

Cabinet Member for Communities and Regulatory Services

Agenda

Date:	Monday, 15th July, 2013
Time:	9.30 am
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 disclosable pecuniary and non-pecuniary interests in any item on the agenda.

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

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relating to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding 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.

For requests for further information

Contact: Cherry Foreman

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4. **Statement of Licensing Policy - Review** (Pages 1 - 40)

To approve the draft revised policy for consultation.

CHESHIRE EAST COUNCIL

Cabinet Member for Communities and Regulatory Services

Date of Meeting:	15 th July 2013
Report of:	Miss K Evans – Licensing Team Leader
Subject/Title:	Statement of Licensing Policy Review
Portfolio Holder:	Cllr Les Gilbert - Communities and Regulatory Services Portfolio Holder

1.0 Report Summary

- 1.1 The Licensing Act 2003 requires that Licensing Authorities prepare and publish a statement of policy that they propose to apply when exercising their functions under the Act during the five year period to which the statement applies.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31st January 2014. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders. The purpose of this report is to recommend to the Cabinet Member that approval is provided for the statement of principles in its draft form so that the consultation exercise may take place.

2.0 Decision Requested

- 2.1 That the Cabinet Member approves the draft revised policy set out at appendix 1, subject to any amendments, so that the required consultation can be conducted.

3.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Licensing Act 2003, to enable the proper discharge of the Council's responsibilities for the regulation of alcohol sales, regulated entertainment and late night refreshment.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

6.1 None identified

7.0 Financial Implications

7.1 The Licensing Authority is required to consult on the revised policy and this will require a number of letters being sent to license holders and other consultees. The cost of letter production and postage is anticipated to be approximately £300.00.

8.0 Legal Implications

8.1 In accordance with Section 5 of the Licensing Act 2003 the Licensing Authority is required to determine and publish a Statement of Licensing Policy.

8.2 The statement of policy forms part of the Council's Policy Framework. As such, the final decision to approve a statement of principles or a revision of the statement rests with full Council. In addition, in developing a revised statement of policy, the authority must comply with its Budget and Policy Framework Procedure Rules (as set out within the Constitution).

8.3 In order to comply with statutory requirements, the following agencies must be consulted:

- Cheshire Constabulary
- North West Fire and Rescue Service
- Planning Services
- Trading Standards (Weights and Measures Inspector)
- Environmental Health
- Local Safe Guarding Children Board
- Health and Safety
- Representatives of the local licensing trade
- Representatives of local businesses and residents

9.0 Risk Management

9.1 Should the Council not adopt a reviewed Statement of Licensing Policy within the required timeframe, all decisions made may be open to challenge.

9.2 Giving appropriate weight and consideration to any consultation responses received will mitigate the risk of a successful challenge of the final statement of policy.

10.0 Background and Options

10.1 The first Statement of Licensing Policy approved by this Council came into effect in January 2009.

- 10.2 The Statement of Licensing Policy establishes a local framework for decision making when considering applications for relevant permissions, or variations to existing terms and conditions. The Policy is of significant importance as the Licensing Committee and Sub-Committee are required to have due regard to it when determining an opposed application.
- 10.3 The current Policy is due for review and it is necessary for the Council to undertake a consultation process. In accordance with the statutory timescales the revised policy must be in place to take effect from January 2014.
- 10.4 When the Statement of Licensing Policy has been confirmed and published, subject to any further reviews and necessary consultation, it shall remain in force for a further period of five years (i.e. to January 2019).
- 10.5 It is proposed that the following timescales be applied to allow for the proper consideration of the draft statement of policy:
- Approved for consultation by relevant Cabinet Member
 - Period for consultation – 6 weeks
 - Licensing Committee – 16th July 2013
 - **End of Consultation**
 - Corporate Scrutiny– 10th September 2013
 - Licensing Committee – September/October 2013
 - Confirmed by Cabinet – 11th November 2013
 - To be adopted by Council – 12th December 2013
 - Publication of Policy in January 2014
 - Policy effective from January 2014
- 10.5 The content of the Policy has been discussed with the Chairman of the Licensing Committee. The Policy will be presented to the Licensing Committee during the consultation period.
- 10.6 The consultation will be conducted by way of letter to all statutory consultees and will be held on the Council's website for the full period.
- 10.7 The changes made to the current policy include:
- i. Providing updated and additional information on how the Licensing Authority will promote the Licensing Objectives
 - ii. Taking into consideration recent changes in legislation. Such as the Live Music Act 2012, Late Night Levy, and Early Morning Restriction Orders.
- 10.8 The outcome of the consultation exercise and any proposals to amend the content of the Policy, will be presented to Members of the Licensing Committee in September 2013. The Policy will follow the path laid out in 10.5.

11.0 Access to Information

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

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CHESHIRE EAST COUNCIL
STATEMENT OF LICENSING POLICY
(LICENSING ACT 2003)
POLICY DATED JANUARY 2014 TO JANUARY 2019

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APPENDIX 1 – TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

