.00</p> <p>Extra charges to be done away with</p>
Driver (zone 3)	One tariff calculated using the Brighton & Hove formula, with yearly inflation increases. Yes, the tariffs should be standardised across Cheshire East.
Company operating hackney carriages (zone 3)	<p>I refer to your invitation for observations on various issues contained in the consultation document in relation to hackney carriage services. Whilst there are comments which pertain to individual questions I would like to offer my thoughts on the business of providing taxi services in the borough as a newish company looking at the expansion of it's fleet.</p> <p>I assume it is the Borough's aim to provide the borough's residents and businesses with hackney carriages that meet all rules and regulations laid down by Cheshire East and that the vehicles (after they have had their annual test) are well maintained , safe, serviceable and well presented? To achieve such a situation requires an adequate level of income to ensure proper servicing budgets are realistic. So the matter of a credible fare structure is vital to ensure that there is adequate income.</p> <p>It seems to me, regarding the standardisation of fares, that it is obvious that the fares have to go to the highest level that is currently in place. That region is quite clearly not going to accept a decrease in tariff when costs, like fuel, have increased by 20-30% and insurance premiums are following a similar trend. If you are going to standardise fares then an overall increase in the tariff should be done at the same time and it is vitally necessary. We are all suffering increased costs but fuel is our lifeblood and just like the haulage industry which is really struggling, it is our main cost, so please standardise but increase at the same time.</p>

	<p>I also feel that minibus owners like ourselves should be allowed to charge more when we are carrying in excess of 4 passengers. The current surcharge is derisory and must hark back to Hansom cab days and needs to be increased in line with private hire operators.</p> <p>You only have to take a trip around the ranks in Macclesfield to see how the current economic climate is impacting on both vehicles and operators alike.</p>
<p>x 42 hackney carriage drivers (zone 1)</p> <p>PROPOSAL D in Appendix 4</p>	<p>The differentiation between the tariffs are too insurmountable to be harmonised in a manner that would be fair to all groups of taxi drivers in the existing separate boroughs. In the short term it would be impossible to implicate these new prices without causing damage to the trade, and in the current difficult economic conditions it would be very unfair to the public, as they are already suffering in the uncertain financial climate as it is.</p> <p>No, I do not believe that the tariffs should be standardised across Cheshire East. The different tariffs exist because each one has been formed so that it is appropriate to each area, hence the current Congleton tariff means that we only get £2.60 for 1,760 yards, whereas Crewe receive nearly just as much (£2.30) for only 200 yards!</p> <p>We in Congleton have already asked for a small fare increase on account of the current fuel and insurance prices that have risen way above the rate of inflation, meaning that many of use struggle to meet our running costs. However, to ask for more than this and increase the fares too much would be equally damaging to the taxi trade in Congleton, in not more so, as the people of Congleton will not be able to pay such high prices and as a result withdraw their business from the industry altogether by using other means of transport. For whilst it is important for us as taxi drivers to be able to earn enough to survive, it is also not fair to ask customers to pay way above what they can afford just because of the fare imposed on other areas.</p> <p>Proposed variation: An increase of 20 pence for the 1st mile flag fall, from £2.60 to £2.80 The second and further miles an increase of 10 pence, from £1.80 to £1.90</p>

	Also, as a long standing Congleton driver, I personally don't feel that it is right or proper for myself or any other Congleton drivers to comment on the states of fares in other areas of Cheshire East. I respect the decisions regarding fares that taxi drivers in other neighbouring areas have made, and hope that they would feel the same with regards to ours.
Driver (zone 3)	<p>If you are to keep the three separate zones and we cant work in each others zone then there is no point amalgamating the three different tariffs.</p> <p>As above. Not until you abolish the 3 zone system. Current fares are overdue for an increase. I was last allowed to put my prices up on April 1st 2009, I can't think of another business that is treated in this way, certainly not Shell or Esso who have increased their prices by a third in the same time. Also don't forget the insurance companies in this equation. Whatever increase you do decide on, it will hardly effect the taxi drivers income, as we have been subsidising ourselves for the last eighteen months. This is without taking into account the cost of living, inflation, VAT rise, mechanical suppliers costs and the current economic climate, coupled with the fact that less people are using taxis. Do I need to go on ?</p>
Driver (zone 2)	Our last increase was in 2008, we agreed with the trade under discussion to hold back our 2009 proposal for increase in a bid to allow the other zones to be brought into line. Unfortunately the council failed to act and we put in for an increase in 2010 which we have received no correspondence from the council about. Now with a VAT increase and fuel going through the roof we need the increase and urgently.
Chorley Parish Council	<p>Tariffs should be the same rate across Cheshire East.</p> <p>Should be made simpler and described in the same way across all Hackney Carriages.</p>
Proprietor/Driver (zone 3)	Fare standardisation is a must as if we are Cheshire East we should be one zone not three as it is hard to lower a price than to raise a price a rate as it seems Macclesfield is the higher it should be aligned across the board.
Proprietor/Driver (zone 3)	If these are tariffs are to merge, then there must be proper meetings between drivers and taxi companies from all the three zones as well as council members to discuss the merging of the tariffs.

	Between Macclesfield and Congleton zones I would have thought that they could be merged together, fairly easily and without too many problems. However, the C & N tariffs are so much more, that if their rates were to be adopted by the other zones, then it would decimate their taxi-rank businesses. I feel that the only way forward to be to increase the tariffs in Macclesfield and Congleton zones in steps over a number of years.
x79 drivers	Tariffs should be standardised across the whole of Cheshire. So we can be flagged down in Cheshire East anywhere.
Proprietor/driver	I personally would like to see all the fares in Cheshire East to be standardised for uniformity. I don't think having yellow, blue, red triangles in the licence plate makes a difference. Example is: You drop off a fare in Congleton at 01.45 am and someone is flagging you down because they want to go home and you can't pick them up because the tariffs in Congleton and Macclesfield and Crewe are different. People see a taxi sign they don't see what colour triangle is in the plate to distinguish which area you are coming from. So standardising the fares will make it easier for us to serve the public so that if I drop off in Crewe and I see people needing a taxi I can drop in and help shift the people home safe and sound after all it's one Cheshire East Council. This also applies to the bye-laws. By merging them into one standard law will make the area more organised and we as drivers will be working together to achieve one common goal.
Private Hire Driver	A short note to you, I have been a Private Hire Driver for 12 years. What bothers me the amount of taxis or private hire cars running is what do they charge for a journey , how much goes in the books or back pocket no one is checked only the VAT boys. One more, what insurance do they carry. It makes people wonder you can go from Holmes Chapel to Man Air return for £50.00 with a Middlewich taxi company.
Proprietor/Driver (zone 3)	(a) First of all Crewe appears the only zone which includes Vat within the tariff. This needs amendment immediately. Only vat registered proprietors should be permitted to charge Vat as they are the only ones paying Vat to the treasury. If the Vat is taken out of the tariff then this immediately reduces to the general public (and allows the Vat reg proprietor to decide if he wishes to charge it to that customer) and prevents problems when the Vat rate fluctuates. Eg: When the Vat increased from 17.5% to 20% I applied for the tariff to be adjusted, this was rejected and I suggest that this is bordering on being illegal. The treasury has increased the amount I have to pay in Vat yet I am unable to increase the amount I charge ????

	(b) The tariff for the 3 zones requires standardising but as for the best way of reaching a satisfactory conclusion I have no suggestions at present.
Sandbach Town Council	Differing tariffs should be brought in line with Crewe and Nantwich who currently offer the fairest of tariffs.
Sutton Parish Council	Q2 - What are your views on how the differing tariffs should be brought into line. A - Average tariff across all zones Q3 - a) Whether or not the tariffs can or should be standardised across Cheshire East. A - Yes b) What are your views on the current tables of fares A - Too diverse
Driver (zone 2)	I also think the Council should automatically award an increase in fares annually, and only consult if we object on any grounds.

Consultation question 4:

Which of the conditions do you think should be retained? Which do you think should be abolished or changed?

Please provide reasons for your responses to this question.

RESPONDENT	COMMENTS
Representatives of the Association	<ul style="list-style-type: none"> • adopt vehicle specification for hackney carriages from existing Cheshire East Borough Council Private Hire Vehicle conditions – with the addition of a requirement that all new hackney carriages must be wheelchair accessible (MI specification); • all existing saloon cars could remain as hackney carriages (i.e. there would be 'grandfather rights' in relation to the wheelchair accessibility requirement); • any new application for a vehicle licence must relate to a vehicle under eight years of age, and no vehicle may remain licensed once it is over twelve years old, together with removal of six monthly testing

	<ul style="list-style-type: none"> wish to be able to have towbars fitted to the vehicle and to use them;
Mottram St Andrew Parish Council	These are technical issues. The responsible officers (jointly) from the three zones should be empowered to review and agree a revised set of conditions. Obviously these were drawn up independently to cover matters that were experienced locally and it is therefore better that those with the technical and experienced knowledge be allowed to draft the regulations.
Knutsford Town Council	The Town Council sees no reason for differing vehicle specifications throughout the borough and would support the standardisation of specification in providing suitable disabled access
x 2 hackney carriage drivers (zone 2)	<p>There should be an age restriction on hackney and private hire vehicles as they are a lot of old cars are still being used as a tax which they don't give and safety and comfort the customers.</p> <p>Private hire vehicles should carry the sign "It's illegal if it's not pre-booked" on the vehicle door.</p>
Driver (zone 3)	We want Crewe's 'Terms and Conditions' to be adopted.
Driver (zone 3)	If you are proposing an end to the zoning system then new T&Cs need to be adopted. This would best be done with proper consultation and NEGOTIATION with Taxi Trade Associations and Representatives. I would urge the Council to take this opportunity to update the T&Cs to modern standards for the 21st Century and not to use the outdated terminology of Appendix "G" Section "15" Paragraph "a", "By the bus station" would do.
Driver (zone 2)	For over 2 years I was in talks with other associations and the council to try and sort the all under one borough mess out but during this time little or nothing has been done by the council, we have put in proposals for conditions, petitions for a cap on the issue of new hackney plates, plans and requests for extra ranking in writing to planning and licensing, been to the local press, involved local MPs and yet the council have done nothing. All these proposals on conditions from all zone associations must be on record somewhere or have we wasted 2 years of our time?
Driver (zone 3)	<p>I would like to propose the following for the consultation exercise :</p> <p>i) No vehicles over EIGHT YEARS OLD to be allowed to be plated.</p>

	<p>ii) No vehicles over FOUR YEARS OLD at the first application to be plated to be allowed.</p> <p>iii) Only drivers that actually live in the BOROUGH to be licensed.</p> <p>My argument being the above will eliminate the Old Bangers and drivers that Do Not Know the area thus improving the image of the Industry.</p>
Chorley Parish Council	We have insufficient knowledge of the conditions to determine which should be retained/abolished. I would suggest that where conditions are considered to be 'best practice' within the three zones then that should be adopted and the remaining two abolished.
Proprietor/Driver (zone 3)	<p>Terms and Conditions is a difficult one as I have always found Macclesfield old council T & C fine I see no reason to change it although a more in depth approach on the testing of the terms is needed and to make it a higher penalty for touting and plying for hire when not on the rank i.e. sitting outside a public place as this practice is killing the private hire trade and by making drivers knowledge tested there is no reason for them not to know the rules. A NVQ should be brought in to test all drivers/operators to obtain higher standards something that could be brought in to be a part of a drivers conditions and requirements again tested by Taxi officers and should be charged for at a cost. Current license holders would be given time to take this and maybe a grandfather type grant (with a test) to cover older long term drivers. A dress code should be introduced and strict penalty for smoking in a Taxi including the car having a full valet if caught smoking or car smells of smoke.</p> <p>Over a set period to phase out the use of standard vehicles as hackneys and to introduce purpose built vehicles as these are easy to identify to be flagged down or stand on the taxi rank. A hackney carriage could only pick up private hire if the booking was given by an operator with a private hire operators licence and although the hackney works a taxi rank and not working off a base it should be affiliated to a private hire operator and thus stop a lot of illegal touting. I believe strongly that all private and public hire vehicles on their first grant should be no more than two years old with less than fifty thousand on the clock and not be plated after seven years old unless purpose built with disabled access.</p> <p>Light in a taxi as stated a 70% light should be monitored in a taxi as the law is 70% for front windscreens</p>

	and as I have had to pay a £1000 have windows that on a Ford that are standard tint to clear glass this area should be taken into account that standard tint at 50% light is a pass but no privacy glass. At 50% you can see people in the vehicle easily and see right though the vehicle at distance.
Properitor/Driver (zone 3)	If the three zones, T & C are to be merged then as my answer to question 2, there should be proper meetings between all the parties, i.e. drivers, companies and council members. Differences such as towbars, seating arrangements in people carriers/mini-buses, removal of six month taxi-test, maximum age limits for taxis, introduction of eco-friendly electric cars and standardisation of all taxi specifications i.e. size etc.
x79 drivers	Most stay the same but talk about them with the taxi drivers. Allow towbars but test the trailer and the driver. Allow factory fitted tinted windows. Do not remove seats below manufacturer specification.
Sandbach Town Council	Members believe conditions used by the former Congleton Borough Council served the public well and should be the basis of any future list of terms and conditions.
Sutton Parish Council	Q4 - a) Which of the conditions do you think should be retained? A - Most if not all but reconstituted and applicable to all. b) Which do you think should be abolished? A - Unable to comment

Consultation question 5:

How suitable do you think the current provision of ranks is, and what, if any, changes do you think are necessary? Please provide reasons for any changes you feel are needed.

