

# Licensing Committee Agenda

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**Date:** Monday, 7th November, 2016  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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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 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 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.

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Please contact Julie Zientek on 01270 686466  
E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto: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 3 - 4)

To approve the minutes of the meeting held on 7 March 2016.

5. **Minutes of Licensing Sub-Committees** (Pages 5 - 48)

To receive the minutes of the following meetings:

**Licensing Act Sub-Committee**

6 April 2016  
18 April 2016  
12 May 2016  
2 June 2016  
7 June 2016  
1 August 2016  
5 August 2016  
15 August 2016

**General Licensing Sub-Committee**

10 March 2016  
6 April 2016  
13 May 2016  
1 July 2016  
25 August 2016  
21 September 2016

6. **Review of Licensing Fees and Charges for the Financial Year 2017/2018**  
(Pages 49 - 58)

To consider a report seeking approval for the review of the licensing fees and charges for the issuing and renewal of licenses, consents and permits issued by the Licensing Team.

7. **Consideration of the Late Night Levy by the Licensing Working Group**  
(Pages 59 - 186)

To consider a report regarding the findings of the working group tasked with considering the Late Night Levy.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 7th March, 2016 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor W S Davies (Chairman)  
Councillor D Bebbington (Vice-Chairman)

Councillors E Brooks, C Chapman, B Dooley, I Faseyi, M Hardy, M Parsons,  
L Smetham, G Wait, M Warren and J Wray

**OFFICERS PRESENT**

Nick Kelly, Environmental Protection Team Leader  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

**24 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors M Deakin and A Harewood.

**25 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**26 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**27 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 11 January 2016  
be approved as a correct record and signed by the Chairman.

**28 MINUTES OF LICENSING SUB-COMMITTEES**

RESOLVED – That the minutes of the Licensing Act Sub-Committee  
meeting held on 18 January 2016 and the General Licensing Sub-  
Committee meeting held on 25 January 2016 be received.

**29 ANNUAL REVIEW OF THE MOBILE HOMES ACT 2013 (FEES AND CHARGES POLICY)**

The Committee considered a report regarding the proposed Regulatory  
Services and Health Mobile Homes Act 2013 Fees and Charges Policy  
2016-17.

In accordance with the Mobile Homes Act 2013, the Council was permitted to charge a fee for administering the statutory licensing function for residential caravan sites. It was also permitted to set fees for other functions such as maintaining a register of site rules and transferring and amending licences.

The Council was only able to set fees on a 'cost recovery' basis, and as part of setting the fees it was required to have a Fees and Charges Policy in place for mobile homes, which was reviewed annually in order to ensure that the fees reflected the cost of administering the licensing function.

RESOLVED - That the Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy 2016-17, as set out in Appendix 1 to the report, be approved.

### **30 REVIEW OF THE SCRAP METAL DEALERS ACT 2013 FEES AND CHARGES**

The Committee considered a report regarding the proposed fees for applications for Scrap Metal Dealers licences for the three year period from 2016-17.

In accordance with the provisions of the Scrap Metal Dealers Act 2013, the Council was permitted to charge a fee for administering the statutory licensing for scrap metal dealers. Fees could only be set on a cost recovery basis and an annual review of the fees had to be undertaken in order to ensure that they reflected the cost of administering the licences.

RESOLVED – That the following fees be approved in relation to applications for Scrap Metal Dealers licences for the three year period from 2016-17:

- Site Licence Application – £194.00
- Collectors Licence Application - £148.00

The meeting commenced at 2.00 pm and concluded at 2.23 pm

Councillor W S Davies (Chairman)



**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Wednesday, 6th April, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

**PRESENT**

Councillor W S Davies (Chairman)

Councillors M Deakin and M Warren

**OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

**21 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

**22 DECLARATIONS OF INTEREST**

Councillor M Warren declared that one of the applicants was a former colleague. However, this would not influence his decision and he had not pre-determined the application.

**23 APPLICATION FOR A PREMISES LICENCE - MACCLESFIELD GOLF CLUB, THE HOLLINS, HOLLINS ROAD, MACCLESFIELD SK11 7EA**

The Sub-Committee considered a report regarding an application for a Premises Licence for Macclesfield Golf Club, The Hollins, Hollins Road, Macclesfield SK11 7EA.

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

- three representatives of the applicant
- two local residents

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy

- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as follows:

- Hours Premises are Open to the Public  
Sun to Thursday 06.00 to 12.30  
Friday to Saturday 06.00 to 1.30am
- Live Music (to take place indoors)  
Sunday to Thursday 11am to midnight  
Friday and Saturday 11am to 1am
- Recorded Music (to take place indoors)  
Sunday to Thursday 11am to midnight  
Friday and Saturday 11am to 1am
- The Performance of Dance (to take place indoors)  
Sunday to Thursday 11am to midnight  
Friday and Saturday 11am to 1am
- Sale and supply of alcohol (for consumption on the premises only)  
Sunday to Thursday 11am to midnight  
Friday and Saturday 11am to 01.00am

and subject to the following conditions:

1. The Challenge 25 Policy be adopted
2. That CCTV be operated and maintained to the satisfaction of the Police Licensing Officer that recordings are retained for a period of 7 days and made available to the Police or Licensing Authority upon request
3. All windows and doors to be closed during the provision of live and recorded music except for the purpose of access and egress

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 9.30 am and concluded at 10.30 am

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 18th April, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors I Faseyi and G Wait

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Jim Hopper, Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **24 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

### **25 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **26 APPLICATION FOR A PREMISES LICENCE - DISCOVER THE BLUEDOT, JODRELL BANK OBSERVATORY, TELESCOPE FIELD, BOMISH LANE, MACCLESFIELD, CHESHIRE SK11 9DW**

The Sub-Committee considered a report regarding an application for a Premises Licence for Discover The Bluedot, Jodrell Bank Observatory, Telescope Field, Bomish Lane, Macclesfield, Cheshire SK11 9DW.

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

- three representatives of the applicant
- a representative of the Environmental Health Team
- two representatives of Lower Withington Parish Council
- two local residents

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy

- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

### RESOLVED

- a) That the application for a premises licence be granted as follows:
1. Hours Premises are open to the Public  
Friday 09.00 to Monday 13.00
  2. Sale and Supply of Alcohol (for consumption on the premises)  
Friday to Sunday 12.00 to 02.00 hours  
Sunday to Monday 12.00 to 01.00 hours
  3. Plays (to take place both indoors and outdoors)  
Friday to Sunday 9.00 to 03.00 hours  
Sunday to Monday 09.00 to 01.00
  4. Films (to take place both indoors and outdoors)  
Friday to Sunday 9.00 to 03.00 hours  
Sunday to Monday 09.00 to 01.00
  5. Performance of Dance (to take place both indoors and outdoors)  
Stand-alone dance performances as part of arts and cultural programme; dancing as part of live music and DJ performances.  
Friday to Sunday 9.00 to 03.00 hours  
Sunday to Monday 09.00 to 01.00
  6. Provision of Anything of a Similar Description to Live Music, Recorded Music or Performance of Dance (to take place both indoors and outdoors)  
Performance if walk about theatre/circus; other forms of arts performance  
Friday to Sunday 9.00 to 03.00 hours  
Sunday to Monday 09.00 to 01.00
  7. Late Night Refreshment (to take place both indoors and outdoors)  
Hot and cold food and hot drink served from food concessions  
Friday to Monday 23.00 to 05.00 hours
  8. Live Music and Recorded (to take place both indoors and outdoors)  
Friday and Saturday Main Stage 09.00 to 23.00  
All other stages 09.00 to 02.00  
Saturday to Sunday Main Stage 09.00 to 23.00  
All other stages 09.00 to 02.00

Sunday to Monday Main Stage 09.00 to 23.00

All other stages 09.00 to 01.00

b) That:

1. the conditions proposed by Environmental Health, as set out in Appendix 2 to the report, be attached to the premises licence
2. the conditions contained within the Noise Management Plan be attached to the premises licence
3. the conditions offered by the applicant in the application form (Appendix 1 to the report) be attached to the premises licence

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 2.00 pm and concluded at 4.35 pm

Councillor W S Davies (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Thursday, 12th May, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington and L Smetham

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Kim Evans, Licensing Team Leader  
Peter Jones, Lawyer  
Julie Zientek, Democratic Services Officer

#### **1 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

#### **2 DECLARATIONS OF INTEREST**

Councillor L Smetham declared that she was acquainted with one of the objectors as they had worked together twenty years previously and had occasional contact. However, this would not influence her decision and she had not pre-determined the application.

#### **3 APPLICATION FOR A PREMISES LICENCE - TABLEY TEAROOM, TABLEY HOUSE, TABLEY LANE, CHESTER ROAD, TABLEY, KNUTSFORD WA16 0HB**

The Sub-Committee considered a report regarding an application for a Premises Licence for Tabley Tearoom, Tabley House, Tabley Lane, Chester Road, Tabley, Knutsford WA16 0HB.

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

- the applicant
- three local residents

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003

- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as applied for.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 9.30 am and concluded at 10.40 am

Councillor W S Davies (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Thursday, 2nd June, 2016 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington and B Dooley

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Kim Evans, Licensing Team Leader  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

#### **4 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

#### **5 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **6 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE: THE MILL BAR AND RESTAURANT, TOWN MILL, HIGH STREET, SANDBACH, CW11 1AH**

The Sub-Committee considered a report regarding the application for the review of a Premises Licence for The Mill Bar and Restaurant, Town Mill, High Street, Sandbach, CW11 1AH.

The Licensing Team Leader reported that, although the requisite notices had been tampered with or removed entirely on a number of occasions, the relevant regulations had been substantially complied with and therefore the process was valid. This was confirmed by the Legal Officer present, and Sub-Committee Members agreed to proceed with the hearing.

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

- four representatives of Cheshire Constabulary
- a representative of the Public Health Team

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED – That:

1. a review of the Premises Licence of The Mill Bar and Restaurant, Town Mill, High Street, Sandbach, CW11 1AH is appropriate; and
2. the Premises Licence for The Mill Bar and Restaurant be revoked.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 9.30 am and concluded at 10.55 am

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Tuesday, 7th June, 2016 at The Capesthorne Room - Town Hall,  
Macclesfield SK10 1EA

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors M Parsons and L Smetham

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Peter Jones, Lawyer  
Martin Kilduff, Licensing Officer  
Julie Zientek, Democratic Services Officer

### **7 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

### **8 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **9 APPLICATION FOR A PREMISES LICENCE AT HILLTOP FARM, BUDWORTH HEATH LANE, ASTON BY BUDWORTH, CHESHIRE EAST, CW9 6NG**

The Sub-Committee considered a report regarding an application for a Premises Licence for Hilltop Farm, Budworth Heath Lane, Aston By Budworth, Cheshire East, CW9 6NG.

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

- the applicant
- two supporters of the applicant

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy

- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as applied for.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 10.50 am

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 1st August, 2016 at Committee Suite 1 & 2, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors A Harewood and M Warren

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **10 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

### **11 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **12 APPLICATION FOR A PREMISES LICENCE - OLD SESSIONS HOUSE, TOFT ROAD, KNUTSFORD WA16 0PB**

The Sub-Committee considered a report regarding an application for a Premises Licence for Old Sessions House (now called The Court House Hotel), Toft Road, Knutsford WA16 0PB.

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

- the applicant
- a representative of the applicant

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)

- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED – That:

1. the application for a premises licence be granted as applied for
2. the conditions proposed by Environmental Health, as agreed with the applicant and as set out in Appendix 4 of the report, be attached to the premises licence
3. the condition proposed by the Police, as agreed with the applicant and as set out in Appendix 5 of the report, be attached to the premises licence

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 10.40 am

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Friday, 5th August, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey and G Wait

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **13 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

### **14 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **15 APPLICATION TO VARY A PREMISES LICENCE - THE ANGEL INN, 98 KING STREET, KNUTSFORD WA16 6HQ**

The Sub-Committee considered a report regarding an application to vary a Premises Licence for The Angel Inn, 98 King Street, Knutsford WA16 6HQ.

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

- two representatives of the applicant

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)

- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application to vary a premises licence be granted as amended by the applicant prior to the hearing, as follows:

1. The retail sale of alcohol:
  - a. Sunday to Wednesday - 10am to Midnight
  - b. Thursday - 10am to 1am
  - c. Friday and Saturday – 10am to 2am
2. The provision of late night refreshment:
  - a. Sunday to Wednesday – 11pm to Midnight
  - b. Thursday – 11pm to 1am
  - c. Friday and Saturday – 11pm to 2am
3. The provision of regulated entertainments in the form of films, indoor sporting events, live music, recorded music, performance of dance:
  - a. Sunday to Thursday – 10am to Midnight
  - b. Friday and Saturday – 10am to 1am
4. On 26 pre-booked occasions per calendar year the premises may provide regulated entertainment from 10am to 1am on Thursday or 10am to 2am on Friday or Saturday.
5. To permit the sale of alcohol and such regulated entertainment authorised by the licence on New Years Eve commencing 10am on 31 December until 2am on 1 January.
6. Hours Open to the Public:
  - a. Sunday to Wednesday – 07:00 to 00:30
  - b. Thursday – 07:00 to 01:30
  - c. Friday and Saturday – 07:00 to 02:30

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 10.25 am

Councillor W S Davies (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 15th August, 2016 at West Committee Room - Municipal  
Buildings, Earle Street, Crewe, CW1 2BJ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors L Smetham and J Wray

### **OFFICERS IN ATTENDANCE**

Peter Jones, Lawyer  
Jennifer Knight, Senior Licensing Officer  
Julie Zientek, Democratic Services Officer

### **16 APPOINTMENT OF CHAIRMAN**

RESOLVED –That Councillor S Davies be appointed Chairman.

### **17 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **18 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE: WHITE HORSE, 22 PILLORY STREET, NANTWICH CW5 5BD**

The Sub-Committee considered a report regarding an application for the review of a Premises Licence for the White Horse, 22 Pillory Street, Nantwich CW5 5BD.

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

- the applicant
- a representative of the Environmental Health Team
- a representative of the Licensing Authority (acting as Responsible Authority)
- two representatives of premises licence holder
- the designated premises supervisor
- the leaseholder of the premises

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003

- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the terms of the revised operating schedule, as put forward by the Premises Licence Holder and Designated Premises Supervisor, be adopted to replace any existing discretionary conditions, subject to an amendment to paragraph 6 under the heading 'Prevention of crime and disorder', as follows:

### **General**

- 1 The premises licence holder shall require the Designated Premises Supervisor, or in his/her absence other responsible person, to keep an "incident/refusals report register" ('the register') in a bound book in which full details of all incidents are recorded. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register is to be kept on the premises at all times and shall be produced to a Police or Licensing Officer when requested.
- 2 The DPS or nominated member of staff shall attend Pub Watch meetings and ensure that Pub Watch bans are identified and where possible reasonable steps are taken to ensure that those persons are excluded from the premises.
- 3 All authorised staff shall receive training at the commencement of their employment, commensurate with their duties, so that they have awareness of the licensing law and wider social responsibilities attached to the sale of alcohol and the conditions attached to the licence. Such training shall be recorded in writing and refresher training given every 6 months.

### **Prevention of crime and disorder**

- 1 CCTV equipment shall be installed at the premises, with the number of cameras and citing to be agreed, where possible, in agreement with the Police.
- 2 Images to be retained for a minimum period as agreed with the police and made available to a Police or Licensing Officer upon request and as permitted under data protection legislation.

- 3 The CCTV equipment shall be maintained in good working order and continually record during licensable hours and for a period of two hours afterwards.
- 4 A member of staff technically able to operate the CCTV system shall be available during all licensable hours and shall comply with any reasonable request of an authorised officer of the Council or the Police to view any CCTV "footage" that has been recorded. The Premises licence Holder shall ensure that a member of staff shall be technically able to reproduce CCTV images into a removable format and that such format shall be produced within 24 hours following a request from an authorised officer of the Council or the Police, where such request does not breach data protection legislation.
- 5 The correct time and date shall be generated onto both the recording and real time image screen of the CCTV.
- 6 A minimum of 2 SIA door supervisors are to be employed every Friday and Saturday night and Sunday between 20:00 hours and the close of the premises to the public. At all other times that regulated entertainment is provided, the need to employ door supervisors will be risk assessed by the DPS/manager and the number of door supervisors identified as being required shall be employed for the time required by the risk assessment.
- 7 The premises licence holder shall ensure that where the door supervisors are employed at the premises, they enter in a bound register kept for that purpose their full name, badge number, (including expiry date), the time they commenced their duty and the time they completed their duty, immediately after doing so. This register shall be kept at the premises at all times and made available to a police or licensing officer immediately on requirement. Particulars of duties covering a minimum period of 31 days prior to the requirement shall be available.
- 8 The premises licence holder shall ensure that all door supervisors employed at the premises wear a current identification badge, issued by the Security Industry Authority, in a conspicuous position to the front of their upper body.