APPENDIX 2 – PROCEDURE AT HEARINGS

1. INTRODUCTION

- 1.1 Cheshire East Council (**the Council**) is the Licensing Authority for the area of Cheshire East under the provisions of the Licensing Act 2003 (**the Act**).
- 1.2 The Council's current Statement of Licensing Policy was published on 24th February 2009. A review of that policy is due by January 2014. This Statement of Licensing Policy (**the Policy**) is the result of the review and is published by the Council in accordance with section 5 of the Act. The Policy provides information and guidance to applicants and persons who are likely to be affected by an application (e.g residents and businesses) and Responsible Authorities or anyone interested in these matters. It will clarify the manner in which the Council will approach matters relating to licensing. Whilst the policy provides framework guidance regarding the considerations it will take into account when determining any licence application, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.
- 1.3 Cheshire East's mission is for 'Cheshire East to be a great place to live, work, visit and enjoy'. The mission statement complements the aims of this Policy. There are a number of Corporate Objectives some of which link with this Policy. They include:
- To grow and develop a sustainable Cheshire East
 - To improve life opportunities and health for everybody in Cheshire East
- 1.4 The Policy takes into account the guidance issued under section 182 of the Act. The latest guidance was published by the Home Office on 31st October 2012. A copy of the guidance may be accessed via the Home Office website www.homeoffice.gov.uk
- 1.5 In accordance with section 4 of the Act, the Licensing Authority shall have regard to the Policy in the exercise of its functions in respect of Licensable Activities and qualifying Licensable Activities in accordance with Section 1 and Schedules 1 and 2 of the Act. The following is a summary of what comprises Licensable Activities:
- The sale by retail of alcohol
 - The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
 - The provision of regulated entertainment:
 - performance of a play

- exhibition of a film
- indoor sporting event
- boxing or wrestling entertainment
- performance of live music
- playing of recorded music
- performance of dance
- entertainment of a similar description to the above

There are certain exemptions to this definition, which relate to incidental live and recorded music, and spontaneous music, singing and dancing, which are set out in full in the Act.

- The provision of late night refreshment (supply of hot food or drink from a premises between 23:00 and 05:00 hours)

1.6 In formulating the Policy, the Licensing Authority has consulted all Responsible Authorities, holders of licences under the Act and the public within Cheshire East.

1.7 This policy will be for a 5 year period and a review will take place in accordance with statutory procedures and will take into full account of any relevant information received by way of consultation or otherwise.

2. THE AIM OF THE POLICY AND STATUTORY LICENSING OBJECTIVES

2.1 The aim of the Policy is to secure the safety and amenity of communities within the Cheshire East area, whilst facilitating a sustainable entertainment industry. The Council recognises the need of residents for a safe and desirable environment in which to work and live and the importance of well-run licensed premises in a vibrant and diverse local economy. The Council will promote the safety of residents and visitors whilst out at night and on their journey home.

2.2 In accordance with the guidance issued by the Secretary of State, the Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefits of our communities. A natural concern to prevent disturbance in the neighbourhood will always be balanced with the wider cultural benefits of our communities

- 2.4 The Council has a duty to protect the amenity of its residents. This extends to the business community, who can expect the Council to ensure that the environment is attractive and sustainable for the conduct of their business.
- 2.5 It is the Council's duty to exercise its licensing functions with a view to promoting **with equal importance** the four Licensing Objectives set out in section 4 of the Act:
- **The prevention of crime and disorder**
 - **Public Safety**
 - **The prevention of public nuisance**
 - **The protection of children from harm**
- 2.6 This policy does not prejudice the requirement for the Licensing Authority to consider each application on its own merits.
- 2.7 The Licensing Authority will have proper regard to amongst other issues:
- Location and environmental impact of the proposed activity
 - Suitability of the applicant
 - Suitability of the premises to the application
 - Operation and management of the premises
 - Monitoring, review and enforcement
- 2.8 Nothing in the policy will
- Undermine the rights of any individual to apply under the terms of the Act for a variety of permissions and have the application considered on its individual merits; or
 - Override the right of a person or a body or a Responsible Authority (as defined in the Act) to make representations on an application or to seek a review of a licence or certificate in accordance with the provisions of the Act.
- 2.9 Following Relevant Representations the Licensing Authority will only depart from this Policy if the applicant provides satisfactory evidence/information that the Licensing Objectives will be met in full. In cases where a departure occurs, the Licensing Authority shall provide reasons for the departure.
- 2.10 If an application for a licence or certificate has been made lawfully and there have been no Relevant Representations from Responsible Authorities or

other persons, the Licensing Authority will grant the application, subject only to conditions consistent with the operating schedule and any relevant mandatory conditions.

- 2.11 To achieve its aims the Council is committed to working in partnership with Cheshire Constabulary, Cheshire Fire and Rescue Service, local businesses, residents and others towards ensuring the continued success of this Policy in achieving the statutory objectives of the Act. In considering these issues the Council will focus on the four statutory Licensing Objectives.

3. MATTERS WITHIN THE CONTROL OF THE PREMISES LICENCE HOLDER

- 3.1 The Licensing Authority recognises that licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises, and therefore away from the direct control of the premises licence holder. Accordingly, in exercising its licensing functions the Licensing Authority will focus on matters which are within the control of the individual licensee and others who are granted relevant permissions. Nevertheless licensees should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, e.g. on the pavement, in a beer garden or in a smoking shelter, where and to the extent these matters are within their control.
- 3.2 The Licensing Authority will expect applicants to consider and make appropriate provisions to ensure that harm is not caused to the Licensing Objectives as a result of activity in, or in the vicinity of, the licensed premises.
- 3.6 It will normally be the responsibility of the premises licence holder to ensure that the managers, designated premises supervisor and door supervisors are competent and appropriately trained.

4. PLANNING AND NEED FOR LICENSED PREMISES

- 4.1 When exercising its licensing functions the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for a particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.
- 4.2 The Planning Regulation and Licensing Regulation functions are separate statutory regimes. The Licensing Authority recognises that there should be a clear separation of the planning, building control and licensing regimes in order to avoid duplication. The Licensing Authority when exercising its licensing functions will not consider whether there has been any alleged breach of planning conditions. Planning Permission will usually be required prior to the use of premises for Licensable Activities.