RESPONDENT	COMMENTS
Mottram St Andrew Parish Council	A demand survey should be carried out to review this issue.
Knutsford Town Council	The number of spaces given over to hackney carriages at Canute Place (North) should be increased from

	3 to 4 and that the spaces given over at Canute Place (South) should be converted into disabled parking bays.
x 2 hackney carriage drivers (zone 2)	There are not enough spaces in taxi ranks, especially in Nantwich during the weekends. Swine market is so busy at the weekend nights and this road should be only taxis and emergency vehicles during the only weekend nights.
Driver (zone 2)	With regard to this Crewe has a severe lack of rank space compared to the number of taxis, for example town rank has three spaces and the bus station three spaces. This is ridiculous when you consider 10-20 cars are trying to rank up and end up parking illegally as there is nowhere for them to go. Fair enough when it's time for school runs or Friday/Saturday between 12pm – 5pm you will sometimes find spaces. Again this all boils down to the excess hackney carriage plates in zone 2. As for Nantwich, there isn't a rank here during the daytime at all so locals have no opportunity to hire us.
Driver (zone 3)	We need more rank spaces as there are not enough, as the number of hackney plates has increased dramatically.
x 42 hackney carriage drivers (zone 1)	It is a clear fact to anyone who has seen the Congleton taxi rank area at peak times that there are simply not enough taxi rank spaces to house the amount of taxis already active in the borough. We have continually asked for more ranks in the area and minutes from meetings that we have had over the last fifteen years with the Congleton Borough Council will clearly show this. But, as I have already said, instead of being granted more rank spaces, the amount of spaces was halved as a result of the Congleton bus station improvements a few years ago, so increased the amount of taxis would only serve to exacerbate this continuing problem. Also I am sure that the people of Holmes Chapel and Alsager would strongly welcome the existence of any taxi rank, as presently they do not have one at all.
Driver (zone 3)	<p>RANK SPACES, PROPOSED CHANGES. "It is proposed under section 63 to consult on these changes" The above statement was told to me over 12 months ago and it was one of the Council promises that it would achieve in year 1. We are still waiting !</p> <p>RANK SPACES, CURRENT. Macclesfield. Train Station 6 Spaces.</p>

	As this is the main rank in Macclesfield it is used by most of the independent Hackney drivers in town, it is also used as a waiting area by Hackney plated office cars when their radios go quiet. Subsequently there can be up to 25 cars using this rank and it can take over an hour to get from the back of the queue to the front. The average price of a job is about £6.00. The cost of fuel, blah blah blah, and you still think we need an unmet demand survey!
Driver (zone 2)	How suitable do I think the provision of ranks is. 6 free rank spaces between 200 hackneys, 3 hour queues and parking tickets for trying to ply for hire, petitions to you request for help yet no response they are a joke.
Cheshire Constabulary	The Congleton Neighbourhood Policing Team have commented on the current Taxi Consultation that, insofar as Sandbach is concerned, there is insufficient rank provision with just one space on The Commons. It is felt that there should be at least one other rank in High Street, Sandbach as that is the area where most of the night time economy is centred. Experience in other areas has shown that people having to walk to an out of the way taxi rank have been vulnerable to assault whilst in quieter areas.
Chorley Parish Council	Satisfied with current provision of ranks.
Proprietor/Driver (zone 3)	The obvious answer is because of the ever growing number of taxis there isn't, and hasn't been enough taxi rank spaces for years and years and years, and we've been told that we would be getting more for years, and years, and years and after more consultations we will stay be waiting for years and years and years!!! During the day Macclesfield has two working ranks only, at the Old Tesco (Exchange Close) and at the train station. Because of the sheer volume of taxis in Macclesfield, it is not uncommon to see between 15 – 25 taxis waiting at either rank, built for 3 and 6 respectively. The only limiting factor being the space to find, to park anymore. At the Old Tesco rank you get smaller fares (£2.60 - £5.00) but more often, with a waiting time between 5 – 45 minutes, between each job. At the train station you get larger fares (£2.60 - £20.00) but with waiting times of 1 – 2 hours. Anything less than 1 hour is normally an exception. I would like to see a stop to anymore taxis being plated, and if anything even a reduction of the number of taxis on the road to give the existing drivers the ability to earn more than the minimum wage (which more than often

	is not the case at present) and maybe even to work less than then 50-70 hours per week that a lot of the drivers are doing at present, so that they can earn a reasonable wage. Also maybe to find spaces to put new taxi ranks, where people would actually use i.e. at the hospital, Sainsburys and the big Tesco.
x79 drivers	Outside Wildings camera shop should as it is now 6.00 am to 21.00 pm.
Proprietor/Driver (zone 3)	Ranking spaces need to be increased and I suggest maybe 4 or 5 on each supermarket car park and perhaps 4 or 5 at Leighton Hospital.
Sandbach Town Council	Current provision of rank is acceptable and needs no amendment.
Sutton Parish Council	Q5 - How suitable do you think the current provision of ranks is, and what, if any, changes do you think are necessary? A - Ranks only to be used by licensed carriages within specific zones to avoid over supply. (e.g. Macclesfield zone)

Consultation question 6:

Do you wish to express any further views in relation to any other aspects of the licensed trade? If so, please provide reasoning for any other changes which you think should be made.

RESPONDENT	COMMENTS
Mottram St Andrew Parish Council	No further views.
x 2 hackney carriage drivers (zone 2)	There is not enough inspection and controls on private hire vehicles and its drivers, which is some private hire vehicles working as a hackney carriage which is illegal, in such cases insurance doesn't cover anything. The customers doesn't know about this and our council should take the control as soon as possible. This is very important for the public safety.

Wilmslow driver (zone 3)	I also think that the licensing officers should be out and about checking vehicles that they are road worthy and thd drivers are not drinking and smoking whilst driving their vehicle.
Driver (zone 2)	The biggest problem in zone 2 is the fact we have too many plates and this ensures that there is only limited work to go round. For example, I can site on a rank for 1.5- 2 hours before I get to be front car and this isn't a one off it is a regular occurrence. Because of this we have to work more hours in a week which could lead to drivers working 12-16 hours a day to make a living which is potentially dangerous. Therefore capping the number of taxis is the only way to allow us to make a living and ensuring our livelihoods continue and hopefully improve. If not, businesses are going to go under which will increase employment and social problems in the area.
Driver (zone 3)	I sincerely hope that the responses, from members of the trade and the association are listed to, as it doesn't seem that we have been listened to over the last 2 years. All the things mentioned in your consultation document, have been discussed with us over the last 2 years and we have already given our opinions, but to no avail.
x 42 hackney carriage drivers (zone 1)	<p>The only additional point that I would like to make is regarding the issue of the Congleton taxi rank phone, the cost of which Congleton taxi drivers pay for fairly between themselves. I fear that with following proposals to merge the different areas, other taxi drivers from outside the borough taking jobs from this phone would not only be highly unfair to those paying for it, but could also potentially cause many arguments and disputes amongst drivers.</p> <p>Finally, I would like to take this opportunity to remind the Cheshire East Borough Council that the current relationship between the Congleton public and its taxi drivers is a very good one, and it therefore prompts the question "Why is change needed at all when the current set up already works so well?"</p>
Driver (zone 3)	If you are to abolish the 3 zone system and new T&Cs are to be written, then can you take this opportunity to write them in Plain English, this would help everyone concerned and help clear up any anomalies that may exist. It would also be an ideal opportunity for the Council to reflect how modern and forward thinking they are.
Driver (zone 2)	One question for you as you now have my opinions, I have for the last 2 plus years given up a lot of my time and effort free of charge to work with the council first with Tony Potts, then Peter Hartwell and now

	Julie Openshaw as well as your enforcement officers, [...] we have sat round tables, I have involved local MPs and the press to highlight our plight, we have sent in petitions for a cap on plates, applied for a rise in meter rates, been into and written letters to planning and licensing committees over extra ranking stood up and spoken in front of the licensing committee put letters to the licensing committee and my question to you is what have you done for us over these issues in the last 2 years?
Chorley Parish Council	No thank you.
Proprietor/Driver (zone 3)	<p>I would like to see Cheshire East set out their stall at the offset by making taxis a business and thus a profession the reasons that taxis should be restricted to demand is that I have for one have worked hard for years to build my business and run it I have never been put in front of any committee for any offence. A taxi plate should be the tool of your trade something of value and not as it has become dishd out to anyone that passes a test that I have seen on cars that are in my opinion not fit for the carriage of the public, i.e. V and W reg cars.</p> <p>I would like to see it made that to obtain your taxi plate you need to outlay a reasonable amount of money on the plate the vehicle as insurance is also a cost by having to put up or loan a considerable amount to start your business it is in your own interest to abide by the rules and look after your investment by good maintenance and vehicle care it would raise the profile of the taxi trade and quality of people in it as it stands a V reg car worth a few hundred they just run it into the ground I see them with lights out and engines smoking at the six month test they have made their money and get another that meets the test and so on till one injures someone I know my trade and its going on and as you look at the rules now is the time to change them.</p> <p>Executive plates – it is no my area but I feel that these vehicles run with no real plates on and do the same as a private hire take cash (and they do) a taxi is a taxi with a plate as is a private hire with a plate there should be no grey areas these so called executive cares are working as private hire with no plate if a company can have a contract with a person to run an exec car on a seven day rotation they need a employed driver or hire a taxi there are plenty of private hire Mercedes about.</p> <p>Mini-bus – should be private hire only unless they have wheelchair access.</p> <p>Enforcement – A higher fee and fines for offences should cover the cost of one full and a part time taxi</p>