### **Public Safety**

- 1 The premises licence holder shall ensure that all drinking glasses used within the premises are of the polycarbonate type or toughened or safety glass to the appropriate safety standard, in that they shall not produce sharp shards when broken.
- 2 The Premises licence holder shall provide training for all staff to ensure that they are familiar with all means of ingress and egress

and the appropriate procedures in case of any emergencies that require an immediate evacuation of the premises.

### **Prevention of public nuisance**

- 1 Recorded music shall be played at a reasonable level so that does not disturb any neighbouring residents.
- 2 For the final 30 minutes of any Dj set due to terminate after midnight, the music levels are to be audibly reduced to affect a 'winding down' period. At the end of their set, Djs to remind customers to leave quietly. The manager on any evening when a Dj is scheduled to play will notify the Dj of this requirement prior to the start of his set and will ensure that the volume is reduced for the required 30 minute winding down period.
- 3 No speaker for amplification of music or speech shall be placed on the outside of the premises, with the exception of the annual Nantwich Jazz Festival and Nantwich Folk Festival.
- 4 Except for access and egress all external doors and windows to the front bar shall be kept closed whilst regulated entertainment is being performed at the premises
- 5 Noise Limiters  
A noise limiting device shall be used in relation to all sound amplification equipment used in conjunction with the premises licence.
  - (a) The noise limiting device shall be installed and set at a level approved by the Council through an authorised officer of the Pollution Control Team.
  - (b) The noise limiting device shall be properly secured so that this can not be tampered with.
  - (c) The noise limiting device shall only be reset with the authority of the Council through an authorised officer of the Pollution Control Team. If deemed necessary, the noise limiting device shall be reset to a level approved by the Council through an authorised officer of the Pollution Control Team within 14 days of notification.
- 6 No nuisance shall be caused by vibrations transmitted through the structure of the premises
- 7 The outdoor area at the rear of the premises shall not be used by customers after 23.30 hours except for the designated smoking area. After 23.30 hours, no more than 20 customers may use this area at any one time.
- 8 There shall be no consumption of beverages at the front of the premises after midnight.

- 9 Customers will not be permitted to congregate outside the front of the premises after midnight. Customers going outside to smoke will be asked to smoke in the designated smoking area to the back of the premises.
- 10 The premises supervisor, manager or other competent person shall manage the outdoor area to ensure that customers do not behave in a noisy, rowdy or offensive manner.
- 11 Clear notices must be displayed at the prominent points in all outdoor areas informing customers to respect the needs of local residents and behave in a quiet and orderly manner.
- 12 A dispersal policy ('the policy') shall be drawn up and implemented at the premises to ensure that customers leave the premises quickly and quietly at the end of the night. When door staff are employed, there will be responsible, along with the manager, for implementation of the policy.
- 13 Windows and doors at the rear of the premises to be closed after 20:00 hours each evening
- 14 Activities relating to the placing of refuse, bottles and recyclable material into external receptacles shall only take place between 09.00 hours and 20.00 hours.
- 15 A complaints book shall be kept at the premises and any complaints received from members of the public will be recorded in it. As a minimum, the record will contain the date, time and nature of the complaint, along with the names of the complainant (if known), the person making the record and any action taken.
- 16 The licence holder shall ensure that adequate measures are in place to remove litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises. In particular, where necessary the premises licence holder shall ensure that adequate measures are in place to provide customers with sufficient receptacles for the depositing of waste materials such as etc.
- 17 Notices shall be displayed at all exits to the premises reminding customers to respect the premises' neighbours and leave quietly.

#### **Protection of children from harm**

- 1 All children must be accompanied and supervised by an adult.
- 2 Children shall not be permitted on the premises after 21:00 hrs unless attending a pre-booked function or table meal, in which case children can stay until the function ends or the meal is finished.

- 3 All staff to be trained in the prevention of under age sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or police.
- 4 An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as "Challenge 21" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 21 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

The Applicant and Parties who had made relevant representations were reminded of their right to appeal this decision to the Magistrates' Court within 21 days.

The meeting commenced at 10.00 am and concluded at 12.25 pm

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 10th March, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington, E Brooks, M Parsons and G Wait

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Peter Jones, Lawyer  
Julie Zientek, Democratic Services Officer

### **60 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **61 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **62 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **63 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.

### **64 15-16/32 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

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

The Sub-Committee was informed that the matter 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 applicant was a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

The applicant and two representatives of the applicant attended the hearing and made representations in respect of the case.

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 a formal warning be issued with respect to the applicant's future conduct.
- (b) That the applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and that the application for the renewal of a Joint Hackney Carriage/Private Hire Driver Licence be granted.

**65 15-16/33 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's Licence.

The Sub-Committee was informed that the matter 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 attended the hearing and made representations in respect of the case.

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 at this time a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence and that no further action be taken.

**66 15-16/34 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE AND A PRIVATE HIRE OPERATOR'S LICENCE**

Note: Councillor D Bebbington declared that he knew a colleague of the licence holder and Councillor G Wait declared that she was the Chair of Transport Service Solutions Ltd. Following advice from the Lawyer present, both Councillors confirmed that they felt able to give an impartial judgement in this case.



The Sub-Committee considered a report regarding the holder of a Joint Hackney Carriage/Private Hire Driver's Licence and a Private Hire Operator's Licence.

The Sub-Committee was informed that the matter 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 a Private Hire Operator's Licence.

The licence holder attended the hearing and made representations in respect of the case.

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 a formal warning be issued with respect to the licence holder's future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and a Private Hire Operator's Licence, and that no further action be taken.

**67 15-16/35 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Chairman reported that this item had been withdrawn from the agenda prior to the meeting, as the licence holder had not submitted an application to renew their Joint Hackney Carriage/Private Hire Driver Licence, which had expired.

**68 15-16/36 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a request from the applicant to defer consideration of the application to a future meeting.

**RESOLVED** - That consideration of the application be deferred to a future meeting to enable the applicant's legal representative to attend.

The meeting commenced at 9.30 am and concluded at 12.00 pm

Councillor W S Davies (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Wednesday, 6th April, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington, M Deakin, B Dooley and M Warren

### **OFFICERS IN ATTENDANCE**

Richard Hellon, Licensing Officer

Peter Jones, Lawyer

Julie Zientek, Democratic Services Officer

### **69 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **70 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **71 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **72 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.

### **73 15-16/37 - APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/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 case.

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

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

**74 15-16/37 - APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/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 case.

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 applicant is not a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a Joint Hackney Carriage/Private Hire Driver 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 1.00 pm and concluded at 1.55 pm

Councillor W S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Friday, 13th May, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors A Harewood, M Parsons, M Warren and J Wray

### **OFFICERS IN ATTENDANCE**

Jim Hopper, Licensing Officer

Aoife Ryan, Lawyer

Julie Zientek, Democratic Services Officer

#### **1 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

#### **2 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

#### **3 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **4 EXCLUSION OF THE 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.

#### **5 15-16/38 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/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 supporter of the applicant attended the hearing and made representations in respect of the case.

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

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

**6 15-16/39 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's Licence.

The Sub-Committee was informed that the matter 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 attended the hearing and made representations in respect of the case.

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 a formal warning be issued with respect to the licence holder's future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence, and that no further action be taken.

**7 15-16/40 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's Licence.

The Sub-Committee was informed that the matter 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 and a supporter of the licence holder attended the hearing and made representations in respect of the case.

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 Driver's Licence, and that the licence be revoked with immediate effect.

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

**8 15-16/41 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/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 case.

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 applicant is a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that delegated authority be granted to the Licensing Team Leader to grant the application for a Joint Hackney Carriage/Private Hire Driver Licence subject to:

- a) An enhanced Disclosure and Barring Service (DBS) Check
- b) A Licensing qualification (BTEC or NVQ)
- c) A DVLA licence check
- d) Successful completion of the Council's in-house knowledge test
- e) Confirmation that the applicant is medically fit to Group Two standards

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

The meeting commenced at 9.30 am and concluded at 1.00 pm

Councillor W S Davies (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Friday, 1st July, 2016 at East Committee Room - Municipal Buildings,  
Earle Street, Crewe, CW1 2BJ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey, D Bebbington, B Dooley and I Faseyi

### **OFFICERS IN ATTENDANCE**

Richard Hellon, Licensing Officer  
Jim Hopper, Licensing Officer  
Jennifer Knight, Senior Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **9 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **10 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **11 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **12 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.

### **13 16-17/3 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's Licence.

The Sub-Committee was informed that the matter 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 and a supporter of the licence holder attended the hearing and made representations in respect of the case.

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 Driver's Licence, and that the licence be revoked with immediate effect.

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

**14 16-17/2 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of 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 the renewal of a Hackney Carriage/Private Hire Driver's Licence should be granted.

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

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 applicant is a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that the application for the renewal of a licence be granted.

**15 16-17/1 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's Licence.

The Sub-Committee was informed that the matter 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 Driver's Licence, and that the licence be revoked with immediate effect.

The Sub-Committee noted that the Licence Holder would be 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 11.55 am

Councillor W S Davies (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 25th August, 2016 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington, E Brooks, T Dean and M Warren

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Jim Hopper, Licensing Officer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **16 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **17 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **18 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **19 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.

### **20 16-17/4 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's Licence.

The Sub-Committee was informed that the matter 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 and a witness attended the hearing and made representations in respect of the case.

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 a formal warning be issued with respect to the licence holder's future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that no further action be taken.

**21 16-17/5 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for a Joint 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, 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 applicant is a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be granted, subject to receipt of a satisfactory medical certificate after 24 months.
- (b) That the applicant be permitted to be exempt from Condition 2(v) of the Council's Joint Hackney Carriage/Private Hire Driver Licence Conditions.

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

**22 16-17/6 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint 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 the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant and a supporter of the applicant attended the hearing and made representations in respect of the case.

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

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

**23 16-17/7 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint 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 the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

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

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 applicant is not a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a Joint Hackney Carriage/Private Hire Driver 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 1.10 pm

Councillor W S Davies (Chairman)



## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Wednesday, 21st September, 2016 at Committee Suite 2/3 -  
Westfields, Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor W S Davies (Chairman)

Councillors D Bebbington, A Harewood, G Wait and M Warren

### **OFFICERS IN ATTENDANCE**

Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Jim Hopper, Licensing Officer  
Deborah Nickson, Lawyer  
Aoife Ryan, Lawyer  
Julie Zientek, Democratic Services Officer

### **24 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **25 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **26 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **27 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.

### **28 16-17/9 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/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 case.

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 applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be granted for a period of twelve months to enable the applicant to demonstrate that they continue to be a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence. The grant of the licence to be subject to:
  - A satisfactory enhanced Disclosure and Barring Service (DBS) Check
  - Successful completion of the Council's in-house knowledge test
- (b) That the application for renewal of this licence be referred to a meeting of the General Licensing Sub-Committee for consideration, to enable the Licence Holder to demonstrate that they continue to be a fit and proper person to hold a licence.

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

**29 16-17/8 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint 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 the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

The applicant and a supporter of the applicant attended the hearing and made representations in respect of the case.

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 applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence, and that the application for the renewal of a licence be granted for a period of twelve months to enable the applicant to demonstrate that they continue to be a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

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

30 **16-17/10 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's Licence.

The Sub-Committee was informed that the matter 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 and a supporter of the licence holder attended the hearing and made representations in respect of the case.

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 Driver's Licence and that the licence be revoked.

The licence holder 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 11.50 am

Councillor W S Davies (Chairman)

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## CHESHIRE EAST COUNCIL

### REPORT TO: Licensing Committee

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<b>Date of Meeting:</b>	7 <sup>th</sup> November 2016
<b>Report of:</b>	Miss Kim Evans – Licensing Team Leader
<b>Subject/Title:</b>	Review of Licensing fees and charges for the financial year 2017/2018
<b>Portfolio Holder:</b>	Cllr Paul Bates – Communities and Health

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#### **1.0 Report Summary**

- 1.1 To seek Members approval to the review of the licensing fees and charges for the issuing and renewal of licenses, consents and permits issued by the Licensing Team.

#### **2.0 Recommendation**

- 2.1 That Members confirm the fees payable as set out in appendix A.
- 2.2 In respect of Hackney Carriage and Private Hire Licensing to authorise the Licensing Team Leader to publish the fees in accordance with the relevant legislative provisions.

#### **3.0 Reasons for Recommendations**

- 3.1 A review of the fees payable in respect of various types of licence and permits administered and enforced by the Licensing Section has been made for the next financial period. For the fees to be lawful and levied correctly a review of all licensing fees and charges needs to be made followed by publication in a newspaper.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All Members

#### **6.0 Policy Implications**

- 6.1 The fees proposed are compatible with our charging strategy.

#### **7.0 Financial Implications**

- 7.1 Where possible, the licensing service aims to recover all reasonable costs. In a number of areas, statute dictates whether a fee may or may not be charged and the level of that charge.

## **8.0 Legal Implications**

- 8.1 Regulation 2 (6) of the Local Authorities (Functions and Responsibilities) Regulations 2000 confirms that where the issuing of any licence, permit, or consent is a Council function, the fee must also be set by the Council. The Council has made provision in its Constitution for the setting of fees to be delegated to the Licensing Committee.
- 8.2 The Licensing Act 2003 (along with all licences except those relating to taxis and gambling) are also subject to the EU Service (2006). This directive, which has been incorporated in UK law by the Provision of Services Regulations 2009, confirms:
1. Fee charges must be proportionate to the cost of the process
  2. Fees cannot be used as either a deterrent or to raise funds
  3. Enforcement should not be included in the fees
- 8.3 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.
- 8.4 In respect of vehicle and operators' licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:
- The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
  - The reasonable cost of providing Hackney Carriage stands
  - Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles
  - The Act, which dates from 1976, also states that the fee for vehicle and operator licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs £25 is not seen as a realistic fee to impose. The fee has not been set at this rate for a significant number of years.
- 8.5 In respect of drivers' licences the Act states that the Council may charge, 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences'.

- 8.6 Any other fees are restricted by legislation (eg Licensing Act 2003) and the Council has no power to vary such fees. There is no power to levy a fee for any Charitable Collection authorisations.
- 8.7 Additionally, there is some case law that has further developed the requirements in relation to the setting of all fees:
- The Licensing Authority cannot make a profit and must carry forward surplus - R v Manchester CC ex parte King (1991) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
  - Deficits can be recouped through increasing fees (this can be done at any time including mid year) - R v Tower Hamlets LBC ex parte Tower Hamlets Combined Traders Association (1994) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
  - Only administration and issue costs can be taken into consideration - R (app Simply Pleasure and Ors) v Westminster CC (2012)
  - Compliance with a licence or conditions etc is compliance rather than enforcement - R v Associated Octel co Ltd (costs) (1996)

### **9.0 Risk Management**

- 9.1 There is a right to object to most fees set following publication of the Statutory Notices. If valid objections are received the matter would be referred back to the Members of this Committee for determination

### **10.0 Background**

- 10.1 The Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations but some fees can be set by Local Authorities to cover the cost of administration, compliance and some elements of enforcement; Locally Set Fees.
- 10.2 The service where possible aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, purchase costs etc.
- 10.3 The current Locally Set Fees have remained the same since 2011 and took account of the Council's aim to recover reasonable costs and the relevant statutory powers that fall within the remit of the service.
- 10.4 A number of fees are fixed by Statute, these are highlighted in Appendix A.
- 10.5 Fees have remained at current levels for several years and whilst the licensed trade have been affected by the economic downturn and have pressed the Council to support them by keeping costs down. The Licensing Team has been able to make efficiency savings that have alleviated most budgetary pressures by reducing costs.

