

Licensing Committee

Agenda

Date: Tuesday, 29th May, 2012
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**

To receive 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.

Please contact Julie Zientek on 01270 686466
E-Mail: julie.zientek@cheshireeast.gov.uk with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

4. **Minutes of Previous Meeting** (Pages 1 - 2)

To approve the minutes of the meeting held on 19 March 2012.

5. **Minutes of Licensing Sub-Committees** (Pages 3 - 14)

To receive the minutes of the following meetings:

General Licensing Sub-Committee

15 March 2012

21 March 2012

29 March 2012

30 April 2012

6. **Interim Report on Hackney Carriage Tariffs** (Pages 15 - 20)

To consider a report regarding the steps which have been taken to date in relation to informal consultation with the hackney carriage trade on the 'table of fares' and the steps which officers propose to take in order to further progress this matter.

7. **Update on Amendments to the Licensing Act 2003** (Pages 21 - 26)

To consider a report regarding the changes to the Licensing Act 2003 brought about as a result of the Police Reform and Social Responsibility Act 2011 and changes to the statutory guidance to local authorities issued under section 182 of the 2003 Act.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 19th March, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)
Councillor W S Davies (Vice-Chairman)

Councillors Rhoda Bailey, H Davenport, I Faseyi, L Gilbert, M Hardy,
A Harewood, D Mahon, M Parsons and M Sherratt

OFFICERS IN ATTENDANCE

Mr D Hawkes, Team Leader Investigations
Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

Apologies

Councillors C Andrew, D Bebbington, L Smetham and G Wait

22 DECLARATIONS OF INTEREST

There were no declarations of interest.

23 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, Mr Gillick, Mr Stennett
and Mr Wilcock addressed the Committee in relation to Item 6: Hackney
Carriage Tariffs.

24 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 16 January 2012
be approved as a correct record and signed by the Chairman.

25 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED – That the minutes of the Licensing Act Sub-Committee
meetings held on 9 January 2012, 3 February 2012 and 6 February 2012
and the General Licensing Sub-Committee meeting held on 31 January
2012 be received.

26 HACKNEY CARRIAGE TARIFFS

The Committee considered a report regarding the harmonisation of the 'table of fares' across the three hackney carriage zones within the Borough.

At its meeting on 16 January 2012, the Committee had resolved that (a) subject to consultation, the existing tariffs in the Congleton and Macclesfield hackney carriage zones be harmonised with those of the Crewe and Nantwich zone; and (b) that the Borough Solicitor, or officer acting on her behalf, be authorised to publish the relevant notices of variation, making provision for any objections to be submitted within the statutory consultation period of fourteen days.

During the statutory consultation period, the Council had received 18 individual objections to the proposed variations, two petitions with a total of 201 signatures from the Congleton zone, and one petition from the Macclesfield zone with 152 signatures. The matter had therefore been referred back to the Committee for determination.

RESOLVED

- (a) That, following discussion between officers and representatives of the trade in each of the hackney carriage zones, the Head of Community Services be requested to produce a further report making recommendations in relation to proposed variations to the 'tables of fares', including recommendations relating to an equitable method of harmonising the tables of fares.
- (b) That the Head of Community Services be requested to submit an interim report on progress for consideration by the Committee at its next meeting.

The meeting commenced at 2.00 pm and concluded at 2.50 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Thursday, 15th March, 2012 at The Whitaker Room, The Heritage
Centre, Roe Street, Macclesfield SK11 6UT

PRESENT

Councillor P Whiteley (Chairman)

Councillors Rhoda Bailey, W S Davies, L Gilbert and L Smetham

OFFICERS IN ATTENDANCE

Mrs N Cadman, Licensing Officer
Mr D Hawkes, Team Leader Investigations
Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

36 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

37 APOLOGIES FOR ABSENCE

There were no apologies for absence.

38 DECLARATIONS OF INTEREST

There were no declarations of interest.

**39 APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE -
SCHEDULE 3, LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1982 - S T LOUNGE GENTLEMENS CLUB &
CHAMPAGNE BAR, 16 GROVE STREET, WILMSLOW, CHESHIRE**

The Sub-Committee considered a report regarding an application for a Sexual Entertainment Venue Licence for S T Lounge Gentlemen's Club & Champagne Bar, 16 Grove Street, Wilmslow, under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act').