	<p>enforcement officer over the last few years this area has fallen well short of its requirements to protect the public and also to protect the industry itself. I have heard of many cases of overcharging and seen illegal practices by drivers and I have challenged them there answer is simple no one will do a thing as there is no one on the streets full time to sort it out.</p>
Proprietor/Driver (zone 3)	<p>All new hackney carriage drivers to work with a taxi company for a minimum period of 12 months, where they can learn the trade and local knowledge, essential for working off taxi ranks. After that they must take a BTEC/NVQ test and pass before going to work the ranks, without the backup guidance and safety net that a radio company would give.</p> <p>A further point would be to see the licensing enforcement officers on the ranks and in the towns, doing spot-checks on taxis and putting an end of, out of area, private hires coming in to our areas and poaching work. This would cease if mystery shoppers and sting operations were to be used. Another point is that as a hackney carriage driver in the Macc zone, where do I have to wear a seat belt bylaw, at the boundary of the Macc zone or at the end of the Cheshire East boundary.</p>
x79 drivers	<p>Allow Eco-friendly cares Have more test centres. Have all new drivers BTEC, NVQ trained as Cheshire West have had since April 2009.</p>
Proprietor/Driver (zone 3)	<p>I feel strongly that some of the practises regarding the Hackney License Trade need to be severely dealt with by the Council, in particular:</p> <ul style="list-style-type: none"> (a) The refusal to undertake wheel chair work even though the plate was issued on that basis. (b) The refusal by some drivers to accept passengers who are only going on a short journey. (c) The foul and abusive language used in full hearing of women and children by drivers waiting for fares especially at Crewe Station. (d) The disgusting habit of some drivers urinating on the grass verge at the station feeder (e) The disgusting habit by some driver's discarding their litter, left over lunch etc on the grass verge at the station feeder.
Sutton Parish Council	<p>Q5 - Do you wish to express any further views in relation to any other aspects of the licensed trade? A - Enforcement of Conditions. e.g. non-smoking of drivers</p>

Driver (zone 2)	The council when issuing a licence should automatically inform the DSS and Inland Revenue that the new licence holder was now in work also any person holding in excess of two licences should inform the Customs & Excise for VAT reasons as I believe there are some companies in the Borough should be registered and aren't.
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TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE

March 2010

TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE

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INTRODUCTION

1. The Department first issued Best Practice Guidance in October 2006 to assist those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades.
2. It is clear that many licensing authorities considered their licensing policies in the context of the Guidance. That is most encouraging.
3. However, in order to keep our Guidance relevant and up to date, we embarked on a revision. We took account of feedback from the initial version and we consulted stakeholders in producing this revised version.
4. The key premise remains the same - it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations. This Guidance is intended to assist licensing authorities but it is only guidance and decisions on any matters remain a matter for the authority concerned.
5. We have not introduced changes simply for the sake of it. Accordingly, the bulk of the Guidance is unchanged. What we have done is focus on issues involving a new policy (for example trailing the introduction of the Safeguarding Vulnerable Groups legislation); or where we consider that the advice could be elaborated (eg enforcement); or where progress has been made since October 2006 (eg the stretched limousine guidance note has now been published).

THE ROLE OF TAXIS AND PHVs

6. Taxis (more formally known as hackney carriages) and PHVs (or minicabs as some of them are known) play an important part in local transport. In 2008, the average person made 11 trips in taxis or private hire vehicles. Taxis and PHVs are used by all social groups; low-income young women (amongst whom car ownership is low) are one of the largest groups of users.
7. Taxis and PHVs are also increasingly used in innovative ways - for example as taxi-buses - to provide innovative local transport services (see paras 92-95)

THE ROLE OF LICENSING: POLICY JUSTIFICATION

8. The aim of local authority licensing of the taxi and PHV trades is to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.

9. For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

10. Local licensing authorities will, therefore, want to be sure that each of their various licensing requirements is in proportion to the risk it aims to address; or, to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment should be made in each case; but it is to urge local licensing authorities to look carefully at the costs – financial or otherwise – imposed by each of their licensing policies. It is suggested they should ask themselves whether those costs are really commensurate with the benefits a policy is meant to achieve.

SCOPE OF THE GUIDANCE

11. This guidance deliberately does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance. Nor for the most part does the guidance seek to set out the law on taxi and PHV licensing, which for England and Wales contains many complexities. Local licensing authorities will appreciate that it is for them to seek their own legal advice.

CONSULTATION AT THE LOCAL LEVEL

12. It is good practice for local authorities to consult about any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, or Chambers of Commerce, organisations with a wider transport interest (eg the Campaign for Better Transport and other transport providers), womens' groups or local traders.

ACCESSIBILITY

13. The Minister of State for Transport has now announced the way forward on accessibility for taxis and PHVs. His statement can be viewed on the Department's website at: <http://www.dft.gov.uk/press/speechesstatements/statements/accesstotaxis>. The Department will be taking forward demonstration schemes in three local authority areas to research the needs of people with disabilities in order to produce guidance about the most appropriate provision. In the meantime, the Department recognises that some local licensing authorities will want to make progress on enhancing accessible taxi provision and the guidance outlined below constitutes the Department's advice on how this might be achieved in advance of the comprehensive and dedicated guidance which will arise from the demonstration schemes.

14. Different accessibility considerations apply between taxis and PHVs. Taxis can be hired on the spot, in the street or at a rank, by the customer dealing directly with a driver. PHVs can only be booked through an operator. It is important that a disabled person should be able to hire a taxi on the spot with the minimum delay or inconvenience, and having accessible taxis available helps to make that possible. For PHVs, it may be more appropriate for a local authority to license any type of saloon car, noting that some PHV operators offer accessible vehicles in their fleet. The Department has produced a leaflet on the ergonomic requirements for accessible taxis that is available from:

<http://www.dft.gov.uk/transportforyou/access/taxis/pubs/research>

15. The Department is aware that, in some cases, taxi drivers are reluctant to pick up disabled people. This may be because drivers are unsure about how to deal with disabled people, they believe it will take longer for disabled people to get in and out of the taxi and so they may lose other fares, or they are unsure about insurance arrangements if anything goes wrong. It should be remembered that this is no excuse for refusing to pick up disabled people and that the taxi industry has a duty to provide a service to disabled people in the same way as it provides a service to any other passenger. Licensing authorities should do what they can to work with operators, drivers and trade bodies in their area to improve drivers' awareness of the needs of disabled people, encourage them to overcome any reluctance or bad practice, and to improve their abilities and confidence. Local licensing authorities should also encourage their drivers to undertake disability awareness training, perhaps as part of the course mentioned in the training section of this guidance that is available through Go-Skills.

16. In relation to enforcement, licensing authorities will know that section 36 of the Disability Discrimination Act 1995 (DDA) was partially commenced by enactment of the Local Transport Act 2008. The duties contained in this section of the DDA apply only to those vehicles deemed accessible by the local authority being used on "taxibus" services. This applies to both hackney carriages and private hire vehicles.

17. Section 36 imposes certain duties on drivers of "taxibuses" to provide assistance to people in wheelchairs, to carry them in safety and not to charge extra for doing so. Failure to abide by these duties could lead to prosecution through a Magistrates' court and a maximum fine of £1,000.

18. Local authorities can take action against non-taxibus drivers who do not abide by their duties under section 36 of the DDA (see below). This could involve for example using licence conditions to implement training requirements or, ultimately, powers to suspend or revoke licences. Some local authorities use points systems and will take certain enforcement actions should drivers accumulate a certain number of points

19. There are plans to modify section 36 of the DDA. The Local Transport Act 2008 applied the duties to assist disabled passengers to drivers of taxis and PHVs whilst being used to provide local services. The Equality Bill which is currently on its passage through Parliament would extend the duties to drivers of taxis and PHVs whilst operating conventional services using wheelchair accessible vehicles. Licensing authorities will be informed if the change is enacted and Regulations will have to be made to deal with exemptions from the duties for drivers who are unable, on medical grounds to fulfil the duties.

Duties to carry assistance dogs

20. Since 31 March 2001, licensed taxi drivers in England and Wales have been under a duty (under section 37 of the DDA) to carry guide, hearing and other prescribed assistance dogs in their taxis without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to their licensing authority for an exemption from the duty on medical grounds. Any other driver who fails to comply with the duty could be prosecuted through a Magistrates' court and is liable to a fine of up to £1,000. Similar duties covering PHV operators and drivers have been in force since 31 March 2004.

21. Enforcement of this duty is the responsibility of local licensing authorities. It is therefore for authorities to decide whether breaches should be pursued through the courts or considered as part of the licensing enforcement regime, having regard to guidance issued by the Department.

<http://www.dft.gov.uk/transportforyou/access/taxis/pubs/taxis/carriageofassistancedogsinta6154?page=2>

Duties under the Part 3 of the DDA

22. The Disability Discrimination Act 2005 amended the DDA 1995 and lifted the exemption in Part 3 of that Act for operators of transport vehicles. Regulations applying Part 3 to vehicles used to provide public transport services, including taxis and PHVs, hire services and breakdown services came into force on 4 December 2006. Taxi drivers now have a duty to ensure disabled people are not discriminated against or treated less favourably. In order to meet these new duties, licensing authorities are required to review any practices, policies and procedures that make it impossible or unreasonably difficult for a disabled person to use their services.

23. The Disability Rights Commission, before it was incorporated into the Equality and Human Rights Commission, produced a Code of Practice to explain the Part 3 duties for the transport industry; this is available at http://www.equalityhumanrights.com/uploaded_files/code_of_practice_provision_and_use_of_transport_vehicles_dda.pdf. There is an expectation that Part 3 duties also now demand new skills and training; this is available through GoSkills, the sector skills council for road passenger transport. Go-Skills has also produced a DVD about assisting disabled passengers. Further details are provided in the training section of this guidance.

24. Local Authorities may wish to consider how to use available courses to reinforce the duties drivers are required to discharge under section 3 of DDA, and also to promote customer service standards for example through GoSkills.

25. In addition recognition has been made of a requirement of basic skills prior to undertaking any formal training. On-line tools are available to assess this requirement prior to undertaking formal training.

VEHICLES

Specification Of Vehicle Types That May Be Licensed

26. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

27. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

28. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

29. The owners and drivers of vehicles may want to make appropriate adaptations to their vehicles to help improve the personal security of the drivers. Licensing authorities should look favourably on such adaptations, but, as mentioned in paragraph 35 below, they may wish to ensure that modifications are present when the vehicle is tested and not made after the testing stage.

Tinted windows

30. The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations.

Imported vehicles: type approval (see also “stretched limousines”, paras 40-44 below)

31. It may be that from time to time a local authority will be asked to license as a taxi or PHV a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local authority's criteria for licensing, but the local authority may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For

passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- a European Whole Vehicle Type approval;
- a British National Type approval; or
- a Individual Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at

www.businesslink.gov.uk/vehicleapprovalschemes

Vehicle Testing

32. There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

- **Frequency Of Tests.** The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.
- **Criteria For Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.

*A manual outlining the method of testing and reasons for failure of all MOT tested items can be obtained from the Stationary Office see
<http://www.tsoshop.co.uk/bookstore.asp?FO=1159966&Action=Book&From=SearchResults&ProductID=0115525726>

- **Age Limits.** It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.

- Number Of Testing Stations. There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency – VOSA – may be able to assist where there are local difficulties in provision of testing stations.)

33. The Technical Officer Group of the Public Authority Transport Network has produced Best Practice Guidance which focuses on national inspection standards for taxis and PHVs. Local licensing authorities might find it helpful to refer to the testing standards set out in this guidance in carrying out their licensing responsibilities. The PATN can be accessed via the Freight Transport Association.

Personal security

34. The personal security of taxi and PHV drivers and staff needs to be considered. The Crime and Disorder Act 1998 requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. Crime and Disorder Reduction Partnerships are also required to invite public transport providers and operators to participate in the partnerships. Research has shown that anti-social behaviour and crime affects taxi and PHV drivers and control centre staff. It is therefore important that the personal security of these people is considered.

35. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Care however should be taken that security measures within the vehicle do not impede a disabled passenger's ability to communicate with the driver. In addition, licensing authorities may wish to ensure that such modifications are present when the vehicle is tested and not made after the testing stage.

36. There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office website (e.g. <http://scienceandresearch.homeoffice.gov.uk/hosdb/cctv-imaging-technology/CCTV-and-imaging-publications>) and on the Information Commission's Office website (www.ico.gov.uk). CCTV can be both a deterrent to would-be trouble makers and be a source of evidence in the case of disputes between drivers and passengers and other incidents. There is a variety of funding sources being used for the implementation of security measures for example, from community safety partnerships, local authorities and drivers themselves.