### **11.0 Access to Information**

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

Name: Miss Kim Evans

Designation: Licensing Team Leader

Tel No: 0300 123 5015

Email: [kim.evans@cheshireeast.gov.uk](mailto:kim.evans@cheshireeast.gov.uk)



SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV					2017/18	2016/17	2017/18	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, etc)
<b>LICENSING</b>										
<b>Proposed Fees for Cheshire East</b>										
Adult Gaming Centre Initial Application					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Annual Fee					615.00	615.00	615.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Application to Vary					922.00	922.00	922.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Application to Transfer					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Re-instatement of Licence					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Provisional Statement					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Application - Provisional Statement Holders					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Copy of Licence					25.00	25.00	25.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Adult Gaming Centre Notification of change					50.00	50.00	50.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Initial Application					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Annual Fee					600.00	600.00	600.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Application to Vary					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Application to Transfer					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Re-instatement of Licence					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Provisional Statement					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Application - Provisional Statement holders					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Copy of Licence					25.00	25.00	25.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Betting Shops Notification of Change					50.00	50.00	50.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Initial Application					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Annual Fee					615.00	615.00	615.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Annual Fee					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Application to Vary					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Re-instatement of Licence					358.75	358.75	358.75	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Provisional Statement					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Application - Provisional Statement Holders					922.50	922.50	922.50	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Copy of Licence					25.00	25.00	25.00	Licensing Committee	Clr Paul Bates	Set by Central Government
Bingo Notification of Change					50.00	50.00	50.00	Licensing Committee	Clr Paul Bates	Set by Central Government



SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV	2016/17	2017/18	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, etc)
	Current Charges £	Proposed Charges £			
Track Betting Initial Application	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Annual Fee	615.00	615.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Application to Vary	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Application to Transfer	358.75	358.75	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Re-instatement of Licence	358.75	358.75	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Provisional Statement	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Application - Provisional Statement Holders	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Copy of Licence	25.00	25.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Track Betting Notification of Change	50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Initial Application.	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Annual Fee	615.00	615.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Application to Vary	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Application to Transfer	358.75	358.75	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Re-instatement of Licence	358.75	358.75	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Provisional Statement	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Application - Provisional Statement Holder	922.50	922.50	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Copy of Licence	25.00	25.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Family Entertainment Centre Notification of Change	50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Licensed premises gaming machine permits initial application	150.00	150.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Licensed premises gaming machine permits variation	50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Licensed premises gaming machine permits annual fee	100.00	100.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Temporary Use Notice (TUN)	358.75	358.75	Licensing Committee	Cllr Paul Bates	Set by Central Government
Replacement Copy of TUN	25.00	25.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
<b>Gambling Permits - All permit fees are set statutorily:</b>					
Gambling - gaming machine permits (in alcohol licensed premises)					
New - 3 or more machines	150.00	150.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
New - Max of 2 machines - one off fee	50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Variation - 3 or more machines	100.00	100.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Transfer	25.00	25.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
First annual fee - 3 or more machines	50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government



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SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV		2016/17	2017/18	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, etc)
Annual fee - 3 or more machines		50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Copy of Permit		15.00	15.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Change of Name		25.00	25.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Gambling - gaming machine notification (in alcohol licensed premises)		50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Gambling - gaming machine permit (in unlicensed Family Entertainment Centre)						
New		300.00	300.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Renewal		300.00	300.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Gambling - prize gaming permit						
New		300.00	300.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Renewal		300.00	300.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Gambling - club gaming permit 10 year duration						
New		200.00	200.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Renewal		200.00	200.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Annual fee		50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Gambling - club machine permit 10 year duration						
New		200.00	200.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Renewal		200.00	200.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Annual fee		50.00	50.00	Licensing Committee	Cllr Paul Bates	Set by Central Government
Fees relating to vehicle and private hire operator licences, items marked ( * ) below are subject to consultation and approval by the Licensing Committee.						
Hackney Carriage and Private Hire Vehicles						
* Hackney Carriage - 1 year		301.00	301.00	Licensing Committee	Cllr Paul Bates	
* Private Hire Vehicle - 1 year		301.00	301.00	Licensing Committee	Cllr Paul Bates	
* Hackney Carriage / Private Hire Additional Test Fee		78.00	78.00	Licensing Committee	Cllr Paul Bates	
Joint Hackney Carriage / Private Hire Driver - 3 years		228.00	228.00	Licensing Committee	Cllr Paul Bates	
* Private Hire Operator - 5 years		347.00	350.00	Licensing Committee	Cllr Paul Bates	To meet cost of service provision



SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV					2017/18	2016/17	Justification (Basis / reason for increase, etc)
					Proposed Charges £	Current Charges £	
* Vehicle Re-test Fee					37.00	37.00	
Joint Hackney Carriage / Private Hire driver - Renewal							
DVLA Licence Check					166.00	166.00	
Local Knowledge Test					5.00	5.00	
Replacement Driver Badge					40.00	40.00	
Replacement Plates					10.00	10.00	
Replacement window stickers					10.00	10.00	
Transfer of licence					10.00	10.00	
					40.00	25.65	To meet cost of service provision
Disclosure and Barring Service (DBS) Applications							
					48.00	48.00	
Street Traders						364.00	
					375.00		To meet cost of service provision
Sex Establishments							
New application					2,280.00	2,280.00	
Renewal					1,140.00	1,140.00	
Transfer					500.00	500.00	
Variation					2,280.00	2,280.00	
Liquor Licences (Statutory Fees)							
Premises							
Rateable value							
£0 to £4,300	- New				100.00	100.00	Set by Central Government
£4,301 to £33,000	- Annual Fee				70.00	70.00	Set by Central Government
	- New				190.00	190.00	Set by Central Government
	- Annual Fee				180.00	180.00	Set by Central Government
£33,001 to £87,000	- New				315.00	315.00	Set by Central Government
	- Annual Fee				295.00	295.00	Set by Central Government
£87,001 to £125,000	- New				450.00	450.00	Set by Central Government
	- Annual Fee				320.00	320.00	Set by Central Government
£125,000 +	- New				635.00	635.00	Set by Central Government



SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV						
	2016/17	2017/18	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, etc)	
- Annual Fee	350.00	350.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Additional fees for exceptionally large events of a temporary nature						
Number of persons present						
5,000 - 9,999	1,000.00	1,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	500.00	500.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
10,000 - 14,999	2,000.00	2,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	1,000.00	1,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
15,000 - 19,999	4,000.00	4,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	2,000.00	2,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
20,000 - 29,999	8,000.00	8,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	4,000.00	4,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
30,000 - 39,999	16,000.00	16,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	8,000.00	8,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
40,000 - 49,999	24,000.00	24,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	12,000.00	12,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
50,000 - 59,999	32,000.00	32,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	16,000.00	16,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
60,000 - 69,999	40,000.00	40,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	20,000.00	20,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
70,000 - 79,999	48,000.00	48,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	24,000.00	24,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
80,000 - 89,999	56,000.00	56,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	28,000.00	28,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
90,000 and over	64,000.00	64,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
- Annual Fee	32,000.00	32,000.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Notification of change of name or address of premises licence holder or club	10.50	10.50	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Application to vary to specify individual as designated premises supervisor	23.00	23.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Notification of change of address of designated premises supervisor	10.50	10.50	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Notification of alteration of club rules	10.50	10.50	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Application to transfer premises licence	23.00	23.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	
Interim authority notice	23.00	23.00	Licensing Committee	Cllr Paul Bates	Set by Central Government	

SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV					2017/18	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, etc)
					2016/17	Current Charges £		
Application for copy or summary					10.50			
Application for making of a provisional statement					315.00		Cllr Paul Bates	Set by Central Government
							Cllr Paul Bates	Set by Central Government
Personal								
Application for grant					37.00		Cllr Paul Bates	Set by Central Government
Application for copy					10.50		Cllr Paul Bates	Set by Central Government
Notification of change of name or address					10.50		Cllr Paul Bates	Set by Central Government
Temporary Event Notice								
Notification of a temporary event					21.00		Cllr Paul Bates	Set by Central Government
Application for copy					10.50		Cllr Paul Bates	Set by Central Government
Lottery								
Grant (initial)					40.00		Cllr Paul Bates	Set by Central Government
Renewal					20.00		Cllr Paul Bates	Set by Central Government

## CHESHIRE EAST COUNCIL

### Licensing Committee

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<b>Date of Meeting:</b>	7 <sup>th</sup> November 2016
<b>Report of:</b>	Miss Kim Evans – Licensing Team Leader
<b>Subject/Title:</b>	Consideration of the Late Night Levy by the Licensing Working Group
<b>Portfolio Holder:</b>	Cllr Paul Bates - Communities and Health

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#### 1.0 Report Summary

- 1.1 To provide Members of the Committee with the findings of the working group tasked with considering the Late Night Levy (LNL).

#### 2.0 Recommendation

- 2.1 That Members note the content of the report and consider the proposed recommendations within the report (appendix A):

*The working group recommends that the Licensing Committee resolves that the implementation of the Late Nigh Levy or an Early Morning Restriction Order is not appropriate at this time.*

#### 3.0 Reasons for Recommendations

- 3.1 Members of the Licensing Committee have been requested to consider whether the Council should consider imposing a Late Night Levy.
- 3.2 On the 14<sup>th</sup> January 2014 the Licensing Committee resolved to form a working group to look into the matter and report back to the Licensing Committee with the findings and recommendations based on their work.

#### 4.0 Wards Affected

- 4.1 All

#### 5.0 Local Ward Members

- 5.1 All

#### 6.0 Policy Implications

- 6.1 The Council has committed, in its Strategic Plan, to ensuring that the residents of Cheshire East 'live well and for longer' and that we have a 'strong and resilient economy'.



6.2 Similarly, the Cheshire East Health and Wellbeing Strategy has a number of key aims linked to alcohol consumption:

- Reduce the levels of alcohol use/misuse by Children and Young People
- Reduce the incidence of alcohol related harm

6.3 The Council's current Statement of Licensing Policy confirms the Council will consider whether a Late Night Levy (LNL) or an Early Morning Restriction Order (EMROs) is an appropriate and proportionate tool to be used within Cheshire East.

6.4 This Policy together with the Statutory Guidance issued by the Home Office in respect of the Licensing Act 2003 confirms the key aims involved in the licensing regime:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them

## **7.0 Financial Implications**

7.1 If Members were minded to consider the implementation of a Levy or the creation of any Orders, additional funding to meet all the implementation requirements (including any further evidence gathering, public notices, and consultation) would need to be identified. Current budgetary allocations make no provision for further development of these proposals or options.

7.2 The cost of implementing a LNL can be recovered from the gross amount collected and deducted before the apportionment of the net figure (ie a minimum of 70% payable to Cheshire Constabulary). However, if the Council were to consult on the implementation of the Levy and having considered the



results of the consultation determine that it should not be implemented additional resources would need to be identified to recover the costs of the consultation process (including public notices).

- 7.3 Additionally, if the Council were to implement the LNL any premises that fall into the levy period would be able to apply for a free variation of licence to reduce their hours to stay outside of the levy scheme. It is impossible to estimate the number of premises that might utilise this facility, but it is likely to impact significantly on the capacity within the Licensing and Legal Teams and consideration should be given to identifying additional financial and staff resources.
- 7.4 There would be no income generated by the creation of an EMRO and it is not possible to quantify the financial benefit, if any, to the Council of their creation.

### **8.0 Legal Implications**

- 8.1 The Police Reform and Social Responsibility Act 2011 enables Licensing Authorities to determine that the LNL is to apply in its area. The Licensing Authority can therefore charge a levy to persons who sell alcohol during the 'late night supply period' to raise contributions towards the enforcement cost associated with the night-time economy
- 8.2 The 'late night supply period' must begin at or after midnight and end at or before 6:00am, but must be the same period every day that it has effect. The LNL must apply to the whole of the Licensing Authority area and is payable by the holder of a 'relevant late night authorisation'. A 'relevant late night authorisation' means a Premises Licence or Club Premises Certificate which authorises the supply of alcohol during the late night supply period.
- 8.3 The Police Reform and Social Responsibility Act 2011 also amended the provisions of the Licensing Act 2003 that gives a Licensing Authority the power to make an EMRO if it considers it appropriate for the promotion of the Licensing Objectives. An EMRO restricts the sale of alcohol in a particular area for a specified period between the hours of midnight and 6:00am.
- 8.4 If an EMRO is made then existing premises licences and club premises certificates granted by the Authority, and temporary event notices given to the authority, would no longer authorise the sale of alcohol or the supply to club members during the period specified in the EMRO (ie sale of alcohol would stop at a specific time regardless of what the premises licence allows).
- 8.5 The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 confirms that the functions relating to the Late Night Levy and Early Morning Restriction Orders are not to be the responsibility of the Council's Executive and are Licensing Authority functions. Additionally, the Council has previously made provision in its Constitution for all Licensing Authority functions (save for the adoption of the Statement of Licensing Policy which is reserved to Full Council by statute) to be discharged by the Licensing Committee.

- 8.6 In accordance with statutory responsibilities under section 17 of the Crime and Disorder Act 1998 the Council must take reasonable steps to tackle crime, disorder, substance misuse and anti-social behaviour.
- 8.7 The Council also has a statutory responsibility under the Health and Social Care Act 2012 for the health of the population of Cheshire East and it is noted that it is a priority of the local Health and Wellbeing Board to reduce alcohol related harm.

## **9.0 Risk Management**

- 9.1 Members must carefully consider all the information provided and any views received from appropriate stakeholders.
- 9.2 The EMRO and Late Night Levy provisions are both adoptive provisions that require consultation processes to be followed prior to a policy decision on either being made. Adopting either provision in circumstances that may result in a negative impact on existing licence holders will require reliable evidential justifications in order to withstand any potential challenge.
- 9.3 Specific consideration must be given to whether a LNL or EMRO is a proportionate and reasonable response to any problems in our night-time economy.

## **10.0 Background**

- 10.1 On the 14<sup>th</sup> January 2014 the Licensing Committee (the Committee) considered a request from Cabinet that it consider the implementation of a LNL. A report was presented to the Committee setting out the powers available to the Licensing Authority in relation to the LNL and EMRO.
- 10.2 Accordingly, the Licensing Committee resolved:

*That a Working Group, formed from Members of the Licensing Committee, be set up to identify options which may reduce the harmful effects of alcohol consumption within the Cheshire East area.*

- 10.3 The attached report (appendix A) sets out the work undertaken by the working group and sets out their findings and recommendations.

## **11.0 Access to Information**

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

Name: Miss Kim Evans  
Designation: Licensing Team Leader  
Tel No: 0300 123 5015  
Email: [kim.evans@cheshireeast.gov.uk](mailto:kim.evans@cheshireeast.gov.uk)

# Report



**Date:** 15<sup>th</sup> July 2016  
**Report of:** Licensing Working Group  
**Subject:** Consideration of the Late Night Levy

## Introduction

On the 14<sup>th</sup> January 2014 the Licensing Committee (the Committee) considered a request from Cabinet that it consider the implementation of a Late Night Levy (LNL). A report was presented to the Committee setting out the powers available to the Licensing Authority in relation to the LNL and Early Morning Restriction Orders (EMROs). This report is set out, together with its appendices, at annex 1.

At the meeting on the 14<sup>th</sup> January 2014 the Committee resolved:

*That a Working Group, formed from Members of the Licensing Committee, be set up to identify options which may reduce the harmful effects of alcohol consumption within the Cheshire East area.*

The Working Group set its own project specification in line with the resolution and instruction from the Licensing Committee. As part of this, the Working Group identified a number of other options available in addition to the Late Night Levy, which are:

- Early Morning Restrictions Orders
- Designated Public Place Orders
- Voluntary and best practice schemes
- Any other matter the Group considers appropriate

The project initiation document is set out at annex 2.

The Group has not meet as frequently as anticipated and the initial deadline for completion did slip. The timing of meetings has been frustrated by attempting to co-ordinate the availability of Working Group Members, Officers and proposed attendees. Additionally, the deadline was set with the anticipation that the group would be looking solely at the LNL. The group's plan and aim were extended beyond just the discussion of the LNL and extra time was needed to properly scrutinise all available options and information.

The Working Group has also undergone changes in membership, this has been due to the other commitments of the Members of the group and the local elections in May 2015, both of which resulted in changes in membership.

To help it formulate its recommendations to the Licensing Committee, the Group identified a number of key stakeholders to provide information and evidence. These

stakeholders are set out in the project plan and include; Cheshire Police, CEC Public Health Team, licence holders and trade representatives.

### **Legal Powers**

The Police Reform and Social Responsibility Act 2011 enables Licensing Authorities to determine that the LNL is to apply to the whole of its area. The Licensing Authority can therefore charge a levy to persons who sell alcohol during the 'late night supply period' to raise contributions towards the enforcement cost associated with the night-time economy.

The Police Reform and Social Responsibility Act 2011 also amended the provisions of the Licensing Act 2003 that gives a Licensing Authority the power to make an EMRO if it considers it appropriate for the promotion of the Licensing Objectives. An EMRO restricts the sale of alcohol in a particular area for a specified period between the hours of midnight and 6:00am. This ability to have an EMRO apply to specific areas within the Borough contrasts against the potential inflexibility of the LNL (ie that it can only apply to the whole of the Borough).

The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 confirms that the functions relating to the Late Night Levy and Early Morning Restriction Orders are not to be the responsibility of the Council's Executive and are Licensing Authority functions. Additionally, the Council has previously made provision in its Constitution for all Licensing Authority functions (save for the adoption of the Statement of Licensing Policy which is reserved to full Council by statute) to be discharged by the Licensing Committee.

### **Summary of Group meetings**

#### 7<sup>th</sup> March 2014

The first meeting was used to elect the Chairman and Vice-Chairman and agree the project plan.

#### 24<sup>th</sup> March 2014

The working group met to discuss information circulated to Members by email; examples of the different types of voluntary schemes and how they work, Business Improvement Districts, Drinking Banning Orders, and information on action taken by other Licensing Authorities.

#### 12<sup>th</sup> June 2014

Group Members considered Licensing income and expenditure in a meeting with the Finance Portfolio Holder. Members wanted to establish what the scope was to use current income from fees.

#### 21<sup>st</sup> August 2014

Members invited Cllr Jos Saunders to provide information on the ways Poynton Town Council had successfully tackled alcohol related anti-social behaviour. Members were keen to identify any examples of good practice that might be extended Borough wide. Cllr Saunders explained to the Working Group that in 2000 Poynton Town Council were concerned with the issues alcohol was causing in the Town. Cllr Saunders explained that the Town Council part funded PCSO posts and provided diversionary activities,

including a youth safety project highlighting the effects of alcohol consumption. The Police's red/yellow card system was also used, with parents being written to or visited. The Community were heavily involved, with local residents taking responsibility to lock parks to reduce their use for underage drinking and anti-social behaviour etc. The Town Council also collated information on problem areas and problem premises. She reported that these activities contributed to a significant reduction in the problems being faced.