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

the applicant
the applicant's legal representative
the designated premises supervisor
a representative of the Police
a number of objectors and representatives of objectors
Councillor L Brown, objector
Councillor F Keegan, representing an objector

At the start of the meeting, all parties agreed to the use of the hearing procedure as set out on page 33 of the agenda.

Prior to consideration of the application, preliminary issues were raised in relation to the publication of the statutory notice and the discretion to consider objections which had been received outside the statutory twenty-eight day consultation period. Following an adjournment, the Chairman reported that the Sub-Committee had resolved:

- (a) That it was satisfied that the application did comply with the statutory advertising requirements within paragraph 10 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and that the application was valid.
- (b) That, when making its decision, it would exercise its discretion to take into account the late representations which had been included within an update report, but that it would not exercise its discretion in relation to the petition which had been submitted on the day of the hearing.

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 provisions of Schedule 3 of the 1982 Act;
- the Home Office Guidance relating to sexual entertainment venues;
- Cheshire East Borough Council's policy on the licensing of sexual entertainment venues; and
- all the evidence presented to the Sub-Committee, including the submissions of each of the parties to the hearing and the written objections within the report and update report;

the following course of action had been agreed:

RESOLVED - That the application for a twelve month Sexual Entertainment Venue Licence be granted, subject to:

- (a) the Council's standard conditions in relation to sexual entertainment venues
- (b) the following hours for the provision of 'relevant entertainment':

Monday to Thursday	21.30 to 03.30
Friday and Saturday	21.30 to 04.00
Sunday	21.30 to 03.30

(c) the addition of the following express condition:

“Where performers who are not being collected from the door of the premises by taxi or other transport, they will be chaperoned back to their vehicle by escorts provided by the licence holder. This is necessary as there is no car park within sight of the premises and for the safety of persons performing in the premises.”

The meeting commenced at 10.00 am and concluded at 2.20 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, 21st March, 2012 at Executive Meeting Room 2,
Town Hall, Macclesfield SK10 1EA

PRESENT

Councillor P Whiteley (Chairman)

Councillors W S Davies, A Harewood and M Parsons

OFFICERS IN ATTENDANCE

Mrs N Cadman, Licensing Officer
Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

40 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

41 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor G Wait.

42 DECLARATIONS OF INTEREST

There were no declarations of interest.

43 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

44 11-12/16 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE AND HACKNEY CARRIAGE VEHICLE LICENCE

The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver Licence and Hackney Carriage Vehicle Licence who had recently been convicted of offences.

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

whether the licence holder remained a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and Hackney Carriage Vehicle Licence.

The licence holder was not in attendance at the hearing.

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

RESOLVED

- (a) That the licence holder is no longer a fit and proper person to hold a hackney carriage/private hire drivers licence, and that the licence be revoked under section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') with immediate effect (in accordance with section 61(2B) of the 1976 Act).
- (b) That the licence holder is no longer a fit and proper person to hold a hackney carriage vehicle licence, and that the licence be revoked under section 60(1)(c) of the 1976 Act.

The Sub-Committee noted that the applicant would be reminded of the right to appeal this decision to the Magistrates Court within 21 days.

45 11-12/17 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver Licence who had been arrested in connection with alleged offences.

The Sub-Committee was informed that the application fell within the Council's policy for determination by the Sub-Committee. Accordingly, the hearing had been convened to enable the Sub-Committee to determine whether the licence holder remained a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

The licence holder was not in attendance at the hearing.

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

RESOLVED - That the licence holder is no longer a fit and proper person to hold a hackney carriage/private hire drivers licence, and that the licence be revoked under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') with immediate effect (in accordance with section 61(2B) of the 1976 Act).

The Sub-Committee noted that the applicant would be reminded of the right to appeal this decision to the Magistrates Court within 21 days.

46 11-12/18 APPLICATION FOR A JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED – That the applicant is not a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be refused.

The applicant was reminded of the right to appeal this decision to the Magistrates Court within 21 days.

The meeting commenced at 10.00 am and concluded at 11.40 am

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Thursday, 29th March, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors M Sherratt and D Mahon

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor

Mr P Simester, Licensing Administration Officer

Mrs J Zientek, Democratic Services Officer

47 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

48 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors I Faseyi and G Wait.