- 4.3 The Licensing Authority is not bound by decisions made by the Planning Authority and vice versa.
- 4.4 There may be circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensed hours, the earlier closing time must be observed. Premises operating in breach of their planning permission would be liable to enforcement action under planning law.
- 4.5 It should be noted that Building Regulations govern a variety of issues, which directly contribute to the Licensing Objectives, including means of escape, structural integrity, accessibility and public safety. Building Regulation Approval and Completion Certificates may be required prior to the use of the premises for licensable activities.

5. INTEGRATING STRATEGIES

- 5.1 The Licensing Authority will consider the Local Authority's approved strategies and policies where they are relevant to the exercise of its function as the Licensing Authority.
- 5.2 The Council recognises that Licensed Premises are a major contributor to the local economy. Any licence application will be considered by taking certain factors into account. These include:
- Employment opportunities
 - The enhancement the proposal might have on the attractiveness of the wider area
 - The general impact in attracting visitors to the area
- 5.3 In undertaking its statutory licensing function the Licensing Authority may have regard to:
- Section 17 of the Crime and Disorder Act 1998 and requirement that the local authority do all that it reasonably can to prevent crime and disorder in its locality
 - The European Convention on Human Rights (which is given effect by the Human Rights Act 1998), which places a duty on public authorities to protect the rights of individuals in a variety of circumstances
 - Any other relevant legislation drawn to its attention
- 5.4 The Licensing Authority will seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act. Examples of these strategies are:

- In accordance with Guidance the Licensing Authority will seek to establish a Safe Scheme so that proper liaison and partnership working with all relevant stakeholders will ensure that appropriate Action Plans for Tackling Alcohol Related Crime, Disorder and Nuisance are in place
- Safer Clubbing
- Local Authorities Coordinators of Regulatory Services and Trading Standards Institute Code of Best Practice on Test Purchasing
- Alcohol Harm and Reduction Strategy
- Crime and Disorder Reduction Strategy
- Enforcement Concordat, under which the Council has developed an Enforcement Strategy

6. ANTI-SOCIAL BEHAVIOUR

- 6.1 The Licensing Authority recognises that in addition to the requirements for it to promote the Licensing Objectives, the Local Authority has a duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder within its area.
- 6.2 The objective of the licensing process is to allow the retail sale of alcohol and the provision of other Licensable Activities in a manner that ensures the public's safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's aim to facilitate well run and managed premises with premises licence holders displaying sensitivity to the impact of their premises on local residents.
- 6.3 In accordance with Guidance, the Licensing Authority does not regard this policy as a mechanism for the general control of anti-social behaviour by individuals once they have left the immediate vicinity of the licensed premises.
- 6.4 Recurring problems of alcohol-related anti-social behaviour, crime and disorder or serious public nuisance can occur in an area, which are not directly attributable to specific premises. In such cases, particularly if supported by the Police, the Licensing Authority may consider whether an Early Morning Alcohol Restriction Order (EMROs) might address the problems. These Orders are considered later in this Policy.

7. PREVENTION OF CRIME AND DISORDER

- 7.1 The Licensing Authority will have regard to the Crime and Disorder Act 1998 (See Section 6.1 above). Any conditions attached to the premises licence

should reflect any local crime prevention strategy. Including, the Safer Cheshire East Partnership Plan or a subsequent replacement plan.

7.2 The Licensing Authority will consider whether the premises make or will make a significant contribution to levels of crime and disorder, and whether the Operating Schedule is based on an adequate risk assessment, undertaken by the applicant, of the likelihood of crime and disorder occurring as a result of the application.

7.3 In order to meet its duty to prevent and reduce crime this Policy will have regard to the likely impact of licensing on related crime and disorder in the area. The Licensing Authority will consider the location of the premises and the impact, operation and management of the Licensable Activities. In particular these issues may include:

- Whether the layout, lighting and fittings of the premises have been designed so as to minimise conflict and opportunities for crime and disorder
- Whether the Operating Schedule includes appropriate management measures to prevent crime and disorder
- Door supervision together with the maintenance of an incident book
- Use of toughened glass or plastic glasses
- Mechanisms for combating drug dealing and use
- Use of CCTV cameras
- Membership of any Pubwatch or similar scheme
- Use of ID scan equipment

7.4 The Licensing Authority may impose conditions on licences or certificates. These may include the following conditions (although the list is not exhaustive). The decision to impose conditions and their extent will depend upon the risks of crime and disorder at the particular premises

- Appropriate ratio of tables to chairs to customers and for areas to be allocated for seated customers
- A requirement for Security Industry Authority door supervisors to control numbers and to deny entry to individuals who appear drunk, disorderly or intent on crime
- A requirement that drinking vessels do not form a sharp edge when broken

- Restrictions on drinking in areas within and outside the premises
- Procedures for checking the ages of young people who appear under the age of 21 or 25 to ensure alcohol is not sold to those under 18 and that those under 16 are accompanied in alcohol-led premises
- Appropriate 'early warning' communication systems with the Police and with other licensed premises
- The installation of CCTV
- Clear policies and measures to prevent illegal drugs being brought onto and used on the premises
- Searching of customers and staff

7.5 The Licensing Authority will carefully consider Police representations and other conditions relating to the deterrence and prevention of crime and disorder and initiatives to reduce crime will be drawn up in liaison with the police to deal with particular premises or types of premises where concerns may arise.

Safer Clubbing

7.6 The Licensing Authority wishes to promote the principles of 'Safer Clubbing'. The current Home Office Guidance on the subject is recommended to relevant Premises Licence and Club Premises Certificate holders. Following relevant representations appropriate licensing conditions may be imposed to control the environment at relevant premises in support of the 'Safer Clubbing' objectives.