### 22<sup>nd</sup> September 2014

Meeting with members of the Council's Public Health Team and the Cabinet Member for Health and Wellbeing. The Public Health Team provided information to the Group in advance of the meeting. This information is set out at annex 3. The Working Group is also aware of the pan Cheshire and Merseyside aim to introduce a byelaw implementing a minimum unit price for alcohol.

### 22<sup>nd</sup> December 2014

The working Group discussed the use and effectiveness of Cumulative Impact Policies, discussed progress with the Cabinet Member for Localism and Enforcement and considered oral evidence from a representative from Macclesfield Street Angels. The Street Angels representative explained their role and the initiatives they undertake. He also set out his view that the poor reputation that Macclesfield has in relation to alcohol related disorder was unjustified and that in his experience the number of issues faced was quite small. His experience of Macclesfield was also that lack of Policing was not an issue and that door supervisors help to maintain calm.

### 14<sup>th</sup> January 2015

The Group met with a solicitor from Poppleston Allen a firm who represent various licensed traders. A representative from the British Institute of Innkeepers was also invited but was unable to attend due to traffic issues. The aim of this meeting was to ascertain the views of the licensed trade. It was confirmed that several Councils were considering or had considered both the LNL and EMROs. Whilst no Council's had implemented an EMRO some Council's had taken forward the LNL. In all cases the Council's evidence and justification for using the powers was rightly fully scrutinised. Some Councils have considered or consulted on the LNL/EMRO and considered that they are not appropriate. The Councils that have taken forward the LNL so far are in the main city locations, locations with a college or university drinking culture, or locations with a dense concentration of licensed premises. (Some examples of areas with a LNL are; Newcastle, Islington and Camden. Examples of Councils who have considered and rejected the LNL are; Leeds, Milton Keynes, Woking,

### 24<sup>th</sup> November 2015

A representative from NHS England spoke to the group on the effects of alcohol harm on the NHS. He also stated that locally they do not do as much data recording as possible, but anecdotal information and experience was discussed. The information at annex 4 was also provided in advance of the meeting.

A number of meetings have been organised with Cheshire Police. However, these meetings have been rescheduled or cancelled at the request to the Police due to work commitments. The Police did provide updated information in relation to crime and disorder figures within Cheshire East (annex 5).

Whilst the working group was able to meet and have discussions with a representative from NHS England, we were not able to meet with representatives from the CCGs despite a number of invitations being extended to them.

### **Evidence considered**

Evidence specifically considered has been described in the above section and provided in the relevant annexes. The Working Group has considered both documentary and oral evidence and appropriate weight has been given to each.

### **Policy considerations**

The Council has committed, in its Strategic Plan, to ensuring that the residents of Cheshire East 'live well and for longer' and that we have a 'strong and resilient economy'.

Similarly, the Cheshire East Health and Wellbeing Strategy has a number of key aims linked to alcohol consumption:

- Reduce the levels of alcohol use/misuse by Children and Young People
- Reduce the incidence of alcohol related harm

The Council's current Statement of Licensing<sup>1</sup> confirms that the Council will consider whether a LNL or EMRO is appropriate. This revised Policy together with the Statutory Guidance issued by the Home Office<sup>2</sup> in respect of the Licensing Act 2003 confirms the key aims involved in the licensing regime:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them

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<sup>1</sup> <http://www.cheshireeast.gov.uk/business/licensing/licensing.aspx>

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418114/182-Guidance2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf)

## National Context

The Licensing Act 2003 came into force throughout England and Wales in 2005. Consequently, in 2015/2016 a number of reports were published looking at the 10 years of regulation under the new legislation and its effect on the consumption of alcohol. Two of the more high profile reports were conducted by the Institute of Alcohol Studies (IAS)<sup>3</sup> and the Institute of Economic Affairs (IEA)<sup>4</sup>. Both reports contain a good summary of the reasons for the Licensing Act 2003 coming into being and also explain some of the hopes and fears concerning the change. The reports do come to different conclusions on the effect the Act has had, the current situation in relation the harmful effects of drinking and the impact on stakeholders. Each report provides its own evidence or statistics to support their contentions. Both reports are lengthy and have not been shared for reasons of space.

In 2012 the Home Office carried out a 12 week consultation 'Dealing with the Problems of Late Night Drinking'<sup>5</sup>, inviting views on two measures in the Police Reform and Social Responsibility Act 2011 (2011 Act), the Late Night Levy and Early Morning Restriction Orders. Following this consultation regulations implementing these powers were made on 31st October 2012.

This followed the 2010 'Rebalancing the Licensing Act'<sup>6</sup> review where the aim was to give greater powers to Councils and local residents.

It has therefore been recognised that the licensing regime did require changing to shift its perspective and that the prospect of a café culture originally envisaged at the time the Licensing Bill was proceeding through Parliament has largely failed.

Where the Licensing Act has been successful is the bringing together of different regulatory and licensing regimes often undertaken by different organisations. This has reduced the burden on businesses as it shifted from a quasi-judicial process to an administrative one.

In 2015 the Office for National Statistics published its 'Examining violent incidents where the victim perceived the offender to be under the influence of alcohol – from the Crime Survey for England and Wales, 2013/14'<sup>7</sup>. This information summarised the general trend across the Country and confirmed the following:

- 53% of violent incidents involving adults were alcohol-related
- Violence was more often alcohol-related in incidents involving male victims
- Alcohol-related violent incidents most commonly involved strangers, followed by acquaintances and incidents of domestic violence
- Violent incidents were more likely to involve alcohol at the weekend
- The proportions of violent incidents that were alcohol-related increased as the evening progressed. Between midnight and 06:00 84% of violent incidents involved alcohol

<sup>3</sup> <http://www.ias.org.uk/uploads/pdf/IAS%20reports/rp22032016.pdf>

<sup>4</sup> [http://www.iea.org.uk/sites/default/files/publications/files/Briefing\\_1505\\_Drinking%20fast%20and%20slow\\_web.pdf](http://www.iea.org.uk/sites/default/files/publications/files/Briefing_1505_Drinking%20fast%20and%20slow_web.pdf)

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/157850/consult-response-late-drinking.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/157850/consult-response-late-drinking.pdf)

<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/157942/alcohol-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/157942/alcohol-consultation.pdf)

<sup>7</sup> <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime-and-sexual-offences--2013-14/sty-facts-about-alcohol-related-violence.html>

Some examples of the Councils who have considered the implementation of a LNL are sent out previously in this report. In 2015 Poppleston Allen solicitors published their survey of Local Authorities in England and Wales. The survey was conducted to assess their views on the LNL and EMROs<sup>8</sup>. Their findings confirm that, of those who responded, only 3.4% consider it likely that they will propose to introduce the LNL and 2% consider it likely that they will propose the introduction of an EMRO.

### **The situation in Cheshire East**

Cheshire East is the third biggest unitary authority in the North West and the thirteenth largest in the country. It therefore has a wide breadth of social grades, age profiles and ranges of affluence. Similarly, there are vast areas of the Borough, which are rural and sparsely populated and areas of higher density.

Cheshire East has an estimated population of 372,700<sup>9</sup>, the population density is 3.2 residents per hectare<sup>10</sup>, making Cheshire East less densely populated than the North West (5.0 per hectare) and England (4.1 per hectare).

Between the 2001 and 2011 Census, the median age of residents has increased from 40.6 years to 43.6 years. Between the same years, the number of over 65s has increased by 11,700 residents or 26%, which is a greater increase than the North West (15%) and England & Wales (20%).

Life expectancy (LE) in Cheshire East is higher than regional (North West) and the national (England & Wales) averages. LE at birth for females is 83.6 years, compared to 81.8 years in the North-West and 83.1 years nationally<sup>11</sup>. LE at birth for males is 80.4 years, compared to 78.0 in the North West and 79.4 nationally. There are some fluctuations within the Borough, with areas of greater deprivation being likely to have a lower LE (an example of this would be wards within the Crewe area).

Cheshire Police have provided an updated break down of alcohol crime and anti social behaviour incidents, which are set out at annex 5.

The health perspective in Cheshire East is set out in the information provided by the Public Health Team (annex 3 and 4).

### **Conclusion**

It is inevitable that crime and disorder taking place within the night time economy will be linked to alcohol. What the working group needed to consider is which power(s), if any, are an appropriate and proportionate tool to mitigate and reduce the problems faced.

The group has been unable to collate detailed information and statistics on the harm created by alcohol consumption in Cheshire East, other than mortality rates. This is because the CCGs and Emergency Departments do not record this information.

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<sup>8</sup> <http://www.popall.co.uk/town-guide/survey/default.aspx>

<sup>9</sup> 2013 Mid-year population estimates, Office for National Statistics, NOMIS, Crown Copyright

<sup>10</sup> 2011 Mid-year population estimates and UK Standard Area Measurements (SAM) 2011, Office for National Statistics, Crown Copyright

<sup>11</sup> Life expectancy at birth and at age 65 by local areas in England and Wales, 2011-13, Office for National Statistics. National refers to the figure for England



General information is available, but its evidential merit is open to challenge and may not withstand proper scrutiny. It is therefore incumbent upon the relevant bodies to ensure that proper data is recorded, which would assist in identifying problem areas, problem age groups and specific problem premises. This in turn may lead to enforcement agencies tackling problem premises and ultimately the revocation of licences.

The information provided by Cheshire Police supports the view that there are crime and disorder issues linked to the consumption of alcohol at peak times (ie weekends and in the early hours of the morning). This follows the general trend of moving disorder from a peak at 2330 pre Licensing Act to a later more staggered trend shown post Licensing Act. This trend is explored in both the IAS and IEA reports referenced above. The information from the Police also does not provide any details on the profile of places these issues are taking place. For example, they may be taking place in domestic or non-licensed premises (such as parks or open spaces) rather than in licensed premises or in town centre streets (where it may be more likely linked to pubs or clubs). This will influence how much weight we can attribute to the information when considering a LNL or EMRO both of which impact disproportionately on premises licensed after midnight.

The group was also concerned about the perceived increase in availability of alcohol since the Licensing Act 2003 came into effect. Particular concerns were expressed in relation to the increase in premises licenced for the sale of alcohol off the premises and the interlinked concerns on the availability of low cost alcohol for consumption at home prior to entering the late night economy (for example pre loading). This continues despite a Licensing Act mandatory condition providing a minimum price for alcohol (eg alcohol must not be sold at a cost which is less than the permitted price. The permitted price is achieved by calculating the duty and VAT and increases in correlation with the ABV of the alcohol being sold<sup>12</sup>). This mandatory condition was implemented after the Government did not pursue proposals for a minimum unit price for alcohol, which they consulted on in 2012<sup>13</sup>.

It was also not possible for the group to establish whether the harms (both criminal and health) caused by alcohol consumption were a direct result of drinking taking place in licensed premises or drinking in the home.

The Working Group was interested in the proposals outlined to them by the Council's Public Health Team in relation to Minimum Unit Pricing (MUP). A detailed explanation of this concept together with a history of the Government's stance on this matter is set out at annex 6. It is understood that the progress in this matter has been stalled pending the outcome of the challenge to the legality of the Scottish Government's MUP policy in the European Court of Justice. Whilst the LNL is concerned with the issues of crime and disorder within the late night economy and effectively taxes premises, MUP may well be a more effective tool at tackling problem drinking affecting health by raising the cost to the consumer. The working group would therefore like to encourage the continued consideration of this proposal.

The working group is mindful that the Council should not use a 'steam hammer to crack a nut' and that any problems caused within the late night economy should be rectified by the use of existing powers in the first instance.

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<sup>12</sup> <http://www.legislation.gov.uk/ukdsi/2014/9780111109120>

<sup>13</sup> <https://www.gov.uk/government/consultations/alcohol-strategy-consultation>

These powers would include the review of licensed premises. Members have noted that since the formation of Cheshire East in 2009 there have only been 6 review applications made. This is despite the review process being an opportunity to change the terms of licences for the better or the revocation of licences. It can therefore be construed that this is:

1. a power that is under used
2. that there is insufficient information or evidence to cause a review
3. that there are only a few problem premises within Cheshire East where a review has been considered appropriate

The Council's Statement of Licensing Policy does contain a specific section on the review of premises. In light of the relatively small number of review applications received, the next review of the Statement of Licensing Policy will consider extending the detail and content of this section. The section could be improved by explaining the review process and what can be achieved at any hearings together with suggestions for the type of evidence or information that could be used to support a review. It is hoped that further clarification will help alleviate any reluctance on the part of responsible authorities or local residents to call reviews where it is appropriate to do so.

The Working Group has also taken into consideration the inflexibility of the LNL. It is not possible to target the LNL to specific areas within the Borough. It must be applied throughout our area. Its implementation would potentially impact upon areas within Cheshire East that are not causing any problems to the late night economy. Central Government and Regulatory Delivery (part of the Department for Business, Innovation & Skills) have recognised this limitation and as they move forward with their Modern Crime Prevention Strategy<sup>14</sup> changes to the process may be made.

### **Recommendations**

The working group recommends that the Licensing Committee resolves that the implementation of the Late Night Levy or an Early Morning Restriction Order is not appropriate at this time.

The working group further recommends:

1. That prior to the adoption of the Council's next Statement Licensing Policy any policy review should consider areas that may benefit from designation as a 'Cumulative Impact Area'
2. That the Licensing Team continues to support the Police in promoting and extending their Arc Angel project
3. That the Licensing Team contributes to the work being undertaken across Cheshire and Merseyside to support the introduction of Minimum Unit Pricing

The working group considers that the above recommendations are proportionate and appropriate responses to the identified and evidenced issues that face Cheshire East. However, should the situation deteriorate it may be appropriate to reconsider

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<sup>14</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509831/6.1770\\_Modern\\_Crime\\_Prevention\\_Strategy\\_final\\_WEB\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf)

the implementation of either a Late Night Levy or an Early Morning Restriction Order. Similarly, any reconsideration might also be considered in light of the Central Government's proposals to amend the LNL to increase its flexibility and improve its use as a directed tool.

The group would like to express thanks to all those who provided information or attended meetings in order to help and support us in our work.

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# Annex 1

## CHESHIRE EAST COUNCIL

### REPORT TO: Licensing Committee

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<b>Date of Meeting:</b>	14 <sup>th</sup> January 2014
<b>Report of:</b>	Miss Kim Evans – Licensing Team Leader
<b>Subject/Title:</b>	Late Night Levy and Early Morning Restriction Orders
<b>Portfolio Holder:</b>	Cllr Les Gilbert - Communities and Regulatory Services

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#### 1.0 Report Summary

- 1.1 To provide Members of the Committee with information concerning the implementation of a Late Night Levy (LNL) and the making of Early Morning Restrictions Orders (EMROs).

#### 2.0 Recommendation

- 2.1 That Members note the content of the report, the attached further information and resolve:
- i. That a Late Night Levy or an Early Morning Restriction Order is not appropriate consideration at this time.
  - ii. That further information on the implementation of the Late Night Levy should be presented to a future meeting of the Committee setting out options that should be considered before formal consultation.
  - iii. That further information on the making of an Early Morning Restriction Order(s) should be presented to a future meeting of the Committee setting out options that should be considered before formal consultation.
  - iv. In respect of options ii. and iii. that the (Licensing Team Leader) be given delegated authority to present further options in consultation with the Chairman of the Licensing Committee and the Portfolio Holder for Communities and Regulatory Services.

#### 3.0 Reasons for Recommendations

- 3.1 Members of the Licensing Committee have been requested to consider whether the Council should consider imposing a Late Night Levy.
- 3.2 This report therefore seeks to provide Members of the Committee with information concerning the LNL and EMROs so that they are aware of the different powers that can be used to deal with problems associated with the consumption of alcohol.



**4.0 Wards Affected**

4.1 All

**5.0 Local Ward Members**

5.1 All

**6.0 Policy Implications**

6.1 The Council has committed, in its Strategic Plan, to ensuring that the residents of Cheshire East 'live well and for longer' and that we have a 'strong and resilient economy'.