49 DECLARATIONS OF INTEREST

There were no declarations of interest.

50 APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE - SCHEDULE 3, LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 : MANHATTAN, 35-37 HIGH STREET, CREWE, CW1 7BL

The Sub-Committee considered a report regarding an application for a Sexual Entertainment Venue Licence for Manhattan, 35-37 High Street, Crewe under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act').

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

the applicant
an objector and a representative of an objector

At the start of the meeting, all parties agreed to the use of the hearing procedure as set out on page 33 of the agenda.

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 provisions of Schedule 3 of the 1982 Act;
- the Home Office Guidance relating to sexual entertainment venues;
- Cheshire East Borough Council's policy on the licensing of sexual entertainment venues; and
- all the evidence presented to the Sub-Committee, including the submissions of each of the parties to the hearing and the written objection within the report;

the following course of action had been agreed:

RESOLVED - That the application for a twelve month Sexual Entertainment Venue Licence be granted, subject to:

- (a) the Council's standard conditions in relation to sexual entertainment venues;
- (b) the following hours for the provision of the forms of 'relevant entertainment' applied for:

Monday to Sunday 19.00 to 05.30

- (c) the following express condition:

"The location of CCTV cameras within the premises must be approved by the Licensing Authority."

The meeting commenced at 2.00 pm and concluded at 3.35 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Monday, 30th April, 2012 at Executive Meeting Room 2, Town Hall,
Macclesfield SK10 1EA

PRESENT

Councillors L Gilbert, A Harewood, L Smetham, G Wait and P Whiteley

Mrs N Cadman, Licensing Officer

Mrs K Khan, Solicitor

Mrs J North, Senior Democratic Services Officer

51 APPOINTMENT OF CHAIRMAN

RESOLVED

That Councillor P Whiteley be appointed as a Chairman for the meeting.

52 APOLOGIES FOR ABSENCE

None.

53 DECLARATIONS OF INTEREST

There were no declarations of interest.

54 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED - That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

55 11-12/19 APPLICATION FOR A JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED – That the applicant is a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence. However, the licence is granted for an initial probationary period of twelve months, to allow the applicant to demonstrate that he continued to be a fit and proper person to hold a hackney carriage/private hire drivers licence. At the conclusion of this twelve month period the applicant will be required to supply a reference to the Licensing Section from his employer in relation to his work as a licensed driver and to sign a declaration in relation to convictions or pending prosecutions. Should this reference be satisfactory and he has received no further convictions, he will be permitted to continue with the remaining two years of the licence, without the need to reapply or to appear before the General Licensing Sub-Committee.

56 11-12/20 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

RESOLVED

That following a written request for an adjournment, on behalf of the applicant, that the hearing of the application be adjourned until the next available meeting.

The meeting commenced at 10.00 am and concluded at 11.20 am

Councillor P Whiteley

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 29th May 2012

Report of: Head of Community Services

Subject/Title: Interim Report on Hackney Carriage Tariffs

1.0 Report Summary

- 1.1. The report provides details of the progress that Licensing Officers have made with regard to the informal consultation with the hackney carriage trade in relation to the harmonisation of the three hackney carriage zones table of fares.

2.0 Decision requested

- 2.1 The Licensing Committee is requested to note both:
- 2.1.1 the steps which have been taken to date by officers in relation to informal consultation with the hackney carriage trade in each of the three hackney carriage zones with regard to the 'table of fares;' and
- 2.1.2 the steps which officers propose to take to further progress this matter.

3.0 Reasons for Recommendations

- 3.1 At its meeting of the 19th March 2012 the Licensing Committee resolved as follows:

That, following discussion between officers and representatives of the trade in each of the hackney carriage zones, the Head of Community Services be requested to produce a further report making recommendations in relation to proposed variations to the 'tables of fares', including recommendations relating to an equitable method of harmonising the tables of fares.

Officers were further requested to present an interim report on progress to the meeting of the Licensing Committee on 29th May 2012.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including – Carbon reduction; Health

6.1 None

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 None

8.0 Legal Implications (Authorised by the Borough Solicitor)

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

8.1.1 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

8.1.2 deposit of the notice for the period of fourteen days at the offices of the Council for public inspection.

8.2 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 Consideration has been given to the application of the 'public sector equality duty' (as per section 146 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

9.0 Risk Management

9.1 Full consideration of any objections received in response to publication of any notice would mitigate the risk of challenge to any subsequent decision taken.