Drugs

7.7 Following Relevant Representations, conditions may need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions will take into account the above-mentioned 'Safer Clubbing' advice issued by the Home Office. In all cases where conditions are to be imposed advice will be sought from the Drug and Alcohol Action Team and the Police.

7.8 The Licensing Authority, Police and Licence Holders need to be aware that power is available under the Anti-Social Behaviour Act 2003 that allows for the closure of a licensed premises by the Police where there is production, supply or use of Class A drugs and/or serious nuisance or crime and disorder. This provides an extra tool to the Police in enabling instant action with regards to premises where there is a Class A drug problem.

Door Supervisors

7.9 Following Relevant Representations the Licensing Authority may consider that certain premises require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises. In such cases licensed door supervisors (registered by the SIA) must be employed at the premises either at all times or at such times as certain licensable activities are taking place, at a number and ratio to be determined by the Licensing Authority. (This excludes stewards/glass collectors who are not involved in the security of the premises and do not therefore require registration with the SIA).

CCTV

7.10 Licence holders may wish to install cameras for the protection of staff, customers and for the prevention of crime on or in the vicinity of the premises. In exercising its licensing functions, the Licensing Authority may for the purpose of promoting any of the Licensing Objectives, impose as a condition of the licence the installation of a CCTV system. It should be noted that in such cases the Licensing Authority may take into account the type and quality of recordings, the location of cameras, storage and the availability of recordings to the Licensing Authority and Police.

Cinema Exhibitions (see also under Protection of Children from Harm)

7.11 No film shall be exhibited at a licensed premises which is likely to:

- Lead to disorder
- Incite hatred or violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender

8. PUBLIC SAFETY

8.1 The Licensing Authority wishes to promote high standards of public safety in relation to premises and activities within the scope of the Act.

8.2 The Licensing Authority recognises that the Public Safety Objective is concerned with the physical safety of the customers using the relevant premises and not with Public Health, which is dealt with by other legislation.

8.3 Where activities are organised by volunteers or a committee of a club or a society the Licensing Authority considers it good practice that the same level of Health and Safety protection is provided as if an employer/employee relationship existed, irrespective of whether there are strict legal duties applicable under Health and Safety legislation.

- 8.4 Following Relevant Representations, where the Licensing Authority considers that general health and safety duties do not adequately cover certain Licensable Activities, conditions may need to be attached to the licence to ensure public safety.
- 8.5 Organisers of temporary/large scale events will be encouraged to seek advice and information from the Council's Event Safety Advisory Group prior to submitting any application.

Fire Safety

- 8.6 The Licensing Authority will have due regard to the representations of Cheshire Fire and Rescue Service regarding licensing applications.
- 8.7 Following Relevant Representations, the Licensing Authority may impose appropriate conditions in relation to fire safety matters in consultation with Cheshire Fire and Rescue Service.
- 8.8 The Licensing Authority will only include an occupant capacity condition on a Premises Licence or a Club Premises Certificate where there is a genuine fear or a genuine problem with overcrowding and it is considered appropriate for public safety. This figure will be arrived at in consultation with Cheshire Fire and Rescue Service. If an occupant capacity is fixed in accordance with any risk assessment required by The Regulatory Reform (Fire Safety) Order 2005 that figure will be used.
- 8.19 Where the special provisions of Section 177 of the Act (dancing, amplified and unamplified music in premises with a capacity of no more than 200 persons) are utilised, the Licensing Authority reserves the right to confirm with Cheshire Fire and Rescue Service the safe capacity of the premises.

9. PREVENTION OF PUBLIC NUISANCE

- 9.1 If Relevant Representations are received the Licensing Authority, when making an objective judgment about what constitutes a nuisance in respect of an application or review of a premises licence or certificate, will take a broad common law meaning when considering matters such as:
- Noise from premises
 - Waste
 - Litter
 - Car parking
 - Light pollution

- Noxious odours

9.2 In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority, when in receipt of any Relevant Representations will take into account the type of entertainment activity proposed hours of operation, the capacity of the premises, the character of the areas and the proximity to local residents. Consideration will be given to the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas where there is residential accommodation in the proximity of the premises.

Noise and Vibration

9.3 In order to enforce the provisions of the Environmental Protection Act 1990 (which relate to noise nuisance) the Police, Environmental Health Officers and Licensing Officers will liaise to ensure that adequate control measures are properly used to protect the local environment. Any action taken will be conducted in accordance with relevant enforcement policies

9.4 Consideration will be given to whether the operating schedule contains adequate measures to prevent noise and vibration, generated from within the premises, outside it, or from an open site, that may cause disturbance. Stricter conditions will be considered on premises in areas that have denser residential accommodation or have residential accommodation close to them. The noise includes music, noise from ventilation equipment and human voices. Measures in the Operating Schedule may include installation of soundproofing, air conditioning, acoustic lobbies, sound limitation devices or locking doors at specified hours. If the proposed operating schedule fails to address noise nuisance issues, the Environmental Health Department may request that an independent acoustic report is conducted.

9.5 Applicants will be expected to have included measures in their Operating Schedules that make adequate provision to:

- Restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site
- Limit the escape of noise from the premises or open air site
- Restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping
- Minimise and control noise from customers arriving and departing from the premises

- 9.6 The Licensing Authority will not impose conditions on licensed premises that cannot be directly controlled, or on matters not related to the vicinity of the premises.
- 9.7 If it is considered that the noise emanating from within the curtilage of a licensed premises is causing a public nuisance, under the provisions of the Anti-Social Behaviour Act 2003, an Authorised Officer can require its immediate closure for a period of up to 24 hours. It should be noted that the 'test' is a lesser one than that required to determine a Statutory Noise Nuisance and the statutory defence of 'best practicable means' is not available.