37. Other security measures include guidance, talks by the local police and conflict avoidance training. The Department has recently issued guidance for taxi and PHV drivers to help them improve their personal security. These can be accessed on the Department's website at: <http://www.dft.gov.uk/pgr/crime/taxiphv/>.

In order to emphasise the reciprocal aspect of the taxi/PHV service, licensing authorities might consider drawing up signs or notices which set out not only what passengers can expect from drivers, but also what drivers can expect from passengers who use their service. Annex B contains two samples which are included for illustrative purposes but local authorities are encouraged to formulate their own, in the light of local conditions and circumstances. Licensing authorities may want to encourage the taxi and PHV trades to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

Vehicle Identification

38. Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle. Possible approaches might be:

- a licence condition that prohibits PHVs from displaying any identification at all apart from the local authority licence plate or disc. The licence plate is a helpful indicator of licensed status and, as such, it helps identification if licence plates are displayed on the front as well as the rear of vehicles. However, requiring some additional clearer form of identification can be seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;
- a licence condition which requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as 'pre-booked only'. This approach seems the best practice; it identifies the vehicle as private hire and helps to avoid confusion with a taxi, but also gives useful information to the public wishing to make a booking. It is good practice for vehicle identification for PHVs to include the contact details of the operator.
- Another approach, possibly in conjunction with the previous option, is a requirement for a roof-mounted, permanently illuminated sign with words such as 'pre-booked only'. But it can be argued that any roof-mounted sign, however unambiguous its words, is liable to create confusion with a taxi. So roof-mounted signs on PHVs are not seen as best practice.

Environmental Considerations

39. Local licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. This will be of particular importance in designated Air Quality Management Areas (AQMAs), Local authorities may, for example, wish to consider setting vehicle emissions standards for taxis and PHVs. However, local authorities would need to carefully and thoroughly

assess the impact of introducing such a policy; for example, the effect on the supply of taxis and PHVs in the area would be an important consideration in deciding the standards, if any, to be set. They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form).

Stretched Limousines

40. Local licensing authorities are sometimes asked to license stretched limousines as PHVs. It is suggested that local authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. Indeed, the Department's view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle and that any authorities which do adopt such practices are leaving themselves open to legal challenge. A policy of excluding limousines creates an unacceptable risk to the travelling public, as it would inevitably lead to higher levels of unlawful operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators. The Department has now issued guidance on the licensing arrangements for stretched limousines. This can be accessed on the Department's web-site at <http://www.dft.gov.uk/pgr/regional/taxis/stretchlimousines.pdf>.

41. The limousine guidance makes it clear that most operations are likely to fall within the PHV licensing category and not into the small bus category. VOSA will be advising limousine owners that if they intend to provide a private hire service then they should go to the local authority for PHV licences. The Department would expect licensing authorities to assess applications on their merits; and, as necessary, to be proactive in ascertaining whether any limousine operators might already be providing an unlicensed service within their district.

42. Imported stretched limousines were historically checked for compliance with regulations under the Single Vehicle Approval (SVA) inspection regime before they were registered. This is now the Individual Vehicle Approval (IVA) scheme. The IVA test verifies that the converted vehicle is built to certain safety and environmental standards. A licensing authority might wish to confirm that an imported vehicle was indeed tested by VOSA for IVA before being registered and licensed (taxed) by DVLA. This can be done either by checking the V5C (Registration Certificate) of the vehicle, which may refer to IVA under the "Special Note" section; or by writing to VOSA, Ellipse, Padley Road, Swansea, SA1 8AN, including details of the vehicle's make and model, registration number and VIN number.

43. Stretched limousines which clearly have more than 8 passenger seats should not of course be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the SVA regime accepted vehicles with space for more than 8 passengers, particularly where the precise number of passenger seats was hard to determine. In these circumstances, if the vehicle had obtained an SVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than 8 passengers, bearing in mind that refusal may encourage illegal private hire operation.

44. Many councils are concerned that the size of limousines prevents them being tested in conventional MoT garages. If there is not a suitable MoT testing station in the area then it would be possible to test the vehicle at the local VOSA test stations. The local enforcement office may be able to advise (contact details on <http://www.vosa.gov.uk>).

QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

45. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.

46. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

47. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

48. In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

49. If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

50. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...

- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
- **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

51. Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)

TAXI FARES

52. Local licensing authorities have the power to set taxi fares for journeys within their area, and most do so. (There is no power to set PHV fares.) Fare scales should be designed with a view to practicality. The Department sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. Authorities may wish to consider adopting a simple formula for

deciding on fare revisions as this will increase understanding and improve the transparency of the process. The Department also suggests that in reviewing fares authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.

53. Taxi fares are a maximum, and in principle are open to downward negotiation between passenger and driver. It is not good practice to encourage such negotiations at ranks, or for on-street hailings; there would be risks of confusion and security problems. But local licensing authorities can usefully make it clear that published fares are a maximum, especially in the context of telephone bookings, where the customer benefits from competition. There is more likely to be a choice of taxi operators for telephone bookings, and there is scope for differentiation of services to the customer's advantage (for example, lower fares off-peak or for pensioners).

54. There is a case for allowing any taxi operators who wish to do so to make it clear – perhaps by advertising on the vehicle – that they charge less than the maximum fare; publicity such as '5% below the metered fare' might be an example.

DRIVERS

Duration Of Licences

55. It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach. One argument against 3-year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme. Paragraphs 62-65 below provide further information about this scheme.

56. However, an annual licence may be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. So it can be good practice to offer drivers the choice of an annual licence or a three-year licence.

Acceptance of driving licences from other EU member states

57. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver's licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver's licence. This requirement has subsequently been amended since the 1976 Act was passed. The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification

requirements for the grant of taxi and PHV driver's licences. Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department takes the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver's licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State (see section 99A(i) of the Road Traffic Act 1988). To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act (see section 109(i) of the Road Traffic Act 1988, as amended).

Criminal Record Checks

58. A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Taxi and PHV drivers can be subject to a Standard Disclosure (and for those working in "Regulated Activity" to an Enhanced Disclosure) through the Criminal Records Bureau. Both levels of Disclosure include details of spent and unspent convictions, cautions reprimands and final warnings. An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations. An Enhanced Disclosure is for those working in Regulated Activity¹ and the Government has produced guidance in relation to this and the new "Vetting and Barring Scheme" which is available at www.isa.gov.org.uk/default.aspx?page=402. [*The Department will issue further advice as the new SVG scheme develops.*]

59. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

60. Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website (www.crb.gov.uk) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.

61. It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.

¹ "Regulated Activity" is defined in The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009

Notifiable Occupations Scheme

62. Under this Scheme, when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately.

63. In the absence of a national licensing body for taxi and PHV drivers, notifications are made to the local licensing authority identified on the licence or following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence.

64. The police may occasionally notify licensing authorities of offences committed abroad by an individual however it may not be possible to provide full information.

65. The Notifiable Occupations Scheme is described in Home Office Circular 6/2006 which is available at <http://www.basingstoke.gov.uk/CommitteeDocs/Committees/Licensing/20070710/3%20yr%20licences-update%20on%20hants%20constab%20procedures%20re%20Home%20office%20circ%206;2006-%20Appendix%202.pdf>. Further information can also be obtained from the Criminal Records Team, Joint Public Protection Information Unit, Fifth Floor, Fry Building, 2 Marsham Street, London SW1P 4DF; e-mail Samuel.Wray@homeoffice.gsi.gov.uk.

Immigration checks

66. The Department considers it appropriate for licensing authorities to check on an applicant's right to work before granting a taxi or PHV driver's licence. It is important to note that a Criminal Records Bureau check is not a Right to Work check and any enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. Further information can be found at www.bia.homeoffice.gov.uk/employingmigrants. More generally, the Border and Immigration Agency's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).

Medical fitness

67. It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

- they carry members of the general public who have expectations of a safe journey;
- they are on the road for longer hours than most car drivers; and
- they may have to assist disabled passengers and handle luggage.

68. It is common for licensing authorities to apply the “Group 2” medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (ie 3500-7500 kgs lorries); the position is summarised at Annex C to the Guidance. It is suggested that the best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

Age Limits

69. It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

Driving Proficiency

70. Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would-be drivers, the costs being in terms of both money and broader obstacles to entry to the trade. However, they will note that the Driving Standards Agency provides a driving assessment specifically designed for taxis.

Language proficiency

71. Authorities may also wish to consider whether an applicant would have any problems in communicating with customers because of language difficulties.

Other training

72. Whilst the Department has no plans to make training courses or qualifications mandatory, there may well be advantage in encouraging drivers to obtain one of the nationally-recognised vocational qualifications for the taxi and PHV trades. These will cover customer care, including how best to meet the needs of people with disabilities. More information about these qualifications can be obtained from *GoSkills*, the Sector Skills Council for Passenger Transport. *GoSkills* is working on a project funded by the Department to raise standards in the industry and *GoSkills* whilst not a direct training provider, can guide and support licensing authorities through its regional network of Regional Managers.

73. Some licensing authorities have already established training initiatives and others are being developed; it is seen as important to do this in consultation with the local taxi and PHV trades. Training can cover customer care, including how best to meet the needs of people with disabilities and other sections of the community, and also topics such as the relevant legislation, road safety, the use of maps and GPS, the handling of emergencies, and how to defuse difficult situations and manage conflict. Training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy. Authorities may wish to note that nationally recognised qualifications and training programmes sometimes have advantages over purely local arrangements (for example, in that the qualification will be more widely recognised).

Contact details are:

GoSkills, Concorde House, Trinity Park, Solihull, Birmingham, B37 7UQ.

Tel: 0121-635-5520

Fax: 0121-635-5521

Website: www.goskills.org

e-mail: info@goskills.org

74. It is also relevant to consider driver training in the context of the 2012 Olympic and Paralympic Games which will take place at a number of venues across the country. One of the key aims of the Games is to “change the experience disabled people have when using public transport during the Games and to leave a legacy of more accessible transport”. The Games provide a unique opportunity for taxi/PHV drivers to demonstrate their disability awareness training, and to ensure all passengers experience the highest quality of service.

Topographical Knowledge

75. Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. So most licensing authorities require would-be taxi-drivers to pass a test of local topographical knowledge as a pre-requisite to the first grant of a licence (though the stringency of the test should reflect the complexity or otherwise of the local geography, in accordance with the principle of ensuring that barriers to entry are not unnecessarily high).

76. However, PHVs are not legally available for immediate hiring in the same way as taxis. To hire a PHV the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. So it may be unnecessarily burdensome to require a would-be PHV driver to pass the same ‘knowledge’ test as a taxi driver, though it may be thought appropriate to test candidates’ ability to read a map and their knowledge of key places such as main roads and railway stations. The Department is aware of circumstances where, as a result of the repeal of the PHV contract exemption, some people who drive children on school contracts are being deterred from continuing to do so on account of overly burdensome topographical

tests. Local authorities should bear this in mind when assessing applicants' suitability for PHV licences.

PHV OPERATORS

77. The objective in licensing PHV operators is, again, the safety of the public, who will be using operators' premises and vehicles and drivers arranged through them.

Criminal Record Checks

78. PHV operators (as opposed to PHV drivers) are not exceptions to the Rehabilitation of Offenders Act 1974, so Standard or Enhanced disclosures cannot be required as a condition of grant of an operator's licence. But a Basic Disclosure, which will provide details of unspent convictions only, could be seen as appropriate, after such a system has been introduced by the Criminal Records Bureau. No firm date for introduction has yet been set; however, a feasibility study has been completed; the Criminal Records Bureau is undertaking further work in this regard. Overseas applicants may be required to provide a certificate of good conduct from the relevant embassy if they have not been long in this country. Local licensing authorities may want to require a reference, covering for example the applicant's financial record, as well as the checks outlined above.