10.0 Background and Options

10.1 As Members will recall, on the 8th June 2011 the Committee requested that the Head of Safer Stronger Communities produce a report on the potential for harmonising the hackney carriage table of fares across the three hackney carriage zones.

10.2 This report was submitted on the 16th January 2012 and the Committee resolved that the Borough Solicitor, or officer acting on her behalf, publish the

relevant notices of variation, to amend table of fares for the Congleton and Macclesfield zones to accord with the Crewe and Nantwich zone, making provision for any objections to be submitted within the statutory consultation period of fourteen days.

- 10.3 During the statutory consultation period the Council received a total of 18 individual objection responses. In addition to the individual responses two petitions totaling 201 signatures were received from the Congleton zone and one petition from the Macclesfield zone totaling 152 signatures were received.
- 10.4 As a result of the consultation responses the Licensing Committee instructed Officers to conduct discussions with the trade in all of the hackney carriage zones to illicit the trades views and ideas with regard to the creation of a harmonised table of fares.
- 10.5 Officers have met with representatives who could speak on behalf of a number of hackney carriage drivers from the Macclesfield and Congleton zones. During this meeting these representatives presented a proposed table of fares that recommended that the first step in harmonisation would be to standardise the table structures across the zones.
- 10.6 The proposals in relation to a harmonised table of fares which have been produced by the trade to date are at appended to this report as Appendix A. It has been suggested, as part of these proposals, that once the structure of tables had been standardised in each of the three zones slight price changes could be implemented over a number of years to bring the tariffs into line.
- 10.7 To date no representations have been received from the Crewe area even though the group from Macclesfield and Congleton had asked for Crewe drivers input.
- 10.8 Officers will now send the Macclesfield and Congleton proposal to all hackney carriage drivers in Cheshire East asking for comments and further proposals. Hackney drivers will also be invited to attend a trade meeting on the 27th July 2012 to discuss any proposed tariffs.
- 10.9 Following this meeting Officers will prepare a further report for the consideration of the Committee at its meeting on the 10th September 2012.

11.0 Access to Information

APPENDIX 1 – Proposals in relation to amendments to the Table of fares

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

Name: Dustin Hawkes
Designation: Team Leader Investigations
Tel No: (01270) 686303
E-mail: dustin.hawkes@cheshireeast.gov.uk

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Appendix 1

Congleton Current Rates			
		Tariff 1	Tariff 2
Journey		-	-
		11:30pm	7:00am
1 mile		£2.90	£4.35
5 mile		£10.90	£16.35
10 mile		£20.90	£31.35
15 mile		£30.90	£46.35
20 mile		£40.90	£61.35

Crewe Current Rates		
		Tariff 2
		-
		7:00am
	9:00pm	£4.40
		£4.20
		£12.20
		£13.20
		£22.20
		£24.20
		£32.20
		£35.20
		£42.20
		£46.20

Macclesfield Current Rates		
		Tariff 2
		-
		7:00am
	11:30pm	£4.95
		£3.30
		£11.30
		£16.95
		£21.30
		£31.95
		£31.30
		£46.95
		£41.30
		£61.95

Congleton Rates (Proposal 1)						
Proposal 1 with +10p increase on 1st mile	7:00am		9:00pm		12:00am	
	-		-		-	
	9:00pm		12:00am		7:00am	
1 mile	£3.00	+3.4%	£3.75	+29.3%	£4.50	+3.4%
5 mile	£11.00	+0.9%	£13.75	+26.1%	£16.50	+0.9%
10 mile	£21.00	+0.5%	£26.25	+25.6%	£31.50	+0.5%
15 mile	£31.00	+0.3%	£38.75	+25.4%	£46.50	+0.3%
20 mile	£41.00	+0.2%	£51.25	+25.3%	£61.50	+0.2%

Crewe Rates (Proposal 1)						
7:00am		9:00pm		12:00am		
-		-		-		
9:00pm		12:00am		7:00am		
£4.30	+2.4%	£5.40	+22.6%	£6.45	+46.6%	
£12.30	+0.8%	£15.40	+16.6%	£18.45	+39.8%	
£22.30	+0.5%	£27.90	+15.3%	£33.45	+38.2%	
£32.30	+0.3%	£40.40	+14.8%	£48.45	+37.6%	
£42.30	+0.2%	£52.90	+14.5%	£63.45	+37.3%	