6.2 Similarly, the Cheshire East Health and Wellbeing Strategy has a number of key aims linked to alcohol consumption:

- § Reduce the levels of alcohol use/misuse by Children and Young People
- § Reduce the incidence of alcohol related harm

6.3 The Council's current Statement of Licensing Policy is silent on the LNL and EMROs as those provisions were not in place when it was adopted in 2009. However, the Council has recently adopted a revised Statement of Licensing Policy (to take effect from February 2014) that confirms the Council will consider whether a LNL or EMRO is appropriate. This revised Policy together with the Statutory Guidance issued by the Home Office in respect of the Licensing Act 2003 confirms the key aims involved in the licensing regime:

- § protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises
- § giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems
- § recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- § providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- § encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them

## **7.0 Financial Implications**

- 7.1 If Members were minded to consider the implementation of a Levy or the creation of any Orders, additional funding to meet all the implementation requirements (including any further evidence gathering, public notices, and consultation) would need to be identified. Current budgetary allocations make no provision for any work in this area.
- 7.2 The cost of implementing a LNL can be recovered from the gross amount collected and deducted before the apportionment of the net figure (ie a minimum of 70% payable to Cheshire Constabulary). However, if the Council were to consult on the implementation of the Levy and having considered the results of the consultation determine that it should not be implemented additional resources would need to be identified to meet the costs of the consultation process (including public notices).
- 7.3 Additionally, if the Council were to implement the LNL any premises that fall into the levy period would be able to apply for a free variation of licence to curtail their hours. It is impossible to estimate the number of premises that might utilise this facility, but it is likely to impact significantly on the capacity within the Licensing and Legal Teams and consideration should be given to identifying additional staff resources.
- 7.4 There would be no income generated by the creation of an EMRO and it is not possible to quantify the financial benefit, if any, to the Council of their creation.

## **8.0 Legal Implications**

- 8.1 The Police Reform and Social Responsibility Act 2011 enables Licensing Authorities to determine that the LNL is to apply in its area. The Licensing Authority can therefore charge a levy to persons who sell alcohol during the 'late night supply period' to raise contributions towards the enforcement cost associated with the night-time economy
- 8.2 The 'late night supply period' must begin at or after midnight and end at or before 6:00am, but must be the same period every day that it has effect. The LNL must apply to the whole of the Licensing Authority area and is payable by the holder of a 'relevant late night authorisation'. A 'relevant late night authorisation' means a Premises Licence or Club Premises Certificate which authorises the supply of alcohol during the late night supply period.
- 8.3 The Police Reform and Social Responsibility Act 2011 also amended the provisions of the Licensing Act 2003 that gives a Licensing Authority the power to make an EMRO if it considers it appropriate for the promotion of the Licensing Objectives. An EMRO restricts the sale of alcohol in a particular area for a specified period between the hours of midnight and 6:00am.
- 8.4 If an EMRO is made then existing premises licences and club premises certificates granted by the Authority, and temporary event notices given to the



authority, do not have effect to the extent that they authorise the sale of alcohol or the supply to club members during the period specified in the EMRO.

- 8.5 The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 confirms that the functions relating to the Late Night Levy and Early Morning Restriction Orders are not to be the responsibility of the Council's Executive and are Licensing Authority functions. Additionally, the Council has previously made provision in its Constitution for all Licensing Authority functions (save for the adoption of the Statement of Licensing Policy which is reserved to full Council by statute) to be discharged by the Licensing Committee.
- 8.6 In accordance with statutory responsibilities under section 17 of the Crime and Disorder Act 1998 the Council must take reasonable steps to tackle crime, disorder, substance misuse and anti-social behaviour.
- 8.7 The Council also has a statutory responsibility under the Health and Social Care Act 2012 for the health of the population of Cheshire East and it is noted that it is a priority of the local Health and Wellbeing Board to reduce alcohol related harm.

## **9.0 Risk Management**

- 9.1 Members must carefully consider all the information provided and any views received from appropriate stakeholders.
- 9.2 The EMRO and Late Night Levy provisions are both adoptive provisions that require consultation processes to be followed prior to a policy decision on either being made. Adopting either provision in circumstances that may result in a negative impact on existing licence holders will require reliable evidential justifications in order to withstand any potential challenge.
- 9.3 Specific consideration must be given to whether a LNL or EMRO is a proportionate and reasonable response to the problems in our night-time economy or whether alternative measures can be considered. This may include a Cumulative Impact Policy for certain areas or supporting business led best practice schemes (eg Purple Flag or Best Bar None).

## **10.0 Background**

- 10.1 In 2012 the Home Office carried out a 12 week consultation 'Dealing with the Problems of Late Night Drinking', inviting views on two measures in the Police Reform and Social Responsibility Act 2011 (2011 Act), the Late Night Levy and Early Morning Restriction Orders. Following this consultation regulations implemented these powers were made on 31<sup>st</sup> October 2012.

### **10.2 Late Night Levy**

- 10.2.1 The Late Night Levy is a power at the disposal of the Licensing Authority to introduce a charge for premises that have an alcohol licence with a terminal hour after midnight. It allows the Licensing Authority to charge those businesses for the extra costs that the night-time economy generates for the Police and Local Authority.
- 10.2.2 If introduced, the LNL would apply to all premises (on and off-trade) within the Borough that qualify, the only exceptions being those set by the Government. The levy will be collected at the same time as the annual licensing fee.
- 10.2.3 The licensing authority will need to decide at what time the levy will apply within an operational window that is restricted to between 12 midnight and 6am. Members may wish to consider, if they are minded to consult on the implementation of the LNL, whether different time periods should be consulted on or to leave this open to the views of those who choose to comment.
- 10.2.4 The LNL is aimed not at individual premises, as the costs caused by the night time economy are often not directly linked to any particular businesses, but instead occur as a result of the night time economy as a whole.
- 10.2.5 If introduced, the Licensing Authority can deduct the costs of administering, collecting and enforcing the scheme from the gross collection. From the remainder, at least 70% of the net amount must be passed to the Police. Up to 30% of the total amount retained by the Licensing Authority is ring-fenced to address issues linked to alcohol related crime. No restrictions are imposed on the use of the monies passed to the Chief Officer of Police and the PCC.
- 10.2.6 The levy paid is dependent on the rateable value of the premises and is set by the Government. This is the same as the existing licence fee and annual fee system.
- 10.2.7 Provision is made for a number of discretionary exemptions and reductions in the LNL. Exemptions to the LNL could be offered to:
- § Premises with overnight accommodation
  - § Theatres and cinemas
  - § Bingo halls
  - § Community amateur sports clubs
  - § Community premises
  - § Country village pubs
  - § Business Improvement Districts
- 10.2.8 The Licensing Authority will need to determine whether any of the exemptions should apply and the criteria within which they can be triggered. There is also discretion to offer a 30% reduction from the LNL to premises that are either a member of a specified best practice scheme such as Pubwatch or in receipt of Small Business Rate Relief (with a rateable value of less than £12,000). An exemption to those premises that only have a late-night authorisation to supply alcohol on the premises on 1 January can also be given.



- 10.2.9 Members should be aware that a significant number of the premises with late licenses may decide to reduce their sale of alcohol hours by submitting a minor variation application as the cost of the LNL may not be worth the continued sales of alcohol after midnight. This would obviously result in a significant reduction in the amount of potential income (there is a requirement to waive the fee for those premises wishing to take advantage of this procedure).

### **10.3 Early Morning Restriction Orders**

- 10.3.1 An EMRO is a power which enables the Licensing Authority to restrict the sale of alcohol where they consider that there are alcohol related crime and disorder issues in the whole or a part of their area between midnight and 6:00am on all or some days.

- 10.3.2 This restriction would apply to Premises Licences, Club Premises Certificates and Permitted Temporary Events. There are no exceptions to the type of premises that will be affected by an EMRO except for hotels who provide alcohol to residents through minibars and room service. However hotels who serve alcohol in a bar, lounge or lobby will be affected by an EMRO.

- 10.3.3 Evidence from Responsible Authorities, local Community Safety Partnerships, together with its own evidence should be used to determine whether an EMRO is appropriate for the promotion of the four Licensing Objectives:

- § The Prevention of Crime and Disorder
- § Public Safety
- § The Prevention of Public Nuisance)
- § The Protection of Children from Harm

- 10.3.4 The Licensing Authority would need to consider the area, days and times in relation to which the EMRO might apply. However, EMROs will not apply to any premises on New Year's Eve.

- 10.3.5 Licensing Authorities are required to advertise their proposals on their website and in a local newspaper as well as notifying those licence holders within the proposed EMRO area. Any person wishing to make representations for, or against, the proposal will have 42 days in which to lodge their comments.

- 10.3.6 If representations are received then a hearing must be held to determine the outcome of the EMRO. It is not unrealistic to expect a large number of representations which could require the hearing being held over a number of days. If it is determined appropriate that an EMRO be made, the licensing authority must be able to demonstrate an evidence based justification for its decision, or risk judicial challenge. If, following representations there are any changes to the original proposal there is a requirement that consultation on the new EMRO be undertaken.

- 10.3.7 The Licensing Authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing

objectives and periodically review whether it is appropriate to continue to apply it.

#### **10.4 Conclusions**

10.4.1 The decision whether or not to implement a LNL or an EMRO is at the discretion of the Licensing Authority. However, any decisions taken should be evidence based and proportionate.

10.4.2 The introduction of a LNL or an EMRO may result in a reduction of the night time economy where businesses move to other areas where a LNL or EMRO is not in place. Members should consider the financial burden placed upon local businesses directly and indirectly involved in the night time economy.

10.4.3 The Committee is not requested at this stage to decide whether or not to implement the LNL or an EMRO. The Committee is requested to consider the information presented and to resolve whether or not they are minded to have further proposals presented upon which the Authority can consult.

10.4.4 To help Members formulate a decision, the following documents have been produced:

- i. The Home Office Guidance (2012) in relation to the LNL (Appendix A)
- ii. Section 16 of the Guidance issued by the Home Office in relation to the Licensing Act 2003, which provides guidance on EMROs (Appendix B)
- iii. A statistical report from Cheshire Constabulary showing crimes and incidents related to alcohol for the period 01/11/2012 to 31/10/2013 (Appendix C)
- iv. A report from the Cheshire Constabulary setting out their views (Appendix D)
- v. A breakdown of the estimated income that would be generated by the LNL (Appendix E - to follow)

#### **11.0 Access to Information**

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

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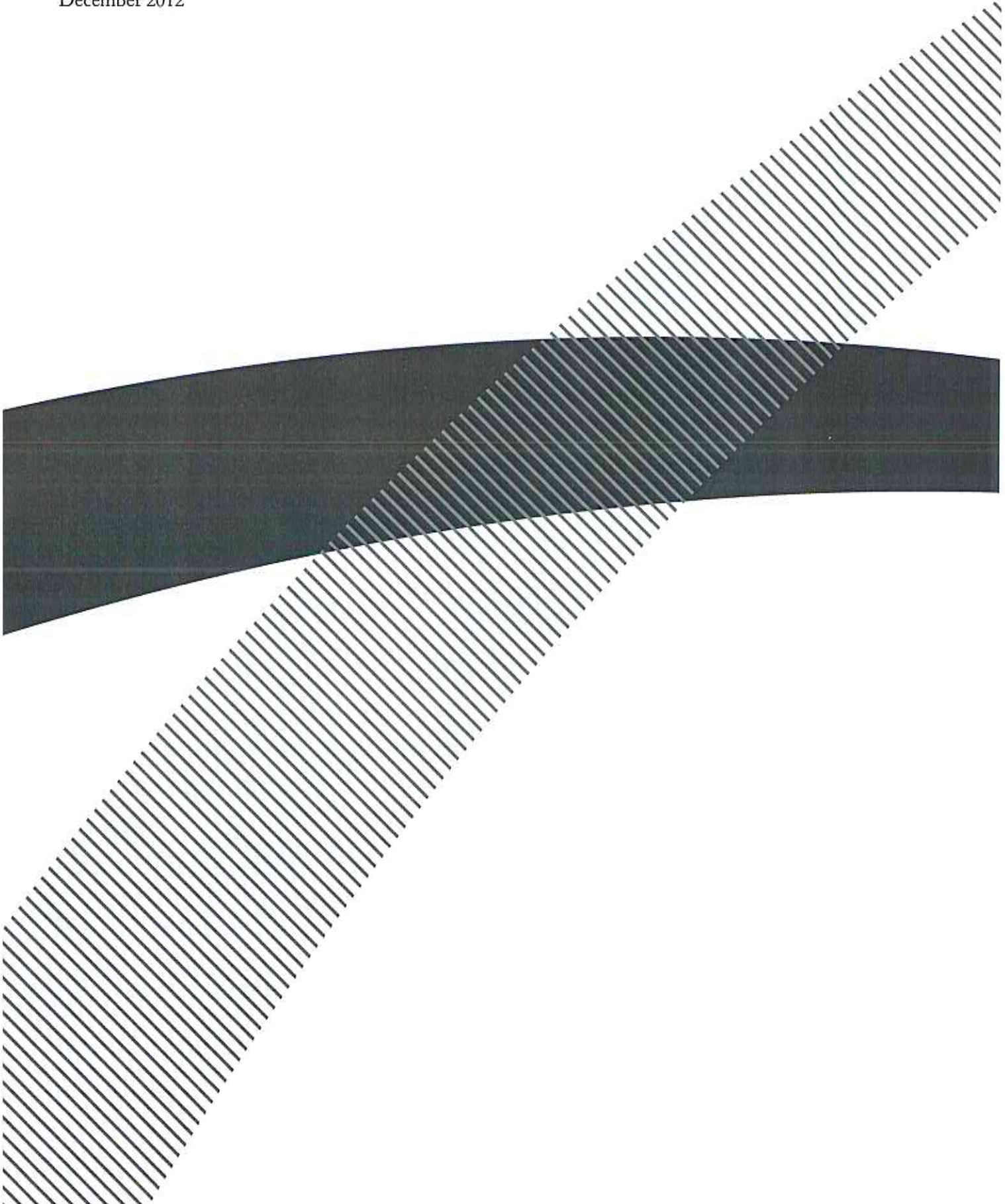
# AMENDED GUIDANCE ON THE LATE NIGHT LEVY

December 2012

Appendix A



Home Office



## GUIDANCE ON THE LATE NIGHT LEVY

- 1.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 1.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.
- 1.3 A licensing authority is the authority which carries out licensing functions under the Licensing Act 2003 (“the 2003 Act”). The main licensing authorities, as defined in the 2003 Act, are:
  - the council of a district in England;
  - the council of a county in England in which there are no district councils;
  - the council of a county or county borough in Wales;
  - the council of a London borough.
- 1.4 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by the full council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

## INTRODUCTION OF THE LEVY

- 1.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.<sup>1</sup> Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.
- 1.6 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 1.7 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities as set out in paragraph 1.42.

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1 In this guidance, a reference to a PCC include a reference to the holder of the Mayor’s Office for Policing and Crime. Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) take place on 15th November 2012. Once appointed, PCCs will be expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.



- 1.8 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 1.9 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).
- 1.10 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.
- 1.11 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.
- 1.12 The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.
- 1.13 The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve.
- 1.14 If the full council approves the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities. It would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office.

## IMPLEMENTATION OF THE LEVY

- 1.15 The licensing authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period (“relevant late night authorisation”) of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police force and licensing authority. Holders of relevant late-night authorisations should also be notified of the date before which any applications for a minor variation must be made to the authority, as set out in paragraph 1.16. We recommend that licensing authorities set the start date of the levy no less than three months after those notifications have been sent.
- 1.16 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. It is recommended that licensing authorities may wish to allow holders no less than two months to make such applications. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.
- 1.17 The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year. The licensing authority will determine the manner in which any statement is published.
- 1.18 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year. Licensing authorities may wish to notify holders of a relevant late night authorisation of any such decision.

## DESIGN OF THE LEVY

- 1.19 The levy must apply to the whole of the licensing authority’s area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority’s area. Any such holder will be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.
- 1.20 As set out in paragraph 1.9, the late night supply period must begin at or after midnight and end at or before 6am. The licensing authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late-night supply period cannot apply on different days or times.
- 1.21 The levy will apply to boats, which are licensed at the place where they are usually moored or berthed. It will also apply to mobile bars, which are required to be licensed at the place where they are parked and carry on the licensable activity.
- 1.22 The levy will not apply to Temporary Event Notices (TENs).



## EXEMPTIONS FROM THE LEVY

- 1.23 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through the levy. This is a local decision – the licensing authority should make its decision based on its knowledge of the night-time economy in the area, including information gathered through the consultation process.
- 1.24 Licensing authorities are not able to choose a category of premises for an exemption from the levy, if it is not prescribed in regulations. Likewise, licensing authorities are not able to exempt specific premises from the requirement to pay the levy.
- 1.25 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.
- 1.26 **Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- 1.27 **Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses. The definition of a “cinema” or a “theatre” should be readily understood by its plain, ordinary meaning.
- 1.28 **Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- 1.29 **Community Amateur Sports Clubs (“CASCs”):** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).
- 1.30 **Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
- 1.31 **Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.
- 1.32 **New Year’s Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

- 1.33 **Business Improvement Districts (“BIDs”)**: Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. Licensing authorities have the discretion to determine whether the BIDs in their area are eligible.