Record Keeping

79. It is good practice to require operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver, the number of the vehicle and any fare quoted at the time of booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that 6 months is generally appropriate as the length of time that records should be kept.

Insurance

80. It is appropriate for a licensing authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

Licence Duration

81. A requirement for annual licence renewal does not seem necessary or appropriate for PHV operators, whose involvement with the public is less direct than a driver (who will be alone with passengers). Indeed, a licence period of five years may well be appropriate in the average case. Although the authority may wish to offer operators the option of a licence for a shorter period if requested.

Repeal of the PHV contract exemption

82. Section 53 of the Road Safety Act 2006 repealed the exemption from PHV licensing for vehicles which were used on contracts lasting not less than seven days. The change came into effect in January 2008. A similar change was introduced in respect of London in March 2008. As a result of this change, local licensing authorities are considering a range of vehicles and services in the context of PHV licensing which they had not previously licensed because of the contract exemption.

83. The Department produced a guidance note in November 2007 to assist local licensing authorities, and other stakeholders, in deciding which vehicles should be licensed in the PHV regime and which vehicles fell outside the PHV definition. The note stressed that it was a matter for local licensing authorities to make decisions in the first instance and that, ultimately, the courts were responsible for interpreting the law. However, the guidance was published as a way of assisting people who needed to consider these issues. A copy of the guidance note can be found on the Department's web-site at: <http://www.dft.gov.uk/pgr/regional/taxis/rsa06privatehirevehicles> As a result of a recent report on the impact of the repeal of the PHV contract exemption, the Department will be revising its guidance note to offer a more definite view about which vehicles should be licensed as PHVs. The report is also on the Department's web-site at: <http://www.dft.gov.uk/pgr/regional/taxis/phvcontractexemption/>.

ENFORCEMENT

84. Well-directed enforcement activity by the local licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades. Indeed, it could be argued that the safety of the public depends upon licensing authorities having an effective enforcement mechanism in place. This includes actively seeking out those operators who are evading the licensing system, not just licensing those who come forward seeking the appropriate licences. The resources devoted by licensing authorities to enforcement will vary according to local circumstances, including for example any difficulties with touting by unlicensed drivers and vehicles (a problem in some urban areas). Local authorities will also wish to liaise closely with the police. Multi-agency enforcement exercises (involving, for example, the Benefits Agency) have proved beneficial in some areas.

85. Local licensing authorities often use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and PHV trades, to make the best use of staff time. But it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise. In formulating policies to deal with taxi touts, local licensing authorities might wish to be aware that the Sentencing Guidelines Council have, for the first time, included guidance about taxi touting in their latest Guidelines for Magistrates. The Guidelines, which came into effect in August 2008, can be accessed through the SGC's web-site - www.sentencing-guidelines.gov.uk.

86. Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.

87. As part of enforcement, local licensing authorities will often make spot checks, which can lead to their suspending or revoking licences. They will wish to consider carefully which power should best be used for this purpose. They will note, among other things, that section 60 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal for the licence-holder, whereas section 68, which is also sometimes used, does not; this can complicate any challenge by the licence-holder.

88. Section 52 of the Road Safety Act 2006 amended the Local Government (Miscellaneous Provisions) Act 1976 such that local authorities can now suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds. It should be stressed that this power can only be used where safety is the principal reason for suspending or revoking and where the risk justifies such an approach. It is expected that in the majority of cases drivers will continue to work pending appeal and that this power will be used in one-off cases. But the key point is that the law says that the power must be used in cases which can be justified in terms of safety. The Department is not proposing to issue any specific guidance on this issue, preferring to leave it to the discretion of licensing authorities as to when the power should be used.

TAXI ZONES

89. The areas of some local licensing authorities are divided into two or more zones for taxi licensing purposes. Drivers may be licensed to ply for hire in one zone only. Zones may exist for historical reasons, perhaps because of local authority boundary changes.

90. The Department recommends the abolition of zones. That is chiefly for the benefit of the travelling public. Zoning tends to diminish the supply of taxis and the scope for customer choice - for example, if fifty taxis were licensed overall by a local authority, but with only twenty five of them entitled to ply for hire in each of two zones. It can be confusing and frustrating for people wishing to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of the local authority area. Abolition of zones can also reduce costs for the local authority, for example through simpler administration and enforcement. It can also promote fuel efficiency, because taxis can pick up a passenger anywhere in the local authority area, rather than having to return empty to their licensed zone after dropping a passenger in another zone.

91. It should be noted that the Government has now made a Legislative Reform Order which removed the need for the Secretary of State to approve amalgamation resolutions made by local licensing authorities. The Legislative Reform (Local Authority Consent Requirements)(England and Wales) Order 2008 came into force in October 2008. Although these resolutions no longer require the approval of the Secretary of State, the statutory procedure for making them – in paragraph 25 of schedule 14 to the Local Government Act 1972- remains the same.

FLEXIBLE TRANSPORT SERVICES

92. It is possible for taxis and PHVs to provide flexible transport services in a number of different ways. Such services can play a valuable role in meeting a range of transport

needs, especially in rural areas – though potentially in many other places as well. In recent years there has been a significant increase in the provision of flexible services, due partly to the availability of Rural Bus Subsidy Grant and Rural Bus Challenge Support from the Department.

93. The Department encourages local licensing authorities, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of taxi and PHV trade. It also should be borne in mind that vehicles with a higher seating capacity than the vehicles typically licensed as taxis (for example those with 6, 7 or 8 passenger seats) may be used for flexible services and should be considered for licensing in this context.

94. The main legal provisions under which flexible services can be operated are:

- **Shared taxis and PHVs – advance bookings (section 11, Transport Act 1985):** licensed taxis and PHVs can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares (lower than for a single hiring). An example could be passengers being picked up at home to go to a shopping centre, or returning from the shops to their homes. The operator benefits through increased passenger loadings and total revenues.
- **Shared taxis – immediate hirings (section 10, Transport Act 1985):** such a scheme is at the initiative of the local licensing authority, which can set up schemes whereby licensed taxis (not PHVs) can be hired at separate fares by up to eight people from ranks or other places that have been designated by the authority. (The authority is required to set up such a scheme if holders of 10% or more of the taxi licences in the area ask for one.) The passengers pay only part of the metered fare, for example in going home after a trip to the local town, and without pre-booking, but the driver receives more than the metered fare.
- **Taxibuses (section 12, Transport Act 1985):** owners of licensed taxis can apply to the Traffic Commissioner for a 'restricted public service vehicle (PSV) operator licence'. The taxi owner can then use the vehicle to run a bus service for up to eight passengers. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the taxi, though it can go beyond it. The bus service will be eligible for Bus Service Operators Grant (subject to certain conditions) and taxibuses can be used for local authority subsidised bus services. The travelling public have another transport opportunity opened for them, and taxi owners have another business opportunity. The Local Transport Act 2008 contains a provision which allows the owners of PHVs to acquire a special PSV operator licence and register a route with the traffic commissioner. A dedicated leaflet has been sent to licensing authorities to distribute to PHV owners in their area alerting them to this new provision.

95. The Department is very keen to encourage the use of these types of services. More details can be found in the Department's publication 'Flexible Transport Services' which can be accessed at:

<http://www.dft.gov.uk/pgr/regional/buses/bol/flexibletransportservices>

LOCAL TRANSPORT PLANS

96. The Transport Act 2000 as amended by the Transport Act 2008, requires local transport authorities in England outside London to produce and maintain a Local Transport Plan (LTP), having regard to any guidance issued by the Secretary of State. The latest guidance published in July 2009 will cover the next round of LTPs from 2011. LTPs set out the authority's local transport strategies and policies for transport in their area, and an implementation programme. 82 LTPs covering all of England outside London have been produced and cover the period up to 2011. From 2011 local authorities will have greater freedom to prepare their LTPs to align with wider local objectives.

97. All modes of transport including taxi and PHV services have a valuable part to play in overall transport provision, and so local licensing authorities have an input to delivering the LTPs. The key policy themes for such services could be availability and accessibility. LTPs can cover:

- quantity controls, if any, and plans for their review;
- licensing conditions, with a view to safety but also to good supply of taxi and PHV services;
- fares;
- on-street availability, especially through provision of taxi ranks;
- vehicle accessibility for people with disabilities;
- encouragement of flexible services.

TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE

Useful questions when assessing quantity controls of taxi licences

- Have you considered the Government's view that quantity controls should be removed unless a specific case that such controls benefit the consumer can be made?

Questions relating to the policy of controlling numbers

- Have you recently reviewed the need for your policy of quantity controls?
- What form did the review of your policy of quantity controls take?
- Who was involved in the review?
- What decision was reached about retaining or removing quantity controls?
- Are you satisfied that your policy justifies restricting entry to the trade?
- Are you satisfied that quantity controls do not:
 - reduce the availability of taxis;
 - increase waiting times for consumers;
 - reduce choice and safety for consumers?
- What special circumstances justify retention of quantity controls?
- How does your policy benefit consumers, particularly in remote rural areas?
- How does your policy benefit the trade?
- If you have a local accessibility policy, how does this fit with restricting taxi licences?

Questions relating to setting the number of taxi licences

- When last did you assess unmet demand?
- How is your taxi limit assessed?
- Have you considered latent demand, ie potential consumers who would use taxis if more were available, but currently do not?
- Are you satisfied that your limit is set at the correct level?
- How does the need for adequate taxi ranks affect your policy of quantity controls?

Questions relating to consultation and other public transport service provision

- When consulting, have you included etc
 - all those working in the market;
 - consumer and passenger (including disabled) groups;
 - groups which represent those passengers with special needs;
 - local interest groups, eg hospitals or visitor attractions;
 - the police;
 - a wide range of transport stakeholders eg rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?
- What is the level of service currently available to consumers (including other public transport modes)?

TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE

Notice for taxi passengers - what you can expect from the taxi trade and what the taxi trade can expect from you

The driver will:

- ***Drive with due care and courtesy towards the passenger and other road users.***
- ***Use the meter within the licensed area, unless the passenger has agreed to hire by time.***
- ***If using the meter, not start the meter until the passenger is seated in the vehicle.***
- ***If travelling outside the licensed area, agree the fare in advance. If no fare has been negotiated in advance for a journey going beyond the licensing area then the driver must adhere to the meter.***
- ***Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most direct route.***

The passenger will:

- ***Treat the vehicle and driver with respect and obey any notices (e.g. in relation to eating in the vehicle).***
- ***Ensure they have enough money to pay the fare before travelling. If wishing to pay by credit card or to stop on route to use a cash machine, check with the driver before setting off.***
- ***Be aware of the fare on the meter and make the driver aware if it is approaching the limit of their financial resources.***
- ***Be aware that the driver is likely to be restricted by traffic regulations in relation to where s/he can stop the vehicle.***

Notice for PHV passengers - what you can expect from the PHV trade and what the PHV trade can expect from you

The driver will:

- ***Ensure that the passenger has pre-booked and agrees the fare before setting off.***
- ***Drive with due care and courtesy towards the passenger and other road users.***
- ***Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most direct route.***

The passenger will:

- ***Treat the vehicle and driver with respect and obey any notices (eg. in relation to eating in the vehicle).***
- ***Ensure they have enough money to pay the fare before travelling. If wishing to pay by credit card or to stop on route to use a cash machine, check with the driver before setting off.***
- ***Be aware that the driver is likely to be restricted by traffic regulations in relation to where s/he can stop the vehicle.***

TAXI AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE**Assessing applicants for a taxi or PHV driver licence in accordance with C1 standard**

Exceptional circumstances under which DVLA will consider granting licences for vehicles over 3.5 tonnes or with more than 8 passenger seats.