Macclesfield Rates (Proposal 1)					
7:00am -		9:00pm -		12:00am -	
9:00pm		12:00am		7:00am	
£3.40	+3.0%	£4.25	+28.8%	£5.10	+3.0%
£11.40	+0.9%	£14.25	+26.1%	£17.10	+0.9%
£21.40	+0.5%	£26.75	+25.6%	£32.10	+0.5%
£31.40	+0.3%	£39.25	+25.4%	£47.10	+0.3%
£41.40	+0.2%	£51.75	+25.3%	£62.10	+0.2%

(Base Rate + £2 per additional mile) * multiplier

Multipliers: Day = 1, Evening = 1.25, Night = 1.5, Sunday & Bank Holiday is 1.5, Christmas Day & New Years Day is 2, Evening rates start at 6:00pm on Christmas Eve & New Years Eve

Notes: Proposed increase of 10 on the 1st mile to cover recent increases in the price of fuel.
The 'Extras' element of previous tables has been removed to provide additional uniformity and clarity to customers.
Proposed three separate tariffs which recognises different levels of antisocial hours

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CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 29th May 2012
Report of: Head of Community Services
Subject/Title: Update on amendments to the Licensing Act 2003

1.0 Report Summary

- 1.1 The report provides details about the changes to the Licensing Act 2003 ('the 2003 Act') brought about as a result of the Police Reform and Social Responsibility Act 2011 ('the 2011 Act') together with changes to the statutory guidance to local authorities issued under section 182 of the 2003 Act.

2.0 Decision Requested

- 2.1 The Licensing Committee is requested:
- 2.1.1 to note the content of the report in relation to the legislative changes; and
- 2.1.2 to delegate to the Consumer Protection and Investigations Manager the power to act on behalf of the Licensing Authority in its role as a responsible authority under the 2003 Act.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee members are requested to note the amendments to the Licensing Act 2003 and the statutory guidance as the provisions of both the legislation and guidance must be taken into consideration when exercising functions under the 2003 Act.
- 3.2 The Committee is requested to delegate the functions in relation to status as a 'responsible authority' to the Consumer Protection and Investigations Manager to ensure the proper separation between the Licensing Authority as a decision-maker under the 2003 Act and the Licensing Authority as a 'responsible authority.'

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

**6.0 Policy Implications including - Carbon reduction
- Health**

- 6.1 The Council has adopted a Statement of Licensing Policy in accordance with section 5 of the 2003 Act. Section 122 of the 2011 Act has amended section 5 of the 2003 Act to provide that licensing authorities must determine and publish statements of licensing policy in relation to each five year period (rather than every three year period). The Council's current Statement of Licensing Policy is due to be reviewed by no later than 7th January 2014.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 None

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The details of the statutory changes are set out within the body of the report.
- 8.2 Section 7(1) of the 2003 Act prescribes that the functions of the licensing authority shall be delegated to the Licensing Committee established under the 2003 Act. The Licensing Committee therefore has the power to delegate its functions as 'responsible authority' to officers.

9.0 Risk Management

- 9.1 The proposed delegation to officers avoids the risk of conflict between the Licensing Authority's role as a decision-maker and its role as a 'responsible authority.'

10.0 Background and Options

- 10.1 The Police Reform and Social Responsibility Act 2011 received royal assent on 15th September 2011. Chapter 1 of Part 2 of the Act deals with changes to the Licensing Act 2003 and enacts many of the amendments proposed within the consultation paper 'Rebalancing the Licensing Act' which was published in July 2010.

- 10.2 The amendments which took effect on 25th April 2012 are summarised below:

10.2.1 Responsible authorities

Primary Care Trusts and Local Health Boards have been added to list of 'responsible authorities' meaning that they must be consulted on applications (new and variation) for Premises Licences and Club Premises Certificates. They will also be able to call for reviews of Premises Licences and Club Premises Certificates.

Licensing authorities have also been designated as ‘responsible authorities’ and so will also have the ability to make representations in relation to applications and to submit review applications.

In order to prevent a conflict between the Licensing Authority in its role as decision-maker and in its role as a responsible authority, the Licensing Committee is requested to delegate to the Consumer Protection and Investigations Manager the functions in relation to the role of responsible authority.