Eating, Drinking and Smoking Outside Premises

- 9.8 The Licensing Authority will take the following into consideration:
- Whether people standing or sitting outside are likely to cause obstruction or other nuisance
 - Whether premises are under or near residential accommodation
 - The hours of sale of alcohol in open containers or food for consumption outside the premises
 - Measures to make sure that customers move away from outside premises when such sales cease
 - Measures to collect drinking vessels and crockery, cutlery and litter
 - The extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink for smoking
 - Whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied by the premises or not), between certain hours or at all times.

Other Environmental Impacts

- 9.9 Consideration will be given to whether Operating Schedules contain adequate measures to prevent:
- Litter, smells, fumes, dust, tobacco or other smoke, or other emissions
 - Street fouling
 - Light pollution
 - Congestion of the pavement or roadway, impeding reasonable access

arising from the proposed licensable activity that may cause nuisance to people in the vicinity.

9.10 If the sale of alcohol in open containers or food for consumption outside the premises has been proposed, the following considerations are relevant:

- Whether measures would be undertaken to prevent nuisance caused by the storage, handling and collection of refuse and recyclable materials
- Whether late night premises are likely to generate litter and whether the sale of take-away food is proposed and the measures planned to prevent littering in the vicinity and to clear up any litter that occurs
- The steps proposed to prevent queuing or, if some queuing is inevitable, to divert queues away from residential properties and entrances to neighbouring premises, and to manage the queue to prevent disturbance and obstruction
- The steps taken to prevent disturbance by patrons arriving at or leaving the premises
- The steps taken to ensure staff leave the premises quietly
- The arrangements made or proposed for parking by patrons and the effect of parking on local residents
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents
- Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises
- Whether other measures to prevent nuisance such as the use of CCTV or the employment of SIA registered door supervisors are necessary
- The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures
- The likelihood of any violence, public disorder or policing problem arising if a licence were to be granted
- If the applicant has previously held a licence within the Cheshire East area, the details of any enforcement action arising from that premises
- Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.

10. PROTECTION OF CHILDREN FROM HARM

10.1 Protection of Children from harm includes the protection of children from moral, psychological and physical harm. This includes protection from premature exposure to strong language and sexual expletives. The Act does not prevent children having free access to premises selling alcohol for consumption on those premises, although the Licensing Authority when in receipt of Relevant Representations may impose conditions necessary for the prevention of harm to children. Where there are matters that give rise to serious concerns and the restriction of access may not ensure adequate protection of children from harm, children should be excluded. Examples of what may give rise to these concerns include:

- Where there have been convictions for serving alcohol to minors or where the premises has a reputation/evidence for underage drinking (to include any action undertaken regarding test purchases in relation to the supply of alcohol)
- There is a known association with drug taking or dealing
- There is a strong element of gambling on the premises
- Entertainment of an adult or sexual nature is provided

Note: The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises used exclusively or primarily for the supply of alcohol for consumption on the premises.

10.2 Matters which the Licensing Authority will take into consideration include:

- Whether there are effective measures to check the age of those young people who appear under 25, to ensure alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises
- Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose
- The hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises
- The likelihood of children being attracted to the premises e.g. by the nature of activities or facilities provided, whether or not these are licensed

- Whether there is evidence of heavy, binge or underage drinking on the premises
- 10.3 Where Relevant Representations have been received and it is considered necessary that the access of children should be restricted to protect them from harm then conditions may be attached to the licence. These may include:
- Limitation on the hours when children may be present
 - Restrictions to the age of persons on a premises (e.g. to over 18's only)
 - Restrictions on access to certain parts of the premises
 - Limitations or exclusions when certain activities may take place
 - Require an accompanying adult to be present at all times
- 10.4 Where large numbers of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then the Licensing Authority may require the presence of an appropriate number of adult staff (who will have provided who will have provided a satisfactory Disclosure and Barring Service check) to ensure their safety and protection from harm. The exact ratio is to be assessed in respect of each individual application and is dependent on the type and size of the premises and the control measures in place as outlined within the operating schedule, and importantly the particular group of children likely to visit the premises in question.

Cinema Exhibitions (see also under Prevention of Crime and Disorder)

- 10.5 Where the exhibition of films is permitted the Licensing Authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications (BBFC) recommendations. Where a film has not been classified by the BBFC the Licensing Authority will consider whether it is appropriate to provide a local classification. When setting a local classification the Licensing Authority will have regard to the BBFC's guidelines.
- 10.6 In considering applications, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions have not been adhered to.

11. CUMULATIVE IMPACT

- 11.1 The Licensing Authority does not consider that there are areas where Cumulative Impact occurs presently nor is there a need at this time for the

Licensing Authority to adopt a special policy relative to designating 'Stress Areas'.

- 11.2 Where there is a concentration of licensed premises this can lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause or even a major contributing factor, of a particular problem. It is the **Cumulative Impact** of all the premises which causes problems for the wider area.
- 11.3 It is clear however, that the vicinity within which licensed premises are or may be located is a major consideration in determining a licence should be granted and what conditions should be attached to it should representation be received. Due consideration will be given to the direct impact of the operation of the premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.
- 11.4 It should be noted that 'Cumulative Impact' should not be confused with the issue of 'need', which relates to commercial demand for licensed premises. 'Need' is not a matter to be taken into account by the Licensing Authority.
- 11.5 Where a particular area becomes saturated with licensed premises making it a focal point for large groups of people to congregate, this might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further Premises Licenses or Club Premises Certificates may undermine the Licensing Objectives.
- 11.6 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a licence or certificate would result in a cumulative impact which undermines one or more Licensing Objectives, the following shall apply:

Objections on the grounds of Cumulative Impact

- 11.7 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to cumulative impact which would undermine one or more of the Licensing Objectives the objector shall:
- Identify the boundaries of the area from which it is alleged problems are arising
 - Provide full details and evidence as to the seriousness of the nuisance and disorder caused in the area

- Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
 - The occupancy figure for the proposed premises
 - The nature of the licensed activity to be carried on at the premises and its patrons.