Insulin treated diabetes is a legal bar to driving these vehicles. The exceptional arrangements that were introduced in September 1998 were only in respect of drivers who were employed to drive small lorries between 3.5 tonnes and 7.5 tonnes (category C1). The arrangements mean that those with good diabetic control and who have no significant complications can be treated as "exceptional cases" and may have their application for a licence for category C1 considered. The criteria are

- To have been taking insulin for at least 4 weeks;
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person whilst driving in the last 12 months;
- To attend an examination by a hospital consultant specialising in the treatment of diabetes at intervals of not more than 12 months and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia;
- To provide evidence of at least twice daily blood glucose monitoring at times when C1 vehicles are being driven (those that have not held C1 entitlement in the preceding 12 months may provide evidence of blood glucose monitoring while driving other vehicles);
- To have no other condition which would render the driver a danger when driving C1 vehicles; and
- To sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to DVLA any significant change in condition.

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TABLE SHOWING FARE COMPARISONS

	MACCLESFIELD ZONE	CREWE ZONE	CONGLETON ZONE	PROPOSAL A	PROPOSAL B	PROPOSAL C	PROPOSAL D
TARIFF 1	Monday to Saturday 7.30am to 11.30pm	Monday to Saturday 7.00am to 9.00pm	Monday to Saturday 7.00am to 11.30pm	Monday to Saturday 7.00am to 9.00pm		Monday to Saturday 7.30am to 11.30pm	Monday to Saturday 7.00am to 11.30pm
Initial distance	First 1466.69 yards £2.60	First 200 yards £2.20	First 1,760 yards £2.60	First 200 yards £2.37 (rounded up to £2.40?)	First 1,500 yards £3.20	First 1,466.69 yards £3.00	First 1,760 yards £2.80
Subsequent distance	97.77 yards 10p	195 yards 20p	196 yards 20p	91.76 yards 10p	195 yards 20p		
First mile	£3.00	£3.80	£2.60	£4.10	£3.60	£3.40	£2.80
Subsequent miles	£1.80	£1.80	£1.80	£1.90	£1.80	£2.10	£1.90
Waiting time (per hour)	£13.19	£18	£24	£19.35	£18		
TARIFF 2	Monday to Saturday 11.30pm to 7.30am	Monday to Saturday 9pm to 7am Sundays (all day)	Monday to Saturday 11.30am to 7.00am	Monday to Saturday 9pm to 7am Sundays (all day)			
	Tariff 1 + 50%		Tariff 1 + 50%				
Initial distance	First 1466.69 yards £3.90	First 176 yards £2.20	First 1,760 yards £3.90	First 176 yards £2.40	First 1,300 yards £3.20		
Subsequent distance	97.77 yards 15p	176 yards 20p	196 yards 30p	83.37 yards 10p	176 yards 20p		
First mile	£4.50	£4.00	£3.90	£4.30	£3.80		
Subsequent miles	£2.70	£2.00	£2.70	£2.10	£2.00		
Waiting time (per hour)	£19.79	£18	£24	£19.35	£18		
TARIFF 3	Sundays and Bank Holidays (except	Bank Holidays Christmas	Sundays and Bank Holidays	Bank Holidays Christmas			

	Christmas Day/Boxing Day/New Years Day)	(6.00pm 24/12 to 8.00am 27/12) and New Year (6pm 31/12 to 8am 02/01)	(Christmas Eve and New Years Eve 6.00pm to midnight)	(6.00pm 24/12 to 8.00am 27/12) and New Year (6pm 31/12 to 8am 02/01)			
	Tariff 1 + 33.3%		Tariff 1 + 50%				
Initial distance	First 1466.69 yards £3.47	First 146 yards £3.20	First 1,760 yards £3.90	First 146 yards £3.44 (round down to £3.40?)	First 1,100 yards £4.20		
Subsequent distance	97.77 yards 13.3p	146 yards 20p	196 yards 30p	134.5 yards 20p	146 yards 20p		
First mile	£4.00	£5.40	£3.90	£5.80	£5.20		
Subsequent miles	£2.40	£2.40	£2.70	£2.60	£2.40		
Waiting time (per hour)	£17.58	£18	£24	£19.35	£18		
TARIFF 4	Christmas Day, Boxing Day & New Years Day	(see Tariff 3)	Christmas Day and New Years Day	(see Tariff 3)			
	Tariff 1 + 100%		Tariff 1 + 100%				
Initial distance	First 1466.69 yards £5.20		First 1,760 yards £5.20				
Subsequent distance	97.77 yards 20p		196 yards 40p				
First mile	£6.00		£5.20				
Subsequent miles	£3.60		£3.60				
Waiting time (per hour)	£26.38		£24				
SOILAGE CHARGE	£45	£40	£40				
EXTRA CHARGES	20p	30p	None				

(per person over one)							
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Cheshire East



Private Hire Vehicle Licence Conditions

1. Type of vehicle

- 1.1 The vehicle itself or the generic vehicle manufactured by the vehicle manufacturer shall be certified as having one of the following levels of Type Approval;
- EC Whole Vehicle Type Approval
 - UK Low Volume Type Approval
 - UK Single Vehicle Approval.
- 1.2 The vehicle shall not exceed 3.5 tonnes (3500 kilograms) gross weight unless it is a 'novelty' vehicle to be licensed as a private hire vehicle subject to the conditions applicable to executive hire and novelty vehicles.
- 1.3 The vehicle shall be a manufacturer's right hand drive model with a minimum of four wheels, except for imported stretch limousines which may be left hand drive.
It shall be finished in a production colour of the manufacturer for the model.
- 1.4 It shall have a minimum of four doors at least three of which shall be fitted to the side of the vehicle. All the doors must be capable of use by persons for both access and egress and of being opened from both the inside and the outside. If the vehicle is fitted with an electronic locking system it must be capable of being overridden to enable the doors to be opened manually.

The following condition will apply to vehicles for which an application for 'first grant' of a licence is made after the 14th March, 2010

It shall have a minimum of four doors of which either:

- (a) in circumstances where the rear door of the vehicle is not a 'split door', two doors shall be on the near side and two on the offside or
- (b) in circumstances where the rear door of the vehicle is a 'split door', at least three doors shall be fitted to a side of the vehicle.

All the doors must be capable of use by persons for both access egress and of being opened from both the inside and the outside. If the vehicle is fitted with an electronic locking system it must be capable of being overridden to enable the doors to be opened manually.

- 1.5 The passenger seats shall be a minimum of 406mm (16") in width with no significant intrusion by wheel arches, armrests or other parts of the vehicle.
- 1.6 The vehicle shall be fitted throughout with three point lap and diagonal seat belts; for the avoidance of doubt, lap only type seat belts shall be deemed not to comply with this condition.
- 1.7 The seats shall be permanently fixed in the configuration approved by the Council at the time the vehicle is first licensed.

2. Condition and Maintenance of the Vehicle

- 2.1 The vehicle and all its fittings and equipment shall be maintained in a safe, efficient and clean condition and be capable of satisfying the Council's mechanical inspection at all times that the licence is in force. All relevant statutory requirements including those contained in the Motor Vehicles (Construction and Use) Regulations shall be fully complied with at all times.
- 2.2 Without prejudice to the generality of the foregoing, the exterior of the vehicle shall be clean, free from unrepaired damage and finished to match existing paintwork after repair.

The vehicle shall be deemed incapable of satisfying the Council's mechanical inspection if it requires welding repair to the bodywork, floor panels or door cills.

- 2.3 The interior of the vehicle shall be clean, tidy and free of litter, any rubbish shall be removed after each journey and the upholstery, carpets and fittings free from rips and tears.
- 2.4 No material alteration or change to the mechanical or structural specification of the vehicle or its design, condition or appearance shall be made at any time that the licence is in force without the written consent of the Council.
- 2.5 The vehicle shall not be fitted with a tow bar.
- 2.6 Any roof rack or roof pod should be attached securely and fitted in accordance with the manufacturer's instructions.
- 2.7 Tinted windows

Heavily tinted glazing and tinted films applied to vehicle windows are not permitted.

The visual transmission of light shall be not less than 75% through the windscreen and not less than 70% through all other windows.

3. Wheelchair accessible vehicles (WAVs)

All WAVs

- 3.1 A vehicle which is constructed or adapted to carry one or more wheelchair bound passengers shall comply with the following conditions.
- 3.2 The wheelchair bound passenger(s) shall not be carried facing sideways.
- 3.3 The wheelchair space shall be not less than:
 - i. 1300mm measured in the longitudinal plane of the vehicle;
 - ii. 750mm measured in the transverse plane of the vehicle;
 - iii. 1500mm measured vertically from any point in the wheelchair space.
- 3.4 The wheelchair space shall be fitted with a wheelchair tie down system and a three point lap and diagonal wheelchair user restraint system suitable for a wheelchair user situated centrally in the transverse plane of the wheelchair space.
- 3.5 The vehicle shall be equipped with either a ramp (fixed to the vehicle or portable) or a boarding lift or platform.
- 3.6 The incline of the ramp, where provided, shall not be greater than 16 degrees (1 in 3½).
- 3.7 The boarding lift or platform, where fitted, shall be capable of being manually operated.
- 3.8 The ramp or boarding lift or platform shall not impede either the use of or access and egress to any door or emergency exit.

Forward facing wheelchairs

- 3.9 The wheelchair space shall allow the carriage of a wheelchair and a wheelchair user facing the front of the vehicle.

Rear facing wheelchairs

- 3.10 The wheelchair space shall allow the carriage of a wheelchair and a wheelchair user facing the rear of the vehicle.
- 3.11 The wheelchair space shall be fitted with a head and back restraint at the forward end (relative to the vehicle) of the space.

4. Vehicle testing

- 4.1 All vehicles shall be tested by the Council or its agent prior to first licensing and thereafter annually prior to the renewal of the licence.

- 4.2 Vehicles which are over seven years old shall be tested every six months. The age of the vehicle shall be calculated by reference to the date of first registration recorded in the Vehicle Registration Document (form V5) unless the vehicle was not new at the date of first registration in the UK.

5. Vehicles converted to run on Liquefied Petroleum Gas (LPG)

- 5.1 A certificate of compliance of conversion issued by a Liquid Petroleum Gas Association (LPGA) approved installer must be produced to the Council in respect of a vehicle converted to run on liquefied petroleum gas (LPG). The Council must be notified immediately and the certificate produced if the conversion is undertaken whilst the licence is in force.
- 5.2 The spare wheel shall be securely fixed in a suitable position where it does not obstruct the whole of the luggage space on a vehicle fitted with a 'doughnut' tank in the spare wheel well.
- 5.3 The vehicle shall display a warning sticker on the front and rear screens stating that the vehicle is fitted with a LPG tank for the purpose of alerting the emergency services in the event of an accident.

6. Safety Equipment

- 6.1 The vehicle shall be equipped at all times with a fire extinguisher manufactured to BS EN 3 and containing a minimum weight of 1.0 kilogram of dry powder or foam. The extinguisher shall be carried in such a position as to enable it to be readily available for use in an emergency. It shall be marked with the date of its last test and have the private hire licence plate number painted upon it.
- 6.2 The vehicle shall be equipped at all times with a first aid kit kept in a properly designated first aid container. The container shall have the plate number of the vehicle marked up on it. The first aid kit shall contain as a minimum the following items which should be within the manufacturer's expiry date:
a guidance leaflet, 10 x non-alcoholic wipes, 1 x conforming bandage (7.5cm x 4.5m stretched), 2 x non woven triangular bandages (size 96 x 96), 2 x eye pad dressings, 3 x large dressings (size 18 x 18) 12 x safety pins, 1 x pair blunt stainless steel scissors and 30 x plasters (assorted sizes).
- 6.3 The vehicle shall be equipped at all times with a reflective warning triangle.
- 6.4 The vehicle shall be equipped at all times with a high visibility vest for use by the driver in an emergency.