10.2.2 Interested parties – removal of the vicinity test

Section 13 of the 2003 Act has been amended to remove reference to interested parties. Members will be aware that previously, ‘interested parties’ were defined as (a) a person living in the vicinity of the premises; (b) a body representing persons who live in that vicinity; (c) a person involved in a business in that vicinity; (d) a body representing persons involved in such businesses; and (e) a member of the relevant licensing authority. The legislation has also been amended to provide that ‘relevant representations’ may be made by responsible authorities or ‘other person.’ This means that there is no longer any restriction on who can make representations.

10.2.3 Determination of applications

Amendments have been made to replace the requirement that the Licensing Authority takes such steps as it considers ‘necessary’ for the promotion of the licensing objectives when determining applications, to such steps as it considers ‘appropriate’ for the promotion of the licensing objectives. Chapter 9 of the section 182 Guidance provides guidance to licensing authorities in relation to the determination of actions that are appropriate for the promotion of the licensing objectives.

Paragraph 9.39 states: “The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”

Paragraph 9.40 continues: “Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to the restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business

.....The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.”

10.2.4 Suspension of licence/certificate for non-payment of fees

Subject to a 21 day ‘grace period’ and to an exemption in the case of administrative errors, the amended legislation provides a new power to licensing authorities to suspend a premises licence or club premises certificate if the licence holder fails to pay the annual fee.

10.2.5 Advertisement of applications

As Members will be aware, applicants are required to advertise applications for premises licences and club premises certificates by:

- (i) publishing a notice in a local newspaper (no later than 10 working days after the date of the application); and
- (ii) placing a notice at the premises in a conspicuous place (for the duration of the 28 day consultation period).

With effect from 25th April 2012 in addition to the above, licensing authorities are required to publish a notice of applications on its website.

10.2.6 Temporary Event Notices

The following changes have been made to the Temporary Event Notice (TEN) regime:

- Environmental Health are now able to object to TENs (in addition to the Police);
- Both the Police and Environmental Health are able to object to a TEN on the basis of any of the four licensing objectives;
- Premises users may now serve ‘late TENs’ (i.e. given no later than 5 working days and no more than 9 working days before the date of the event);
- In cases where an objection notice has been received in relation to a ‘standard TEN’ the licensing authority may determine to impose one or more conditions on the TEN if: (a) the licensing authority considers that it is ‘appropriate’ for the purposes of the licensing objectives; (b) where the condition(s) are also imposed on the premises licence/club premises certificate for the premises where the event is to be held; and (c) the conditions would ‘not be inconsistent with the carrying out of the licensable activities under the TEN.’
- An event period may now be up to 168 hours (rather than 96 hours);
- The maximum total duration of the periods authorised by a TENs is now up to 21 days (rather than 15 days); the limit of 12 events per premises per year remains unchanged; and
- The Police and Environmental Health have 3 working days within which to respond (rather than 2 days).

10.2.7 Alcohol Sales to Children

The fine for persistently selling alcohol to children has been doubled from £10,000 to £20,000.

The effect of a closure notice for persistently selling alcohol to children has been increased from 'up to 48 hours' to 'from 48 hours and up to 336 hours.'

10.2.8 Statement of Licensing Policy

Section 122 of the 2011 Act has amended section 5 of the 2003 Act to provide that licensing authorities must determine and publish statements of licensing policy in relation to each five year period (rather than every three year period).

10.3 The following provisions within the 2011 Act are yet to be commenced; central government have indicated that they may take effect in October 2012:

10.3.1 Early morning restriction orders – the power to make orders prohibiting the supply of alcohol from premises for any duration beginning at midnight and ending before 06.00, where the licensing authority considers that to do so is appropriate for the promotion of the licensing objectives.

10.3.1 Late night levy – a levy which may be imposed on licensed premises, subject to exemptions, to cover the costs of policing and other arrangements for the reduction of crime and disorder in connection with the supply of alcohol between a prescribed period (between midnight and 06.00). The licensing authority would be required to pay at least 70% of the levy collected to the Police.

11.0 Access to Information

The Licensing Act 2003 is available via www.legislation.gov.uk; the section 182 Guidance is available on the Home Office website: www.homeoffice.gov.uk

There are no background papers associated with this report.

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