Identifying Stress Areas

11.8 Where as a result of an objection under paragraph 11.7 above and the Licensing Authority is satisfied that there is a serious or chronic concern about nuisance and disorder in a particular area and has refused an application on the grounds of Cumulative Impact the area shall be declared as a 'Stress Area'. In doing so the Licensing Authority shall:

- Follow the statutory procedures outlined in the Home Office Guidance issued under Section 182 of the Act
- Identify the boundaries of the area
- Identify the licensable activities causing the nuisance and/or disorder
- Monitor and review the 'Stress Area'

Applications for a New Premises Licence in a Stress Area

11.9 New premises licenses will not be granted for the activities identified as causing nuisance and/or disturbance in Stress Areas except where:

- No objections are received to the application, or
- The grant of the licence will not undermine the Licensing Objectives

11.10 In considering such applications the Licensing Authority will have particular regard to:

- The occupancy figure for the proposed premises
- The proximity of the premises to others in the Area licensed for similar activities and the occupancy figures for those other premises
- Whether the proposed premises will act as a replacement for others in the Area that no longer has a licence
- The proposed methods of management outlined in the applicants' operational plan
- The proposed hours of operation

- Transport provision for the Area

Existing Premises Licenses in Stress Areas

11.11 The above factors cannot be used as a justification for removing an existing licence. If representations are received about existing licensed premises relating to matters other than cumulative impact and which undermine the Licensing Objectives then appropriate action may be taken.

Applications for variations to existing Premises Licenses in Stress Areas

11.12 Applications for variations to existing Premises Licenses in Stress Areas will not be granted unless those modifications directly affect the issue of Cumulative Impact in the Stress Area or otherwise undermine the Licensing Objectives. An example of where a modification may directly affect the issue of cumulative impact would be where an application was received to extend premises and significantly increase the occupancy level of the premises.

12. APPLICATIONS FOR NEW GRANTS AND VARIATION OF EXISTING TERMS AND CONDITIONS

12.1 In the absence of any Relevant Representations in respect of any application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any Mandatory Conditions prescribed in the Act. This will also apply to any applications made in respect of premises within an identified Stress Area.

12.2 The EU Services Directive (Directive 2006/123/EC) and the Provision of Services Regulations 2009 require the Authority to enable an electronic application facility. This is available through www.GOV.uk for Premises Licence applications, renewals and variations and for Club Premises Certificates, renewals and variations. An automatic grant is not available for these applications since visits to premises are required in order to ensure the Licensing Objectives would be promoted. In addition the consideration of a licence needs to take into account the management of the premises.

12.3 The Licensing Authority will consider the same issues in respect of a variation and a renewal as they do in respect of an application for a new grant.

12.4 The Licensing Authority may take into account any non-compliance of other statutory requirements brought to its attention. Particularly where these undermine the Licensing Objectives, as non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

12.5 The Licensing Authority will consider whether appropriate measures have been put into effect by the applicant to mitigate any adverse impact.

13. TEMPORARY EVENTS

13.1 Arrangements are made under Part 5 of the Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or a club premises certificate.

13.2 The Licensing Authority will provide advice about, amongst other things, public safety. Organisers of temporary/large scale events will be encouraged to seek advice and information from the Council's Event Safety Advisory Group prior to submitting any application.

13.3 Legislation states that a minimum of ten working days notice should be given to the Licensing Authority of temporary events (or five working days in respect of a late temporary event). In accordance with the Act, 'Working Day' excludes Saturday, Sunday and Bank Holidays. The Licensing Authority cannot and will not accept notification of a Temporary Event Notice or a late Temporary Event Notice outside the statutory time limit. 13.4 The Licensing Authority acknowledges that in exceptional circumstances, some Temporary Events may and do have an impact upon crime and disorder. Therefore, in cases of large scale events, organisers should consider providing as much notice as possible. The Licensing Authority considers two months notice to be advisable in relation to such events.

13.5 The Licensing Authority expects organisers to give due consideration to the four licensing objectives and to consider local residents and those attending events, in areas such as:

- Health and Safety
- Noise Pollution
- Use of Temporary Structures
- Road Closures
- Use of Pyrotechnics or Fireworks
- Controlling Anti-Social Behaviour

13.6 The Licensing Authority may advise applicants to consult with Cheshire Fire and Rescue Service and North West Ambulance Service for guidance with regards to assessing possible risks.

- 13.7 Applicants will also be reminded that giving a Temporary Event Notice does not relieve the premises user from planning law and any requirement to obtain the appropriate planning permission where it is required.

14. OPERATING SCHEDULE

- 14.1 It is recommended that that applicants contact Responsible Authorities when preparing their operating schedules. This is likely to reduce subsequent objections.
- 14.2 This Statement of Licensing Policy sets out criteria and considerations, which relate to the Licensing Objectives, which applicants should have in mind when drawing up their Operating Schedule.