## REDUCTIONS FROM THE LEVY

- 1.34 Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy.
- 1.35 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:
- a clear rationale as to why the scheme’s objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder;
  - a requirement for active participation in the scheme by members; and
  - a mechanism to identify and remove in a timely manner those members who do not participate appropriately.
- 1.36 Licensing authorities have discretion as to how best practice schemes can demonstrate that they meet these benchmarks. We expect licensing authorities to use their existing partnerships with best practice schemes, and understanding of a scheme’s operation in their area, to identify eligible schemes in their areas. Licensing officials could visit representatives from best practice schemes in their area, or request written details of the scheme’s objectives, if they decide to consider this reduction category.
- 1.37 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief (as specified in Part III of the Local Government Finance Act 1988) and have a rateable value of £12,000 or less. This reduction is only available to holders in relation to premises that supply alcohol for consumption on the premises. The relevant billing authority may have information on which premises in the licensing authority area are in receipt of Small Business Rate Relief.
- 1.38 If the licensing authority decides to introduce or remove categories of exemption and/or reduction after Year zero, they will need to follow the same procedure for consultation as set out in 1.11-1.13 though the consultation should only refer to the new proposal. If a licensing authority chooses to remove categories of exemption and/or reduction after Year zero, they should consider that the opportunity for businesses to make a free variation to their licence is only available when the levy is initially introduced.

## LEVY REVENUE

- 1.39 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.



- 1.40 There are no restrictions on what the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The PCC's proportion will be subject to the same transparency measures as those that apply in relation to other aspects of the operation of the PCC. The Police and Crime panel will be able to request any documents of the PCC in order to hold them to account in the allocation and use of their funds.<sup>2</sup>
- 1.41 We recommend that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue. We also recommend that the PCC should consider allocating the funds raised from the levy back to local commanders to allow the revenue to be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.
- 1.42 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:
- the reduction of crime and disorder;
  - the promotion of public safety;
  - the reduction or prevention of public nuisance; or
  - the cleaning of any relevant highway or relevant land in the local authority area.
- 1.43 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. As set out in paragraph 1.6, any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.
- 1.44 These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
  - the collection of levy payments;
  - the enforcement of levy payments; and
  - the cost of processing applications for a variation in relation to the introduction of the levy.
- 1.45 There will be no specific restrictions on the amount of the expenses which licensing authorities can claim in expenses, however licensing authorities will have to account for their expenses following existing procedures. The Government may specify a cap on the amount of expenses in further regulations if considered necessary.

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<sup>2</sup> This excludes documents that are operationally sensitive or those that would compromise national security.

## LEVY CHARGE AND COLLECTION PROCESS

1.46 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Levy Charges	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

1.47 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C).

1.48 The levy will be collected at the same time as the annual licence fee (except in relation to holders premises who obtain a relevant late night authorisation during a levy year). The holder will, therefore, be required to pay the levy on an annual basis. For holders whose licences exist at the time that the first levy year begins, the payment year will be the same as the levy year<sup>3</sup>. These holders will make their first levy payment when they pay their annual fee. For holders who are granted a licence in the first or subsequent levy years, the payment year runs from the date of the grant of the licence and for each year thereafter. Their first payment will be made 14 days after the grant of the licence, and thereafter when they pay their annual fee.

1.49 In the following circumstances, licensing authorities should adjust a holder's liability to the levy:

- a licence lapses under section 27 of the 2003 Act (that is if the holder of the licence dies, becomes mentally incapable, becomes insolvent, if the partnership holding the license is dissolved or if it is a club, ceases to be a recognised club);
- an EMRO is made which prohibits premises from serving alcohol at any time when the levy applies; or
- the amount of the levy reduction is the amount found by applying the formula:  $R = (L/365) \times N$  (see footnote<sup>4</sup>).

<sup>3</sup> The payment year is the period by reference to which a licence holder's liability to the levy is determined. The levy year is the period during which the levy applies.

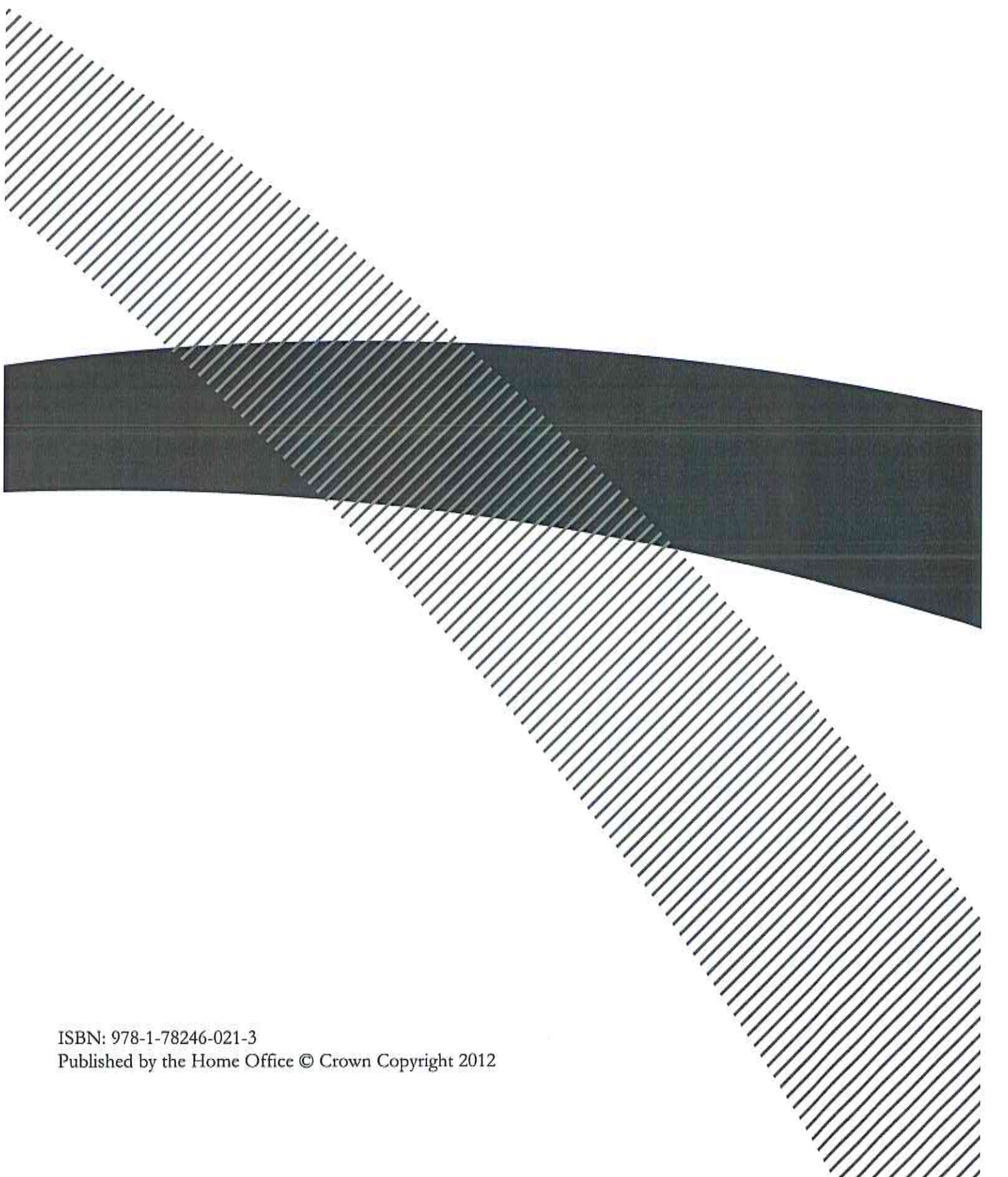
<sup>4</sup> R is the levy reduction, L is the amount of the late night levy payable by the holder of the relevant late night authorisation and N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.



- 1.50 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might chose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.
- 1.51 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.



Home Office





## 16. Early morning alcohol restriction orders

### General

- 16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders ("EMROs"). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 16.3 An EMRO:
- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
  - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
  - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
  - applies to the whole or any part of the licensing authority's area;
  - will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January each year);
  - will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
  - will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

### The EMRO process

- 16.4 An EMRO can apply to the whole or part of the licensing authority's area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 16.5 If the licensing authority already has a Cumulative Impact Policy ("CIP") in its Licensing Policy Statement (see Chapter 13 of this Guidance), it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.
- 16.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must



be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

## Evidence

- 16.7 When establishing its evidence base for making an EMRO, a licensing authority may wish to consider the approach set out in paragraphs 13.23 to 13.26 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant.
- 16.8 Before a licensing committee determines to recommend that the full council make a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on their experience from other licensing decisions they make under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

## Introducing an EMRO

- 16.9 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.38-9.40 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim. They should, however, consider whether taking that step is reasonable, justified and proportionate. Other measures that could be taken instead of making an EMRO might include:
- introducing a CIP;
  - reviewing licences of specific problem premises;
  - encouraging the creation of business-led best practice schemes in the area;
  - using other mechanisms such as those set out in paragraph 13.39 of this Guidance.
- 16.10 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:
- the days (and periods on those days) on which the EMRO would apply;
  - the area to which the EMRO would apply;
  - the period for which the EMRO would apply (if it is a finite period); and
  - the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.



## Advertising an EMRO

- 16.11 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of "days" means a period comprising calendar days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:
- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
  - premises users in relation to TENs to which the proposed EMRO would apply;
  - those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.
- 16.12 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.
- 16.13 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

## Representations

- 16.14 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:
- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
  - be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
  - be received within the deadline; and
  - if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.
- Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.
- 16.15 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).
- 16.16 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:
- residents;
  - employees of affected businesses;
  - owners and employees of businesses outside the proposed EMRO area; and
  - users of the late night economy.



## Hearings

- 16.17 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.
- 16.18 As described in paragraph 16.6, a hearing to consider representations in relation to an EMRO may be held by the licensing committee, the licensing sub-committee or an officer of the licensing authority. It is recommended, however, that such hearings be conducted by the licensing committee or sub-committee.
- 16.19 Licensing committees should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:
- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
  - the hearing does not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers this approach to be in the public interest;
  - a licensing committee or sub-committee must make its determination within 10 working days of the conclusion of the hearing; and
  - the licensing committee or sub-committee is not required to notify those making representations of its determination.
- 16.20 The licensing committee or sub-committee will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing committee or sub-committee determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.
- 16.21 As a result of the hearing, the licensing committee has three options:
- to determine that the proposed EMRO is appropriate for promotion of the licensing objectives;
  - to determine that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
  - to determine that the proposed EMRO should be modified.

In the final case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations may be made.

## Final EMRO

- 16.22 If the licensing determines that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision. There is no time specified in legislation by which the full council must make this decision. This is intended to reflect the fact that the licensing authority may only meet in full council infrequently.



- 16.23 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.21. The order must be set out in the prescribed form and contain the prescribed content.
- 16.24 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.
- 16.25 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.
- 16.26 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.
- 16.27 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.
- 16.28 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

## Exceptions to an EMRO

- 16.29 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

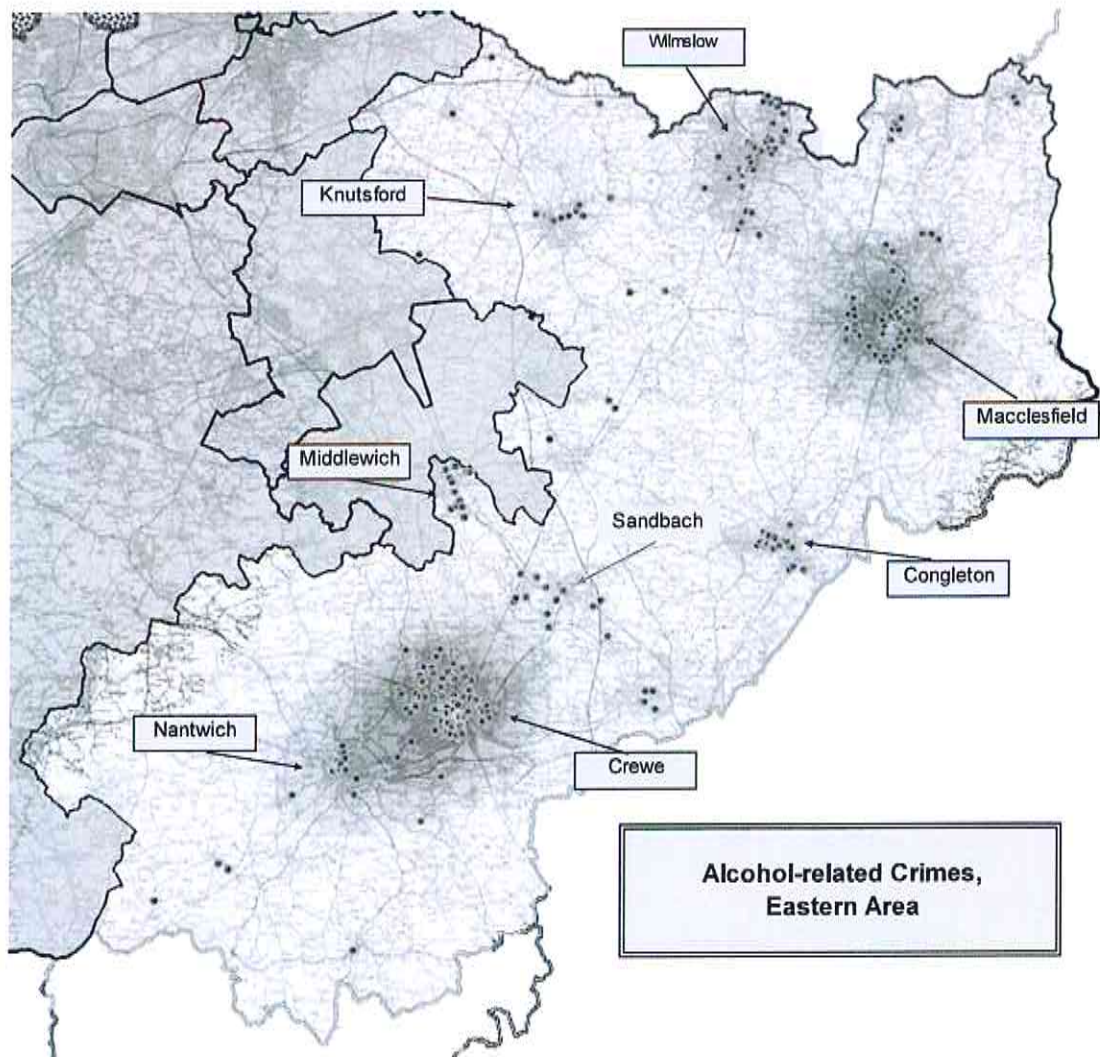
## Enforcement of EMROs

- 16.30 The sale or supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.
- 16.31 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.



## CHESHIRE EAST – ALCOHOL RELATED CRIME & INCIDENTS

### 1. All Alcohol Related Offences between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were **519** reported Alcohol flagged crimes between 00:00 and 06:00.

Hotspot mapping indicates concentrations of offences in Crewe, Macclesfield and Wilmslow.

The top offences by Home Office Group were 8N Assault with injury 32.4%, 105A Assault without injury 28.5%, 9A Public fear, alarm & distress 5.6% and 58C Criminal damage to a vehicle 5.6%.