7. Signs and Notices

- 7.1 The following shall be displayed on each side of a private hire vehicle (on a body panel and not a window): -
- (i) the words "PRIVATE HIRE"
 - (ii) the words "ADVANCED BOOKINGS ONLY"
 - (iii) the telephone number of the vehicle operator (fixed landline)
- 7.2 The words "PRIVATE HIRE", "ADVANCED BOOKINGS ONLY" and the telephone number of the vehicle operator shall: -
- (i) be clearly and permanently affixed and displayed in a clearly contrasting colour in letters and numbers not less than 65mm in height and not less than 8mm thickness, and
 - (ii) be positioned together in a manner previously approved in writing by the Council.
- 7.3 For the avoidance of doubt the words "PRIVATE HIRE" and "ADVANCED BOOKINGS ONLY" and the telephone number of the operator of the vehicle shall not be deemed to be "permanently affixed and displayed" where they are so affixed and displayed by means of a demountable magnetic sign or by any other type of sign which is able to be removed and re-affixed to the vehicle.
- 7.4 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.
- 7.5 Any advertising on the vehicle shall be restricted to the name or trading name of the private hire operator of the vehicle and the operator's logo or insignia, address, fax number, web site or e-mail address and must have the prior approval of the Council. The advertising of other businesses, products or services is not permitted.
- 7.6 Any advertisements, signs, notices, numbers, marks, etc shall be so positioned as to ensure that the words "PRIVATE HIRE" and "ADVANCED BOOKINGS ONLY" and the telephone number of the vehicle operator remain clearly separate and isolated from any part of the advertisements, signs etc.
- 7.7 Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word "taxi" or "cab" or "for hire" 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.
- 7.8 The vehicle shall not display a roof sign whether illuminated or not.
- 7.9 The vehicle shall not display any illuminated signs on or from within the vehicle.

- 7.10 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, Panton Street, London shall not be used as a private hire vehicle.

8. Plates

- 8.1 Private Hire vehicles shall at all times clearly display on the exterior surface of the vehicle two licence plates supplied by the Council, the form and content of which shall also be prescribed by the Council.
- 8.2 One licence plate shall be affixed securely to the front of the vehicle and one licence plate shall be affixed securely to the rear of the vehicle.
- 8.3 The plates shall not be affixed to any vehicle except the vehicle identified in the vehicle licence application form.
- 8.4 The plates (and any backing plates) shall at all times remain the property of the Council and the Licensee shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.
- 8.5 The Licensee shall at all times ensure so far as is reasonably practicable that information contained on the plates is complete and legible and that the plates are maintained in a clean condition.
- 8.6 Private Hire vehicles shall at all times display identification stickers supplied by the Council. The stickers shall be displayed on:
- i. the inside of the lower near-side of the windscreen, so that the sticker is visible to passengers within the vehicle;
 - ii. the top near-side rear window, facing outwards; and
 - iii. the top off-side rear window, facing outwards.

9. Taximeters

- 9.1 If the vehicle is fitted with a taximeter;
- i. the taximeter shall be of a calendar type approved by the Council and shall be maintained in a sound condition at all times and shall be located within the vehicle in accordance with the reasonable instructions of an authorised officer;
 - ii. the tariff of fares shall be displayed inside the vehicle in clearly distinguishable letters and figures;
 - iii. the taximeter shall be set to display the private hire operator's tariff of fares which has been notified to the Council;
 - iv. the proprietor shall not use or permit to be used a taximeter that has not been sealed by the Council;

- v. the taximeter shall be fitted with a key to bring the machinery into action and cause the word "HIRED" to appear on the face of the meter as soon as the vehicle is on hire;
- vi. when the vehicle is not hired the key shall be locked and the machinery kept inactive and the meter shall show no fare at that time;
- vii. the taximeter shall not display a "FOR HIRE" sign at any time;
- viii. 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 which has been notified to but not approved by the Council;
- ix. the "FARE" shall be printed on the face of the meter in clear letters so as to apply the fare recorded thereon;
- x. the taximeter shall be in such a position in the vehicle that the figures recorded thereon are clearly visible to any passenger being carried therein;
- xi. the taximeter shall be sufficiently illuminated that when in use it is visible to all passengers;
- xii. the taximeter and all its fittings shall be affixed to the vehicle with seals or by other means so that it shall not be practicable for any person to tamper with the meter except by breaking or damaging or permanently displacing the seals or other fittings.

10. SPECIAL CONDITION for EXECUTIVE LIMOUSINES

- 10.1 When Condition number 10 is attached to the licence Conditions numbers 7 and 8 shall not apply. Condition number 10 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 in support of an application made for it to be subject to Special Condition number 10.
- 10.2 The notice of the grant of special licence condition number 10 shall be carried in the vehicle at all times.
- 10.3 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.
- 10.4 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.

10.5 Interior Sign

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

10.6 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.

10.7 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.

10.8 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.

KEY

Bus stop (box marking to be provided) [BUS STOP]

Existing no waiting at any time

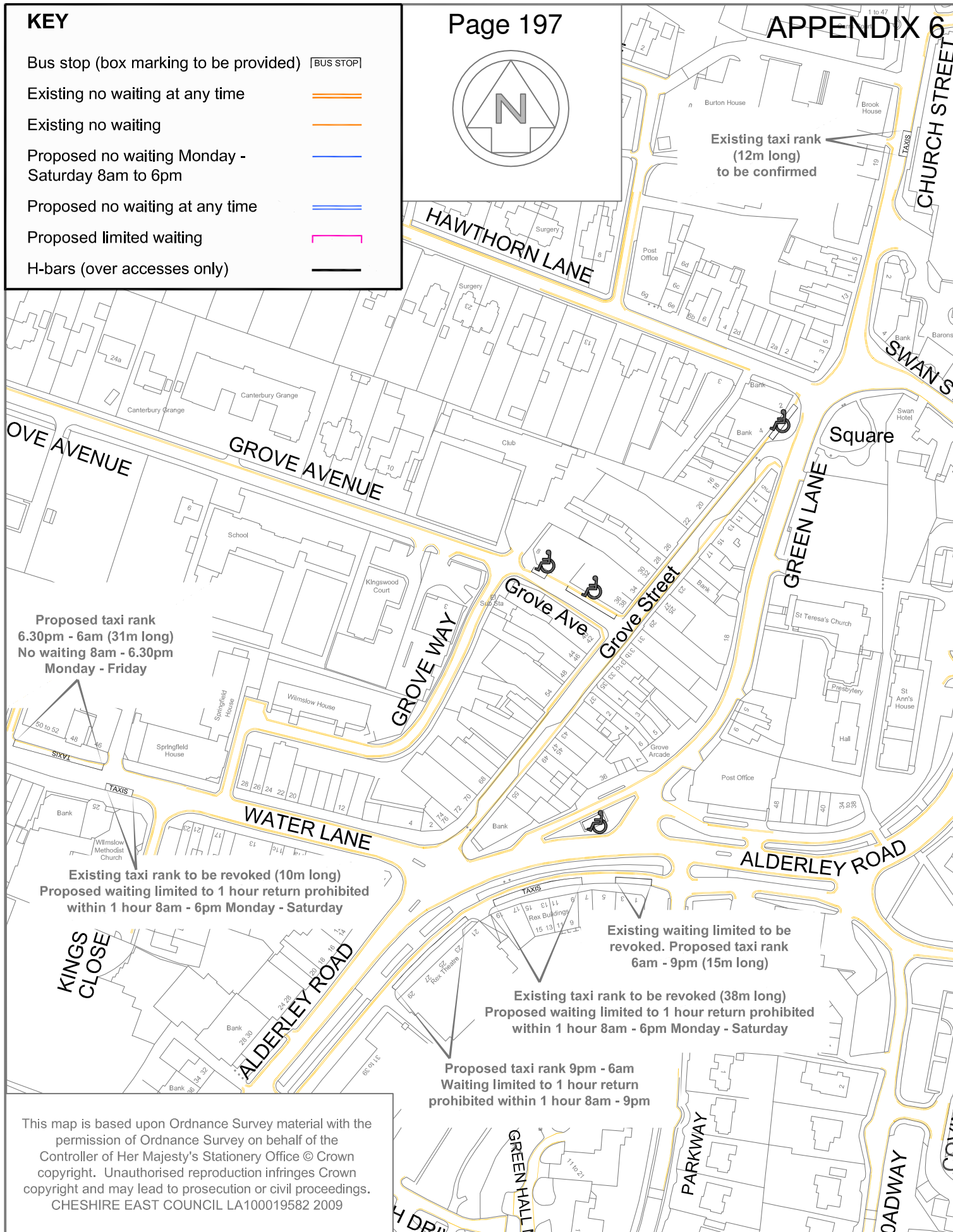
Existing no waiting

Proposed no waiting Monday - Saturday 8am to 6pm

Proposed no waiting at any time

Proposed limited waiting

H-bars (over accesses only)



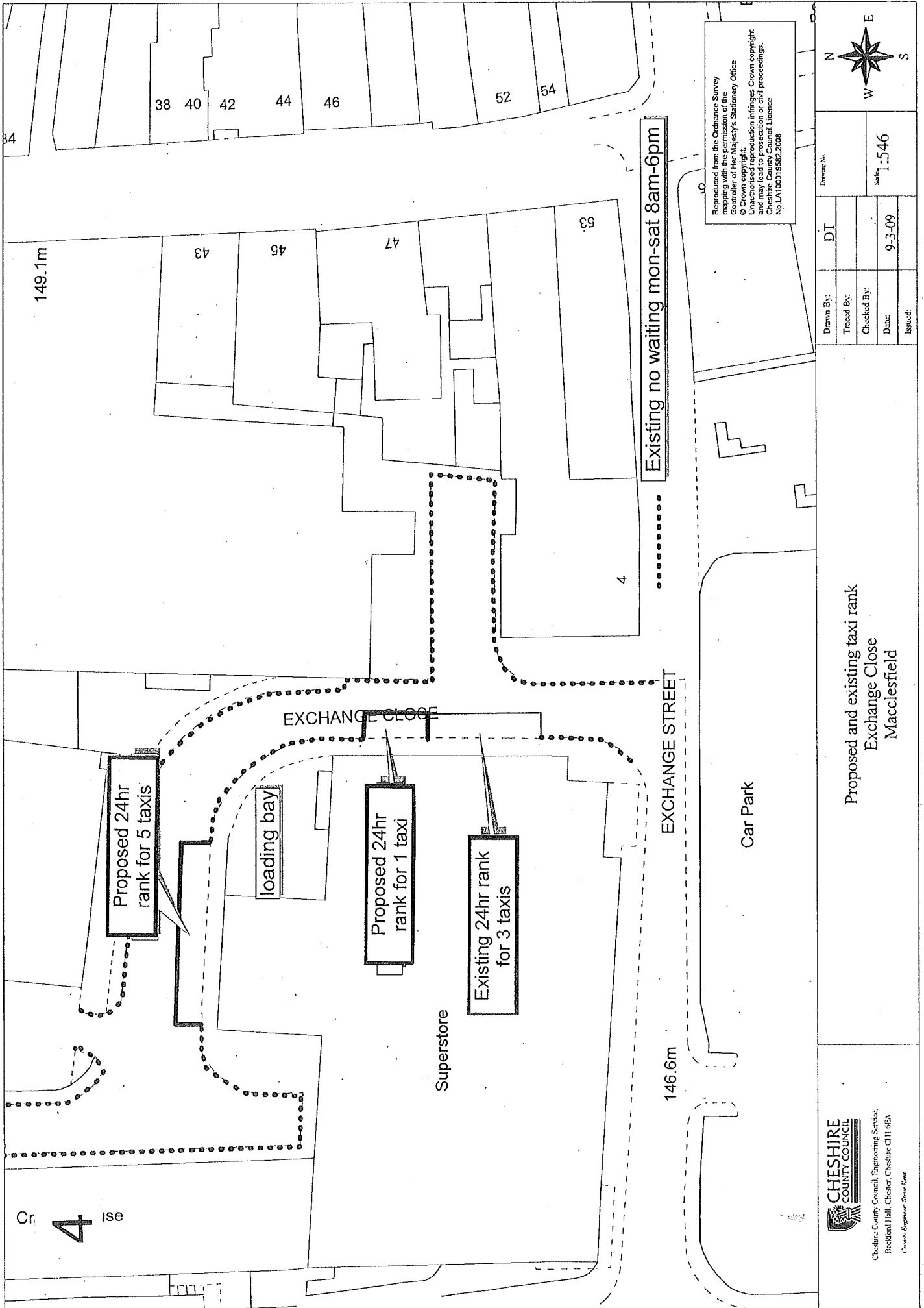
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CHESHIRE EAST COUNCIL LA100019582 2009