15. HOURS OF OPERATION

- 15.1 The Licensing Authority will determine licensing hours based on the individual merits of each application.
- 15.2 The Licensing Authority recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of patrons leaving premises simultaneously are avoided. It is acknowledged that this can help reduce the friction at late night fast food outlets, clubs, taxi ranks and bus stops, which can lead to disorder and disturbance. The Licensing Authority will aim by means of longer licensing hours to achieve a gradual dispersal of people leaving licensed premises.
- 15.3 The Licensing Authority recommends that applicant's indicate within the operating schedule that consideration has been given to the impact the licensing hours applied for will impact on local residents and the surrounding area.
- 15.4 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting the hours. Consideration may be given to restricting the licensing hours of individual shops in circumstances where representations received indicate that the premises is a focus of disorder and disturbance.

16. CONDITIONS

- 16.1 The Licensing Authority may, when considering the content of the Operating Schedule, select appropriate conditions from the Home Office Guidance, pool of Conditions, where it is deemed appropriate to ensure that the Operating Schedule reflects the four Licensing Objectives.

- 16.2 Where appropriate, following receipt of Relevant Representations, the Licensing Authority, may attach conditions to the grant of a licence which seeks to regulate the behaviour of persons as they leave licensed premises.
- 16.3 Where existing law already places statutory obligations on applicants the Licensing Authority will not usually impose the same or similar duties by way of condition.

17. ENFORCEMENT AND REVIEW

- 17.1 It is the intention of the Licensing Authority to work proactively with the Cheshire Police and other enforcement agencies. Proportionate targeting of agreed problem and high-risk licensed activities needing greater attention will be applied. A corresponding lighter touch for well run, lower risk premises will also be applied.
- 17.2 The Review of licences or certificates provides a key protection for the community where the Licensing Objectives are being undermined. The Review system should allow the Licensing Authority to apply a light touch bureaucracy to the grant or variation of a licence or certificate. The Licensing Authority may then take a more robust approach when problems relating to the Licensing Objectives arise later in respect of any premises.
- 17.3 At any stage following the grant of a premises licence or a club premises certificate, a Responsible Authority or any other person, may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives. The Licensing Authority shall refer to Guidance when assessing whether any Relevant Representations are irrelevant, vexatious, frivolous or repetitious.
- 17.4 Although the Act does not require premises inspections to be undertaken, they will take place at the discretion of the Licensing Officers charged with this role and will take place as judged necessary. This will ensure that the Licensing Authority manages resources efficiently and that 'effective enforcement' is directed at 'problem premises'.
- 17.5 Where any conditions have been applied to a Premises Licence or Club Premises Certificate and Authorised Officer of the Council may inspect the premises at any reasonable time for the purpose of checking that the conditions are being complied with.

Door Supervisors

- 17.6 The Security Industry Authority (SIA) plays an important role in preventing crime and disorder by ensuring that door supervisors are properly trained and licensed. Specific enquiries or premises visits may occur in order to ascertain

that SIA Licenses are being executed in the correct manner and not as a tool for crime and disorder such as fronts for serious and organised criminal activity. Intelligence led operations by the SIA, Licensing Authority and/or Police will be conducted without notice

18. EARLY MORNING ALCOHOL RESTRICTION ORDERS (EMROs)

18.1 Under Section 172 A to E of the Act, the Licensing Authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of 24:00 and 06:00. They are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

18.2 The Licensing Authority will consider evidence that such a decision is appropriate for the promotion of the Licensing Objectives. Consideration will be given to evidence provided by partners, Responsible Authorities and the Local Community Safety Partnership as well as evidence the Licensing Authority has gathered to determine whether an EMRO would be appropriate for the promotion of the licensing objectives. The Licensing Authority will consider the problems that have been identified. A range of evidence may be considered, including local crime and disorder statistics, statistics on anti-social behaviour offences, health related statistics (e.g. alcohol related emergency attendances and hospital admissions, environmental health complaints, complaints recorded by the local authority, residents' questionnaires, evidence from local councillors and evidence obtained through local consultation).

18.3 It is acknowledged by the Licensing Authority that an EMRO is restrictive, whilst also being a powerful tool to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified in particular other measures might include:

- Development of a Cumulative Impact Policy
- Reviewing the licenses of specific problem premises
- Encouraging the creation of business-led practice schemes
- Use of powers of the Local Authority to designate an area where alcohol may not be consumed publicly (Designated Public Places Order)

- The confiscation of alcohol in designated areas
- Police enforcement of the general law concerning disorder and anti-social behaviour
- Prosecution for the offence of selling (or allowing such a sale) alcohol to a person who is drunk
- Use of Police powers to close down any licensed premises instantly for up to 24 hours in respect of which a TEN has effect?

18.4 In taking any decision to make an EMRO, the Licensing Authority will follow the statutory process and will invite representations.

19. LATE NIGHT LEVY

19.1 Under Section 125 of the Police Reform and Social Responsibility Act 2011 the Council can adopt a Late Night Levy, following a consultation process, outlined by the Home Office. It allows the Council to charge an additional fee to any licensed premises that has a licence for the sale of alcohol (on and off sales) after 12 midnight and up to 06:00 in order to cover the additional costs associated with late night alcohol trading. Legislation allows this to start from midnight but it is up to the Council to decide when they wish to apply it.

19.2 The Council cannot implement both a Late Night Levy and an EMRO.

19.3 Any income raised by the Levy must be split with the local Police force; the Police would receive a minimum of 70% of funds raised and the Council's 30% must be used to fund services which make the late night economy a more welcoming place.

20. THE LICENSING PROCESS

20.1 Applications can be made on the prescribe forms that can be found on the Home Office website.

20.2 Applications can also be made via the government website www.gov.uk. In order to fulfil its obligations under the Provision of Services Regulations 2009 (and the EU Services Directive) the Council will continue to enable the application process and payment online. Tacit consent is however not applicable for applications under the Licensing Act 2003 since the suitability of an applicant and the suitability of premises are under consideration.