The busiest three months for offences were December 2012 (75), March (52) and August (50).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

Crime Type	Count	%
Assault with injury	168	32.4%
Assault without injury	148	28.5%
Criminal Damage/Vehicle	29	5.6%
Public fear/alarm/distress	29	5.6%
Criminal Damage/Dwelling	25	4.8%
Criminal Damage/Building other	21	4.0%
Other Criminal Damage	17	3.3%
Other offences state/public order	10	1.9%
Shoplifting	9	1.7%
Assault without injury on a constable	7	1.3%
Possession controlled drugs (except cannabis)	6	1.2%
Possession controlled drugs (cannabis)	6	1.2%
Rape of a female aged 16 and over	5	1.0%
Racially or religiously aggravated public fear, alarm or distress	5	1.0%
Theft from the person	4	0.8%
Racially or religiously aggravated assault without injury	4	0.8%
Arson not endangering life	3	0.6%
Possession of other weapons	2	0.4%
Sexual assault on a female aged 13 or over	2	0.4%
Burglary in a dwelling	2	0.4%
Aggravated vehicle taking	2	0.4%
Theft - Making Off Without Payment	2	0.4%
Assault with Intent to cause Serious Harm	2	0.4%
Theft in a dwelling other than from automatic machine/meter	1	0.2%
Theft from a vehicle	1	0.2%
Other theft	1	0.2%
Threat or possession with intent to commit criminal damage	1	0.2%
Interfering with a motor vehicle	1	0.2%
Dangerous driving	1	0.2%
Threats to kill	1	0.2%
Racially or Religiously Aggravated Criminal Damage	1	0.2%
Exposure and voyeurism	1	0.2%
Harassment	1	0.2%
Racially or Religiously Aggravated Assault with injury	1	0.2%
<b>Total Offences</b>	<b>519</b>	<b>100.0%</b>

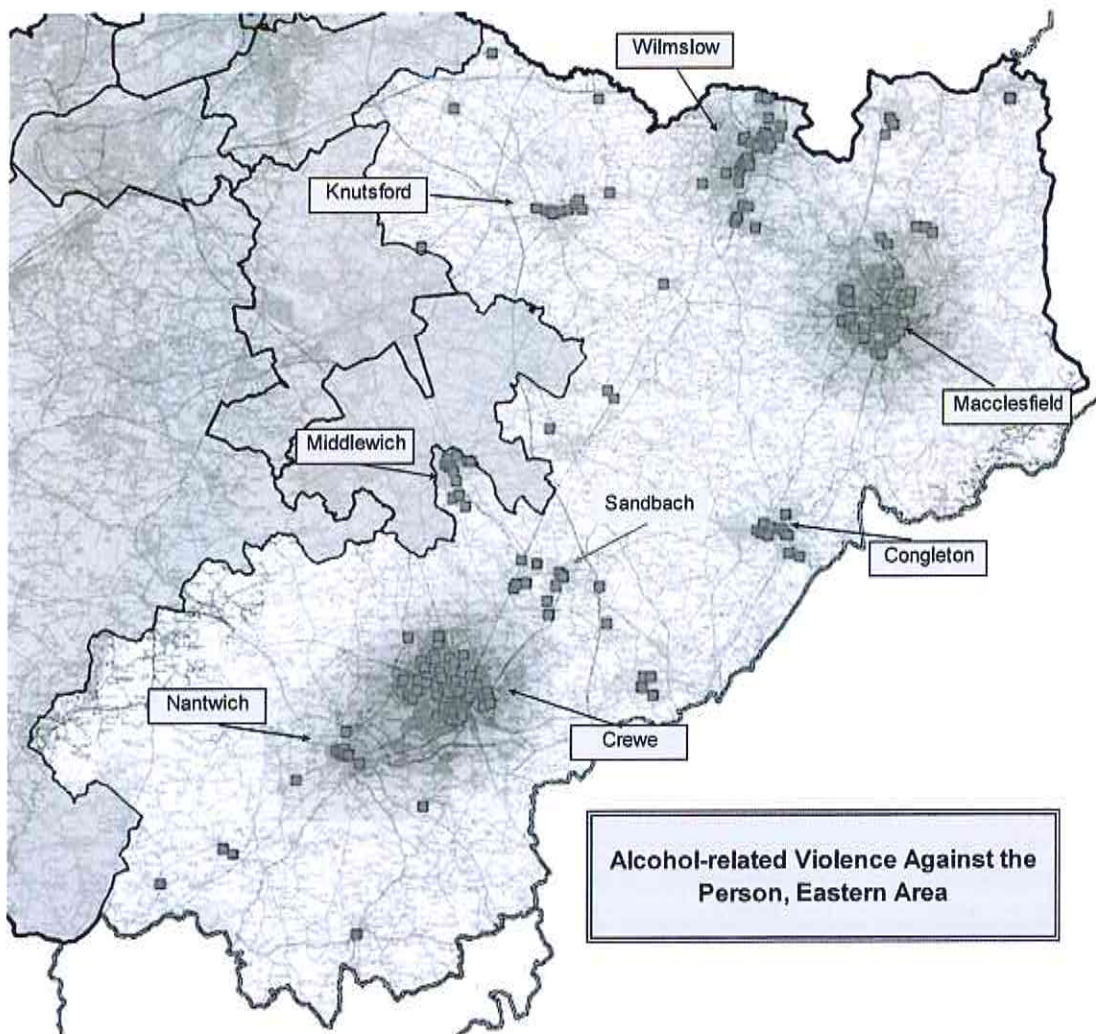
Month	Total
November	42
December	75
January	33
February	39
March	52
April	31
May	41
June	45
July	38
August	50
September	26
October	47
<b>Total</b>	<b>519</b>



Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	14	5	8	13	13	39	42	134
01:00-01:59	8	7	10	8	12	35	47	127
02:00-02:59	4	4	6	8	5	33	42	102
03:00-03:59	7	1	4	6	4	41	24	87
04:00-04:59	4	4	2	3	7	11	18	49
05:00-05:59	1		2	2	3	6	6	20
<b>Total</b>	<b>38</b>	<b>21</b>	<b>32</b>	<b>40</b>	<b>44</b>	<b>165</b>	<b>179</b>	<b>519</b>



## 2. Alcohol Related VAP (Violence Against the Person) Offences between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were 368 reported Alcohol flagged violence against the person crimes between 00:00 and 06:00.

Hotspot mapping indicates concentrations of offences in Crewe, Macclesfield and Wilmslow.

The top offences by Home Office Group were 8N Assault with injury 45.7%, 105A Assault without injury 40.2%, and 9A Public fear, alarm & distress 7.9%.

The busiest three months for offences were December 2012 (59), March (37) and August (34).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

Crime Type	Count	%
Assault with injury	168	45.7%
Assault without injury	148	40.2%
Public fear/alarm/distress	29	7.9%
Assault without injury on a constable	7	1.9%
Racially or religiously aggravated public fear, alarm or distress	5	1.4%
Racially or religiously aggravated assault without injury	4	1.1%
Possession of other weapons	2	0.5%
Assault with Intent to cause Serious Harm	2	0.5%
Threats to kill	1	0.3%
Harassment	1	0.3%
Racially or Religiously Aggravated Assault with injury	1	0.3%
<b>Total VAP Offences</b>	<b>368</b>	<b>100.0%</b>

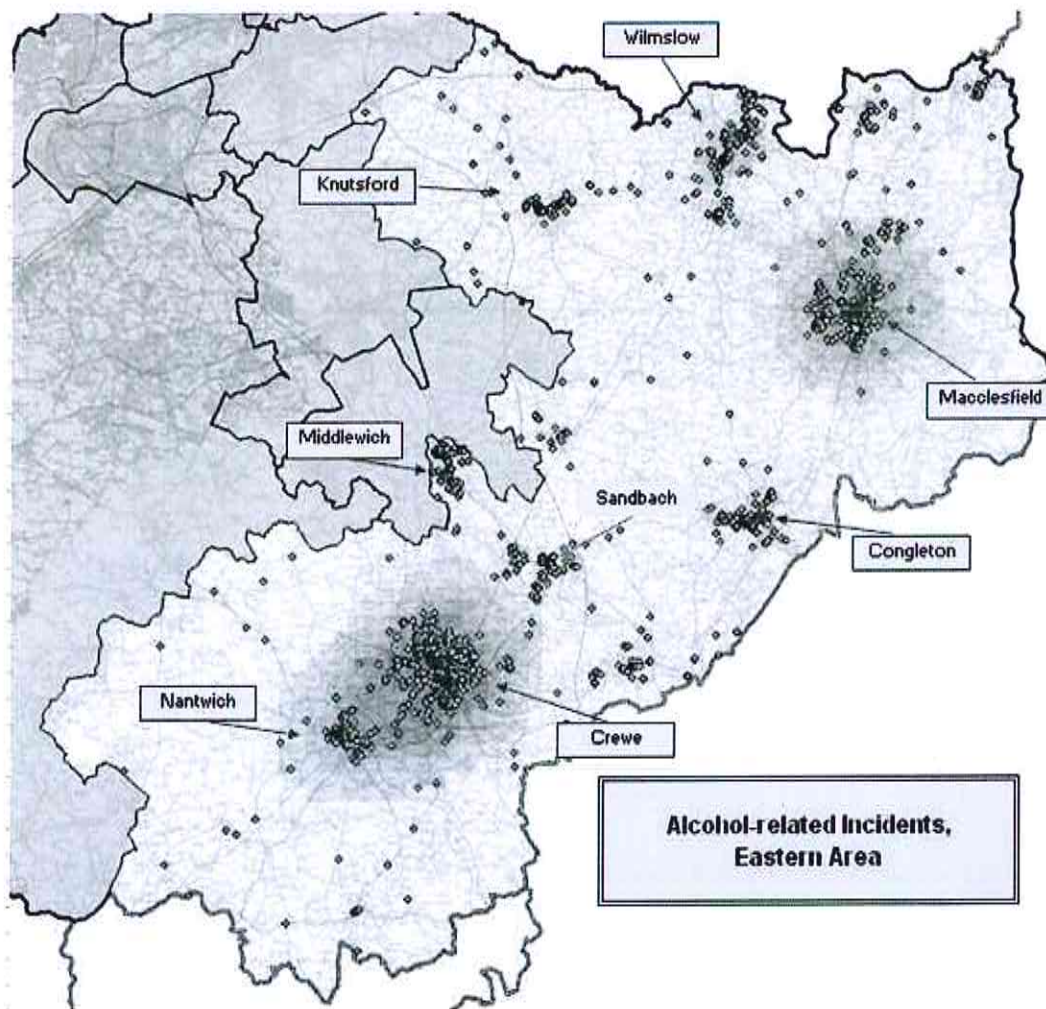
Month	Total
November	33
December	59
January	22
February	25
March	37
April	22
May	30
June	31
July	31
August	34
September	16
October	28
<b>Total</b>	<b>368</b>



Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	10	4	6	7	10	28	34	99
01:00-01:59	6	3	6	3	8	26	35	87
02:00-02:59	4	3	4	6		29	31	77
03:00-03:59	4		3	6	2	28	14	57
04:00-04:59	2	1	1	2	3	10	14	33
05:00-05:59			2	2	2	4	5	15
<b>Total</b>	<b>26</b>	<b>11</b>	<b>22</b>	<b>26</b>	<b>25</b>	<b>125</b>	<b>133</b>	<b>368</b>



### 3. All Alcohol Related Incidents between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were 2037 reported incidents with an Alcohol qualifier between 00:00 and 06:00.

Hotspot mapping indicates concentrations of incidents in Crewe/Nantwich, Macclesfield and Wilmslow.



The top three types of incident by closure code were BP – Personal anti-social behaviour 18.2%, BN - Nuisance anti-social behaviour 15.5%, and SD – Concern for Safety 14.5%.

The busiest three months for offences were December 2012 (253), August (204) and October (182).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

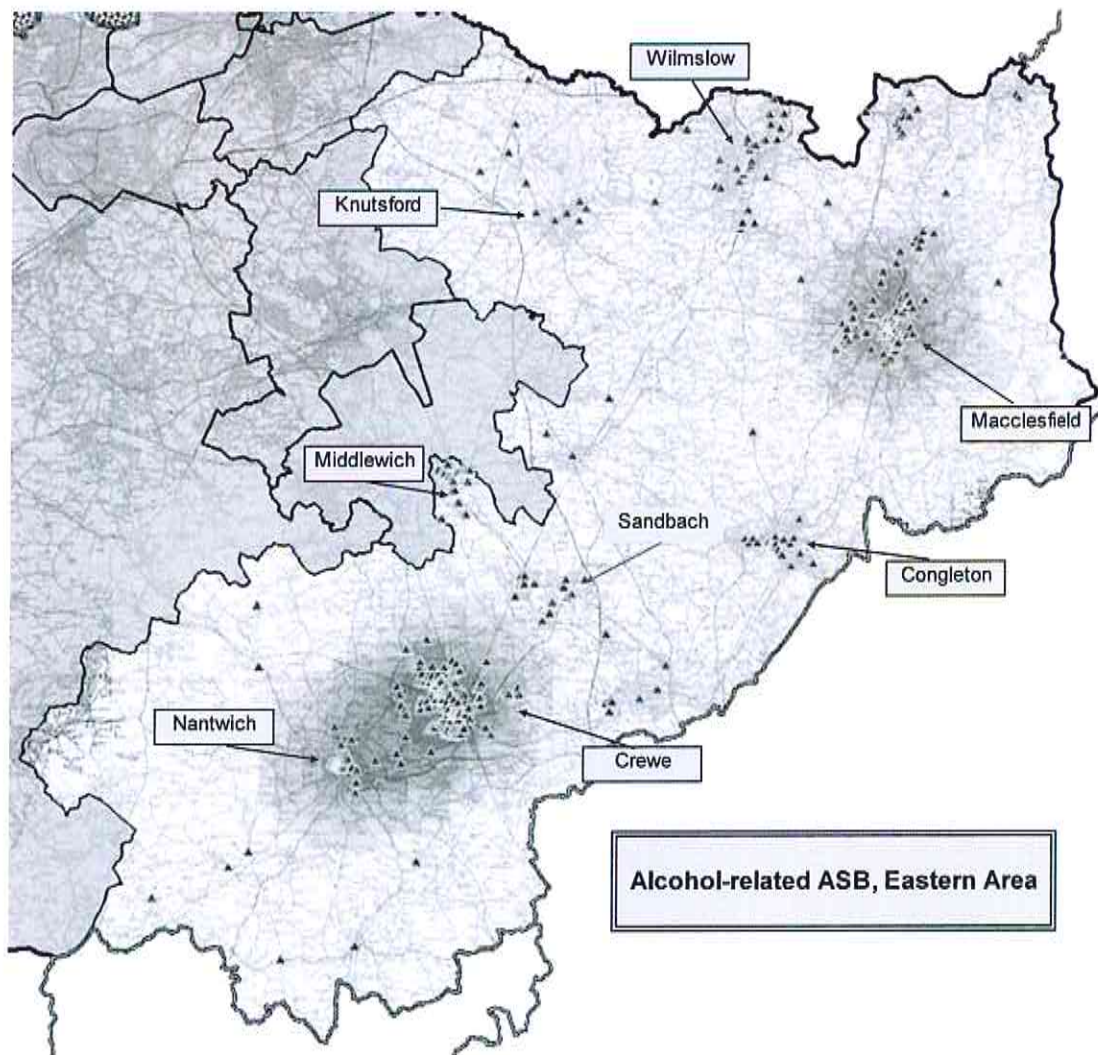
Incident Type	Count	%
PERSONAL ANTI SOCIAL BEHAVIOUR	371	18.2%
NUISANCE ANTI SOCIAL BEHAVIOUR	316	15.5%
CONCERN FOR SAFETY OR WELFARE	295	14.5%
ROAD RELATED TRAFFIC OFFENCE	231	11.3%
DOMESTIC INCIDENTS - BETWEEN ADULTS	185	9.1%
VIOLENCE / HARASSMENT / THREAT TO LIFE	184	9.0%
SUSPICIOUS PERSON / VEHICLE / ACTIVITY	84	4.1%
CRIME NOT VERIFIED	69	3.4%
ENVIRONMENTAL ANTI SOCIAL BEHAVIOUR	48	2.4%
POLICE GENERATED	41	2.0%
COLLAPSE / ILLNESS / INJURY / TRAPPED	29	1.4%
CRIMINAL DAMAGE/ARSON	28	1.4%
ABANDONED PHONE CALLS	26	1.3%
DAMAGE ONLY RTC	19	0.9%
OTHER NOTIFIABLE CRIME	19	0.9%
MISSING PERSON - ANY RISK TYPE	12	0.6%
SIMPLE ADVICE/DIRECTIONS	11	0.5%
RTC - INJURY - SERIOUS / MINOR	11	0.5%
THEFT OTHER	8	0.4%
LICENSING - ALCOHOL, TOBACCO, GAMBLING, ETC	7	0.3%
CIVIL DISPUTES	7	0.3%
CRIME RELATED INCIDENT	4	0.2%
PROVENT POTENTIAL BREACH OF THE PEACE	4	0.2%
SEXUAL OFFENCES	3	0.1%
DOMESTIC INCIDENTS - INVOLVING A JUVENILE	3	0.1%
HOAX CALLS	3	0.1%
HIGHWAY DISRUPTION	3	0.1%
BURGLARY DWELLING	2	0.1%
DRUGS	2	0.1%
COMPLAINTS AGAINST POLICE	2	0.1%
PROPERTY - LOST / FOUND / FIREARMS OR WEAPONS SURRENDERED	2	0.1%
BAIL BREACHES / WANTED PERSON	2	0.1%
CENTRAL STATION ALARM FALSE ACTIVATION	1	0.0%
THEFT OF MOTOR VEHICLE	1	0.0%
THEFT FROM MOTOR VEHICLE	1	0.0%
OTHER	1	0.0%
ANIMAL CONCERN/CRUELTY	1	0.0%
INSECURE PREMISES	1	0.0%
<b>TOTAL</b>	<b>2037</b>	<b>100.0%</b>

Month	Total
November	172
December	253
January	158
February	152
March	138
April	170
May	151
June	136
July	144
August	204
September	177
October	182
<b>Total</b>	<b>2037</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	42	41	36	45	65	172	173	574
01:00-01:59	43	33	38	31	44	164	166	519
02:00-02:59	25	24	29	22	32	141	148	421
03:00-03:59	21	12	16	9	30	114	106	308
04:00-04:59	10	7	6	9	18	39	54	143
05:00-05:59	6	3	3	8	9	24	19	72
<b>Total</b>	<b>147</b>	<b>120</b>	<b>128</b>	<b>124</b>	<b>198</b>	<b>654</b>	<b>666</b>	<b>2037</b>



#### 4. All Alcohol Related Anti-Social Behaviour Incidents between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were 735 reported anti-social behaviour incidents with an Alcohol qualifier between 00:00 and 06:00.

Hotspot mapping indicates concentrations of incidents in Crewe/Nantwich and in Macclesfield.

Anti-social behaviour incidents by closure code were BP – Personal anti-social behaviour 50.5%, BN - Nuisance anti-social behaviour 43.0%, and BE – Environmental anti-social behaviour 6.5%.

The busiest three months for offences were December 2012 (88), August (74) and October (65).