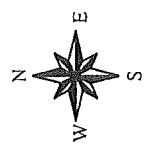
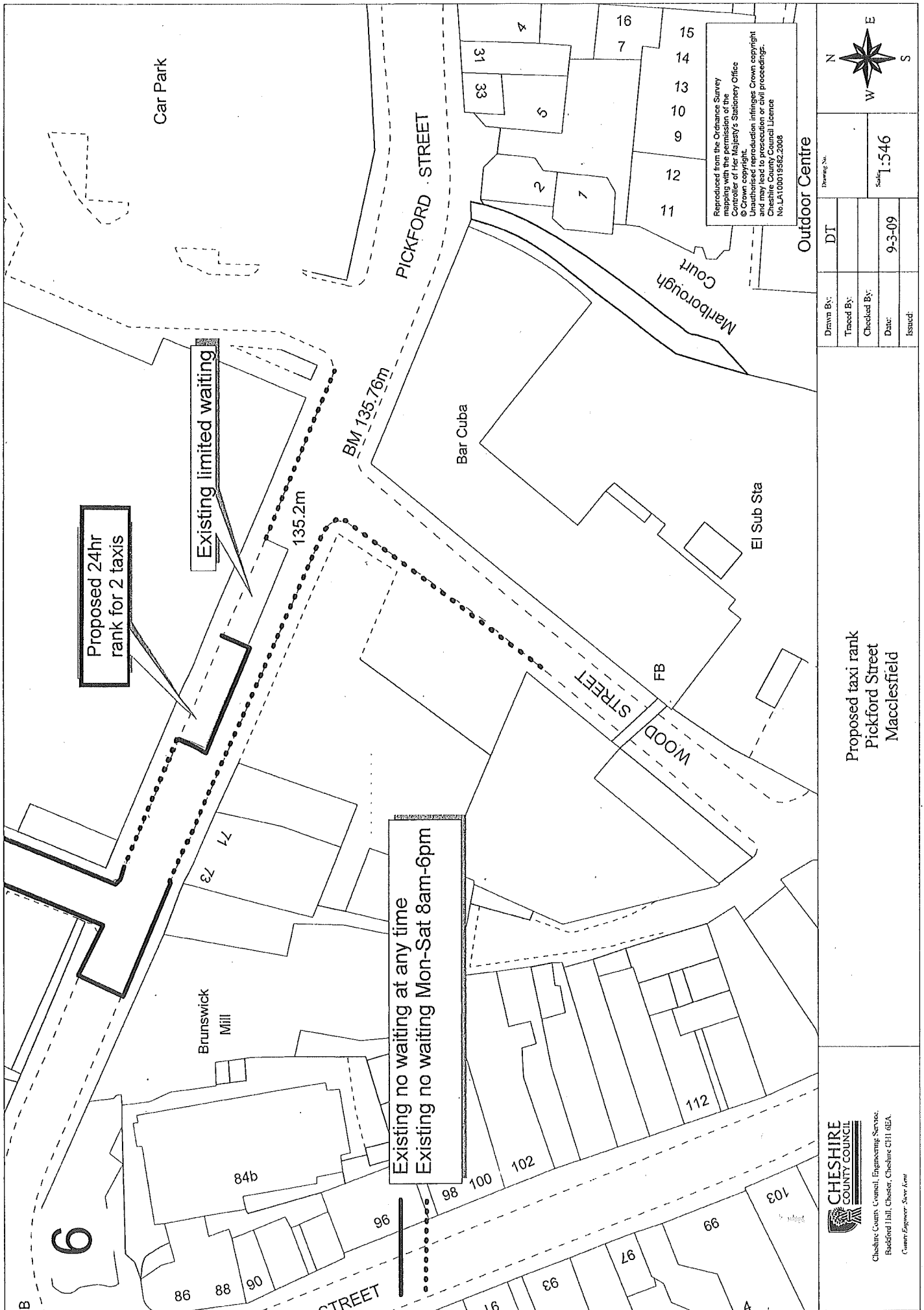
Project:

Wilmslow Taxi Rank Proposals

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Outdoor Centre

Drawn By:	DT
Traced By:	
Checked By:	
Date:	9-3-09
Issued:	
Drawing No:	1:546

Proposed taxi rank
 Pickford Street
 Macclesfield

CHESHIRE COUNTY COUNCIL
 Cheshire County Council, Engineering Services,
 Backford Hall, Chester, Cheshire CH1 6EA.
 County Engineer: Steve Kent

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CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 7th March 2011
Report of: Head of Safer & Stronger Communities
Title: Licence fees - hackney carriage and private hire vehicles, drivers and operators.

1.0 Report Summary

- 1.1 The purpose of the report is to provide the Licensing Committee with information in relation to the current fees charged for hackney carriage and private hire licences. The report suggestions options open to the Licensing Committee in relation to the possible variation of the fees.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to determine whether any variation should be made to the fees charged by Cheshire East Borough Council in relation to the issue of hackney carriage and private hire vehicles, drivers and operators licences.
- 2.2 If the Licensing Committee resolves that a variation should be made to the fees referred to in 2.1 above, the Committee is requested:
- 2.2.1 subject to statutory consultation, to approve the amount of the variation to be applicable in relation (i) to fees for licences relating to private hire vehicles and operators across the Borough; and (ii) to fees applicable to hackney carriage proprietors (vehicle) and joint drivers licences in each of the three hackney carriage zones;
- 2.2.2 to authorise the Borough Solicitor, or officer acting on her behalf, to publish notice of the proposed variation in accordance with statutory requirements;
- 2.2.3 to note that if no objections are received in response to publication of the notice (or if any objections received are withdrawn), the variation to the fees will take effect on the expiration of the period specified in the notice or, if later, the date that the last objection is withdrawn; and
- 2.2.4 to note that if objections are received in response to the publication of the notice, that these will be reported to a subsequent meeting of the Licensing Committee for consideration.

3.0 Reasons for Recommendations

- 3.1 The fees currently charged by the Council for licences relating to hackney carriage and private hire vehicles, drivers and operators were set by the Licensing Committee on 20th July 2009. Fees and charges are reviewed corporately on an annual basis as part of the budget setting process, however as the fees in relation to hackney carriage and private hire vehicles and private hire operators are subject to a statutory consultation process, the function of setting these fees is delegated to the Licensing Committee.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 None

7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

- 7.1 The increase to fees suggested within paragraph 10.4 reflects the CPI (Consumer Price Index) figure for December 2010, i.e. 3.7%
- 7.2 There will be a cost implication relating to the publication of the statutory notices. The publicity costs relating to the statutory notices are estimated to be in the region of £1,500. These costs will be met from the Licensing Section's budget, by virtue of a virement from the budget heading relating to printing and stationary to the budget heading relating to advertising.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The statutory authority for the Council to make a charge in relation to the issue of hackney carriage and private hire licences emanates from sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act').
- 8.2 Section 53(2) of the 1976 Act provides that the Council may "demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration.."
- 8.3 Section 70(1) of the 1976 Act states:

“Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators’ licences as 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 the control and supervision of hackney carriages and private hire vehicles.”

8.4 Section 70(3) of the 1976 Act prescribes that fees in relation private hire and hackney carriage vehicle licences and private hire operator’s licences must be subject to statutory publication in a local newspaper with provision made for representations to be made within twenty-eight days of publication of the notice. If no objection is made within the period specified within the notice, or if all such objections are withdrawn, the variation to the fees will come into operation on the date of the expiration of the notice, or the date of the withdrawal of the last objection, whichever is the later. Where objections are received the Council must consider these representations and set a further date, not later than two months after the first date, on which the variation will come into force with or without modifications.

8.5 Whilst there is no statutory requirement to consult in relation to fees for drivers licences, it is considered best practice to adopt the consultation process set out within section 70(3) of the 1976 Act.

8.6 By virtue of regulation 2(6) of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000, the function of setting the fees in relation to hackney carriage and private hire vehicles, drivers and operators is a non-executive function.

9.0 Risk Management

9.1 Full consideration of any objections received in response to the publication of the notice would mitigate the risk of challenge to any decision taken.

10.0 Background and Options

10.1 The existing fees relating to the licensing of hackney carriage and private hire vehicles, drivers and operators were set at the meeting of the Licensing Committee on 20th July 2009. The existing fees are shown within column 2 of the table at Appendix A.

10.2 As Members will be aware, the fees charged by the Council are reviewed annually as part of the budget setting process. The function of setting fees in relation to hackney carriage and private hire licences is delegated to the Licensing Committee.

- 10.3 The Licensing Committee is requested to determine whether any variation should be made, and if so the amount of the variation, in relation to the fees charged by Cheshire East Borough Council for the issue of hackney carriage and private hire vehicles, drivers and operator licences. As the licensing of hackney carriages within the Borough remains on a zoned basis, the fees in relation to hackney carriages must be determined in relation to each of the individual zones.
- 10.4 If Members are minded to increase the fees payable, it is suggested that an appropriate figure to use is the increase in the Consumer Price Index. The figures in column 3 of the table at Appendix A represent the application of the CPI for December 2010 (3.7%) to the existing fees (rounded to the nearest whole pound); this is in line with the corporate approach relating to the setting of fees and charges. It should be noted that the 3.7% multiplier has only been applied, in relation to the fee for drivers licences, to that element of the fee which constitutes the Council's charges and not the CRB element (i.e. £36).
- 10.5 Officers are aware of the possibility that in the future Criminal Records Bureau applications may be submitted electronically rather than in hard copy. It is understood that there would be an additional cost (in the region of £3) associated with electronic applications. If this system were to be introduced, a further report would be brought before Members in order to consider whether fees relating to drivers licences should be increased to take account of this additional cost.
- 10.6 There are additional miscellaneous fees in relation to taxi licensing, including the cost of replacement badges and plates etc. These items are not dealt with within this report as they will be reviewed as part of the corporate budget setting process.
- 10.7 The options open to the Committee are:
- (a) not to vary the existing licence fees;
 - (b) subject to statutory consultation, to vary the existing licence fees on the basis of the calculation referred to in paragraph 10.4 (and illustrated in column 3 of Appendix A); or
 - (c) subject to statutory consultation to vary the existing licence fees in a manner other than that referred to in paragraph 10.4.

11.0 Access to Information

Appendix A – Table of fees

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

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Designation: Solicitor, Legal Services (Regulatory)

Tel No: (01270) 68847

Email: kate.khan@cheshireeast.gov.uk

APPENIDX A

Fee Type	Existing Fee	Fee increased by 3.7% (rounded to nearest whole pound)
Hackney carriage proprietor (vehicle) licence – (annual)	£290	£301
Private hire vehicle licence – (annual)	£290	£301
Hackney carriage vehicles six month test (vehicles over seven years old)	£75	£78
Private hire vehicles six month test (vehicles over seven years old)	£75	£78
Joint hackney carriage and private hire drivers licence – (3 year duration) (including CRB fee)	£210	£216
Renewal of joint hackney carriage and private hire drivers licence – (3 year duration) (including CRB fee)	£150	£154
Private hire operator's licence – (5 year duration)	£335	£347

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