21. DELEGATION AND DECISION MAKING

21.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated at an appropriate level to ensure an efficient and cost effective service.

- 21.2 The Licensing Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Home Office Guidance. The table at Appendix 1 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers
- 21.3 The Act itself creates a presumption that applications will be granted unless a Relevant Representation (objection) is raised. Where a function is delegated to an officer, that officer will be responsible for liaising between the applicants, objectors and Responsible Authorities to ensure that any licence granted is subject to any appropriately agreed conditions and relevant mandatory conditions
- 21.4 Where objections are made, an officer of the Licensing Authority may liaise with the Applicant, objectors and the Responsible Authorities to see if a 'settlement' is possible to overcome any objections, without the need for the matter to go before the Committee or Sub-Committee. Only where objections are raised which cannot be reconciled will matters be referred to either the Sub-Committee of the Full Committee for determination.
- 21.5 Contested Licensing Applications and Review Hearings are administrative in nature and the (Sub) Committee will ensure that any meetings are conducted as informally as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. Procedural requirements will be established to ensure that all parties are able to express their views openly and fairly. The (Sub) Committee procedure is inquisitorial rather than adversarial and, whilst applicants, objectors and Responsible Authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement or a necessity.
- 21.6 Whilst the (Sub) Committee usually meets in public, it does have the power to hear certain applications in private. The Committee, however, will always reach its decision in private. A public announcement of the decision is normally made at the end of the Hearing together with an outline of the reasons for that decision. However on occasion this may not be possible, due to time constraints and/or the complexity of the issues under consideration, in which case a written decision will be issued as soon as possible after the Hearing.
- 21.7 The procedure which will generally be used by the (Sub) Committee, unless the Chairman of the (Sub) Committee takes the view that natural justice and fairness require a change to be made to the process, is set out at Appendix 2.

22. EXCLUSIONS

22.1 In formulating this Statement of Licensing Policy in accordance with Guidance and recognising the need to treat each application on its individual merits the Licensing Authority makes specific exclusions, which are detailed below.

Commercial Demand

22.2 The commercial demand for additional premises licenses (as distinct from cumulative impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the Planning Authority.

Zoning and licensing hours

22.3 Fixed predetermined closing times for particular areas will not form part of the Policy and restriction on trading hours will be considered only where appropriate to meet Licensing Objectives.

22.4 All persons have equal rights to make representations concerning applications for premises licenses (and hours of trading) and to receive appropriate consideration to their representations. Irrelevant, frivolous and vexatious representations will be disregarded.

Children

22.5 Nothing in this Statement of Policy shall limit or require access of children to premises unless there is an overriding necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this Policy.

Standardised conditions

22.6 The Policy does not provide for 'standard conditions' to be imposed so as to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licenses or certificates if deemed appropriate in particular circumstances will be tailored to reflect the individual operation of the premises in question. Conditions will not be imposed which are beyond the responsibility or control of the premises licence holder.

23. CONSULTATION

23.1 In reviewing this Policy the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. Various bodies have been consulted including:

- Cheshire Constabulary
- Cheshire Fire and Rescue Service
- Current licence holders

- Representatives of the local licensing trade
- Representatives of local businesses and residents
- Community Safety Partnership and Event Safety Advisory Group
- Borough Councillors
- Parish and Town Councils
- Crewe and Macclesfield Charter Trustees
- Council Officers

24. CHANGES TO LEGISLATION

24.1 This Statement of Licensing Principles reflects the law in force in June 2013. The following are some of the main changes which are currently proposed:

- An authorisation for an indoor sporting event or a performance of a play or dance may be required only when the audience exceeds a specified number (1000 for an indoor sporting event and 500 for the performance of a play or dance) or the entertainment does not take place between 8am and 11 pm on any day
- It is intended that it will be made clear that a contest exhibition or display which combines boxing or wrestling with one or more martial arts (a 'combined fighting sport') is licensable under the Act as a boxing or wrestling entertainment rather than an indoor sporting event

24.1 As changes to legislation occur the Council will implement them using the principles stated in this Statement.

Table of delegations of licensing functions

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

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Application for Personal Licence		If a police objection	If no objections made
Application for Personal Licence with unspent convictions		All Cases	
Application for premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary designated Personal Licence holder		If a police objection	All other cases
Request to be removed as designated Personal Licence Holder			All cases
Application of transfer of Premises Licence.		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Decision to object when Local Authority is a consultee and not a lead authority		All cases	
Determination of a police objection to a Temporary Event Notice		All cases	
Power to issue a Counter Notice in respect of a Temporary Event			All cases
Determination of a minor variation			All cases
Decision to exercise the Licensing Authority's powers as a Responsible Authority			All cases

CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

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 (v) will consider any request made by a party for another person to appear at the hearing (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties)
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. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>

5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.
6	Other Persons (who have made representations)	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	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Other Persons (who have made representations)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which they should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Other Persons (who have made representations)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested

		conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	<p>Will return to <u>give its decision</u>, with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.</p> <p>In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.</p>

Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

1. Chairman appointed (if this has not been done previously).
2. Chairman to call for declarations of interest and request that all parties introduce themselves.
3. Chairman summarises the procedure for the hearing
4. The Licensing Officer summarises the application
5. Applicant to present his/her case.
6. Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
7. Applicant to be questioned by the Committee.
8. Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
9. Other Persons will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
10. The applicant will be invited to sum up his/her case
11. Committee/Sub-Committee withdraws to make its decision
12. Committee/Sub-Committee returns to announce its decision to all present.

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