The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

ASB Type	Count	%
ASB Personal	371	50.5%
ASB Nuisance	316	43.0%
ASB Environmental	48	6.5%
<b>Total VAP Offences</b>	<b>735</b>	<b>100.0%</b>

Month	Total
November	59
December	88
January	59
February	53
March	61
April	63
May	53
June	52
July	53
August	74
September	55
October	65
<b>Total</b>	<b>735</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	15	15	13	18	23	64	71	219
01:00-01:59	15	13	13	5	19	62	60	187
02:00-02:59	5	7	13	4	10	54	56	149
03:00-03:59	4	5	5	1	17	55	42	129
04:00-04:59		2	1	3	6	10	15	37
05:00-05:59	2	1		3	1	4	3	14
<b>Total</b>	<b>41</b>	<b>43</b>	<b>45</b>	<b>34</b>	<b>76</b>	<b>249</b>	<b>247</b>	<b>735</b>

40+  
60+

100+

## APPENDIX D

Cheshire East Council Licensing Committee

### **BRIEFING NOTE FROM THE CHESHIRE CONSTABULARY - EARLY MORNING RESTRICTED OPENING, LATE NIGHT LEVY AND DESIGNATED PUBLIC PLACE ORDERS**

#### **Scope**

The delivery of operational policing is the responsibility of the Chief Constable, a unique and historic role that for good reason is not directly accountable to the public. This accountability rests with the Police and Crime Commissioner who, democratically elected, is empowered to hold the Chief Constable to account on behalf of the public. This briefing note represents the views of the Constabulary and not the Office of the Police & Crime Commissioner.

#### **Context**

Fundamental to the idea of policing by consent is an understanding of the context in which consent is given. Policing the consequences of alcohol sale and use, needs to be set within its wider social and economic context. In some respects this is quite positive:

- Since 2004 the overall volume of alcohol consumed in the UK has reduced.
- In Cheshire East the overall volume of police recorded alcohol related crime and anti social behaviour has also reduced, from a total of 4,599 crimes & incidents in 2009/10 to 3,375 in 2012/13.

However:

- The UK per capita rate of consumption remains high - around twice the global average.
- The overall reduction in consumption is largely within low strength beer and wine and masks an increase in the consumption of higher strength alcohol such as spirits.
- In Cheshire East the proportion of alcohol related disorder occurring between mid-night and 4am has shown an increase since 2011/12 with for the first time in 2012/13 more disorder occurring in the four hours after midnight than the four hours prior.

This changing pattern of consumption has been driven by the increased *availability* of alcohol and a growing *price differential* between what were formerly known as “off” and “on” licence sales.

Taking beer as an example, the Licensing Act 2003 relaxed restriction on when alcohol can be sold allowing (off licences) supermarkets to sell beer throughout the day (and night). As part of a wider portfolio of household products beer can be sold at a cash price per unit that is little different to that paid in the 1980s. With average incomes two to three times higher now than in the 1980s this equates to real terms decrease in price of around 70%. Meanwhile former “on” licensed premises (pubs and clubs) selling beer as part of a much more limited entertainment portfolio do so at prices around three times that of the supermarkets.

This increased *availability* and growing *price differential* has had two principal consequences:

- An alarming growth in the number of presentations to acute Health Services of Liver Related Diseases caused by a group within the overall drinking population that is drinking more (by volume or strength or both), and reaching hazardous levels of consumption at an earlier age.
- An increase in “pre loading” or the consumption of cheap alcohol at home prior to going out to pubs and clubs. The consequence of this is that people are arriving at pubs and clubs later, and more intoxicated.

### Specific Policing Implications

#### Incidence

The table below summarises outline data in terms of the *incidence* of alcohol related crime and disorder recorded in Cheshire East.

Incidence of alcohol related crime and disorder	2009-10	2010-11	2010-11	2012-13	Change (Volume)	Change (Per Cent)
Total no of Crimes	1801	1871	1810	1266	-535	-30%
Total no of ASB Incidents	2798	2572	2374	2109	-689	-25%
ASB incidents from 0001 - 0600hrs	884	790	788	770	-114	-13%
Proportion of ASB from 0001 -0600hrs	32%	31%	33%	37%	+5	+5%

There has been a significant reduction in the volume of Crime and Anti-Social Behaviour recorded in Cheshire East on average throughout the full twenty four hour period of the day. There has also been a reduction in the volume of ASB recorded between mid-night and 6am. However this mid-night to 6am reduction is at about only half the level of the overall reduction. The consequence of this is that Crime and Anti-Social Behaviour occurring between mid-night and 6am, as a proportion of the overall total is growing.

#### Spread

The table below summarises data relating to the spread (in both time and space) of specific alcohol related offences occurring between mid-night and 6am across Cheshire East over the twelve months up until November 2013.

Spread of alcohol related crime and disorder	Areas in which incidence is concentrated	Peak days/Times	Proportion of incidence at peak times
All alcohol related crimes 0001 -0600hrs	Crewe, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	58%
All alcohol related violence against the person 0001 - 0600hrs	Crewe, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	61%
All Alcohol related incidents 0001 – 0600hrs	Crewe, Nantwich, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	58%
All Alcohol related ASB 0001 – 0600hrs	Crewe, Nantwich, & Macclesfield	Saturday & Sunday mid-night to 4am	54%



Not surprisingly incidence is concentrated by *geography* on the larger towns with the peak times between mid-night and 4am on Saturday and Sunday.

### Regulation

The key challenge for policing alcohol related crime & Anti- Social Behaviour is the *shift* in demand than the *volume* of it. With more demand occurring in the early hours, and concentrated in towns it draws resources away from the visible and accessible policing in their local neighbourhood that the public desire. The Constabulary recognises that the growing differential in price has made the licensed (on) trade as much a victim of the consequences of this shift as policing, and its first instinct would be to work with the trade to reverse or at least mitigate the effect of this shift. The Constabulary's ArcAngel approach to reducing alcohol related crime and Anti-Social Behaviour is strong evidence of this. However should regulation prove the only way forward the Constabulary would offer the following views on the individual measures under consideration>

**Early Morning Restricted Opening (EMRO)** As a measure to limit or reverse the *shift* in demand into the early hours, the Constabulary would support any moves to implement an EMRO with late night extension restricted ideally to a 2am maximum, plus a voluntary code of practice through Archangel. However it is clear from experience nationally that such a move would be resisted by the trade.

**Late Night Levy (LNL)** A more complex tool the LNL would offset the cost of the *shift* in demand rather than limit or reverse it, and would fail to address the essential resource tension between policing the evening economy throughout the night and providing visible & accessible policing in neighbourhoods, throughout the day.

The Constabulary would have some concerns around any potential public perception of the levy as a means for the police to generate income. It is important to emphasise that the Police and Crime Commissioner would take receipt of the policing proportion of monies generated by a LNL and has some flexibility on how to spend it other than directly on policing services. He also has some flexibility as to how much he chooses to claim of the proportion that he is entitled to. It is a matter for the Police & Crime Commissioner, but the Constabulary understands that he would be willing to explore such flexibilities.

It might be that the increased cost to premises associated with a LNL would encourage earlier closing, however the cost to individual premises should not be over stated, with our research suggesting the following likely costs:

	Annual Cost	Rate Per day
Band "B" Premises	£768	£2.10
Band "C" Premises	£2159	£3.44
Crewe Hall Hotel	£1493	£4.09

Most premises within Cheshire East would appear to fall into Band B or C. Larger premises such as Crewe Hall would pay fractionally more. In probably each case the cost to the premise per day is around the cost of a pint of beer to one of their customers.

It may be that the political cost of a universal levy is deemed to be greater and the Constabulary would support any exemptions made by the Local Authority for well managed premises away from hotspot areas.

**Designated Public Place Orders (DPPOS)** This measure is most usually used in response to a specific issue relating to the consumption of alcohol in public places other than licensed premises, and gives Officers and Police Community Support Officers the power to confiscate alcohol in certain circumstances. The measure is predominantly aimed at adults aged 18 or above as powers already exist for seizure of alcohol for those below that age. It is a measure unsuited to widespread designation, as within the areas designated, the perfectly legitimate and sensible consumption of alcohol at public events can be affected. For the measure to be wholly effective it requires police to be available to seize alcohol and so some consideration should be given to designate only areas in receipt of reasonably intensive policing around existing alcohol related crime & disorder issues. Whilst it may have its merits the DPPO would appear largely irrelevant to the restriction or reversal of the *shift* in demand on policing.

### Conclusion

In summary the Constabulary recognises the wider context in which the regulation of alcohol sale and consumption occurs. In particular that the increased *availability* of alcohol, and the differential in *price* between off and on sales has driven changes in consumption that challenge both licensed premises and policing, as well as generating a greater impact on health services.

The challenge to policing is not around rising demand but instead around a *shift* of demand that creates a tension between the requirements to police the binge drinking alcohol consumer ever later into the night when the rest of the world is asleep, whilst providing visible, accessible policing in neighbourhoods during the day – when most of the world is awake.

The Constabulary would welcome and support any measures taken by the Committee that might enable any restriction or reversal of this *shift* in demand.



## Financial Data – Late Night Levy

The Licensing Team has interrogated the Licensed Premises register and has provided the following information as a guide to Members.

Total Number of Licensed Premises	1494
Total Number of Alcohol Premises	1288
Total Number of Alcohol Premises (Licensed from midnight)	857
Authorised on New Year's Eve/New Year's Day only	103
<b>Total gross amount that the Levy might raise (without any exemptions)</b>	<b>£741,478 pa</b>

The levy payable by each premises caught within the levy period is determined by the rateable value of the premises. The rateable value of each premises is set by the Valuation Office and the levy amount is set by Central Government. The number of premises in each band that authorise the alcohol from Midnight to 06:00 are:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily sell alcohol	E x 3 Multiplier applies to premises in category E that primarily sell alcohol
<b>Annual Levy charge</b>	<b>£299</b>	<b>£768</b>	<b>£1,259</b>	<b>£1,365</b>	<b>£1,493</b>	<b>£2,730</b>	<b>£4,440</b>
<i>Existing Annual Licence Fee</i>	<i>£70</i>	<i>£180</i>	<i>£295</i>	<i>£320</i>	<i>£350</i>	<i>£640</i>	<i>£1050</i>
<b>Number of Premises</b>	<b>109</b>	<b>523</b>	<b>141</b>	<b>26</b>	<b>54</b>	<b>2</b>	<b>2</b>

### Levy by time

The levy period can be set at any time from Midnight to 06:00 and the table below provides Members with a breakdown of premises by time (the figures are based on there being no exemptions).

Time	Number of Premises	Amount of Levy	Cumulative Amount
NYE only	103	£ 80,052	£ 80,052
Midnight to 12:59	327	£275,370	£355,422
01:00 to 01:59	276	£230,468	£585,890
02:00 to 02:59	107	£107,440	£693,330
03:00 to 03:59	19	£ 20,738	£714,068
04:00 to 06:00	7	£ 6,869	£720,937
24hrs	17	£ 20,541	£741,478

### Levy by Town

Cheshire Constabulary has provided data relating to the crime, disorder and anti-social behaviour linked to the late night economy. This data states that the towns of Crewe, Macclesfield, Nantwich and Wilmslow have the highest concentration of incidents. The table below provides Members with a breakdown of how much each of these towns might contribute to the levy (the figures are based on there being no exemptions). It is important to note that the Late Night Levy can only be implemented on a Borough wide basis.

Town	Number of Premises	Amount of Levy
Crewe	99	£ 95,296
Macclesfield	127	£102,550
Nantwich	48	£ 43,501
Wilmslow	49	£ 51,097
<b>Total</b>		<b>£292,444</b>

### Summary

Members should also note that the cost of implementing the levy can be deducted prior to the apportionment of the final figure (that being 30% to the Licensing Authority and 70% to Cheshire Constabulary). This would also include the cost of any legal challenge to the making of a levy. The process to be followed to implement the levy is comprehensive and extensive consultation should be conducted to reduce the risk of any challenge. Providing the information to date has resulted in the diversion from normal duties of over 240 officer hours.

Premises that do not use their authorisations after midnight are likely to take advantage of the free minor variation that must be provided to them if the levy were to be implemented (a minor variation would normally carry a fee of £89.00). It is impossible to estimate the number of premises that would chose to change their licence rather than pay the levy. However, to provide an indication, if 10% of the total premises licensed from midnight varied their licence this would be a reduction of approximately £80,000.

Similarly, it is impossible to estimate the number of premises that might fall into one of the exemption categories. For example, there are a number of hotels that have an authorisation to serve the public after midnight. However, they may choose to lose this ability and only serve residents after midnight and therefore be exempt from the levy if this category of exemption is adopted. Hotels also tend to have a higher than average rateable value and therefore pay one of the higher levy fees.

Members also need to consider the impact of such a charge on the late night economy as a whole including premises that may close as a result of the extra cost (and the impact this would have on employees etc) and any 'ancillary' businesses such as the Private Hire and Hackney Carriage trade.

# Annex 2



### Project Initiation Document

Project Name:	The identification of options which may reduce the harmful effects of alcohol consumption within the Cheshire East area
Project Manager	Councillor P Whiteley
Project Team	Councillor P Whiteley (Chairman) Councillor G Wait (Vice-Chairman) Councillor I Faseyi Councillor M Hardy Councillor M Parsons
Supporting Officers	Kim Evans, Licensing Team Leader Julie Zientek, Democratic Services Officer
Date:	7 March 2014
Timescales	Start date: 7.3.14 End Date: July 2014
Distribution:	Project Management Team Supporting Officers
Purpose of this document:	To document the reasons for undertaking the project, to define the project and to form the basis for its management
Project Initiator	Licensing Committee

#### Background & Reasons For Undertaking The Project

At its meeting on 14 January, the Licensing Committee had resolved to set up a Working Group, formed from Members of the Licensing Committee, to identify options which may reduce the harmful effects of alcohol consumption within the Cheshire East area.

#### Objective

To make recommendations to the Licensing Committee as to which options are appropriate and proportionate, based on the information and evidence collected, to help facilitate a reduction in the harmful effects of alcohol consumption.

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**Main Issues**

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Facilitating a vibrant and diverse night-time economy that does not adversely affect the amenity of residents and visitors:

- Tackling alcohol-related crime and disorder and antisocial behaviour
- Considering alcohol-related health harm

To be considered:

- Late Night Levy
- Early Morning Restrictions Orders
- Designated Public Place Orders
- Voluntary and best practice schemes
- Any other matter the Group considers appropriate

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**How We Are Going To Approach The Investigation**

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Meetings with Portfolioholders, police, representatives of the licensed trade, and information provided by Kim Evans, Licensing Team Leader.

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**Expected Output**

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A considered and appropriate recommendation to the Licensing Committee that will provide options that tackle the main issues.

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**Plan**

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See Attached



## Project Plan

**Objective:** - To monitor how the core objective will be achieved.

Information Required	Source	How i.e. meetings, site visits, etc	Owner	Deadline	Status RAG
Information regarding the harmful effect of alcohol consumption on health	Cllr J Clowes Guy Kilminster	Meeting			
Licensing income and expenditure	Cllr P Raynes	Meeting			
Measures considered and implemented by other Local Authorities	Kim Evans	Documentation/ Meeting			
Views of licensees	A representative of the trade	Meeting/ Site Visits			
Information regarding alcohol-related crime	Police	Meeting			
Information regarding: <ul style="list-style-type: none"> <li>• Late Night Levy</li> <li>• Early Morning Restrictions Orders</li> <li>• Cumulative Impact Areas</li> <li>• Purple Flag Scheme</li> <li>• Archangel Scheme</li> <li>• Best Bar None Scheme</li> <li>• Designated Public Place Orders</li> </ul>	Kim Evans	Documentation/ Meeting			

At the meeting on the 24 March 2014 the Working Group Members agreed on the following next steps (which are not included in the PID):

- To invite Councillor L Gilbert to a future meeting.
- To invite a representative of Poppleston Allen and a local BII representative to a future meeting in order to ascertain the views of licensees.
- To invite Mr J Dwyer, Police and Crime Commissioner, and Mr J Roberts, who had spoken at the Licensing Committee meeting in January, to give the views of the Police on barring orders, the Archangel Scheme and reviews of premises.
- To invite Councillor H Murray to a future meeting, to discuss how Poynton Town Council utilises Police Community Support Officers.
- To undertake a site visit on a Friday/Saturday evening (in Nantwich?).
- That Working Group Members consider further information on a possible cumulative impact policy at a future meeting.

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# Annex 3

## **Notes on health impacts of alcohol for late night levy**

### **Binge Drinking**

It is estimated that 23% of adults in Cheshire East binge drink. This is significantly higher than the national average of 20%. The highest rates of binge drinking are in the Macclesfield LAP, where 25% of adults binge drink.

### **Children and Alcohol**

Cheshire East is in the worst quarter of council areas nationally for emergency admissions due to medical conditions caused directly by alcohol in under-18s. 48 children and young people were admitted in the most recent annual figures. Locally, the admission rates in Macclesfield and Crewe are 3.1 times and 2.6 times higher respectively than the national rate.

According to the Health Survey for England 2011, around 682 16-19 year olds a year in Cheshire East have alcohol-seeking behaviour and are 'higher-risk' drinkers, consuming over 50 units per week.

The Young Persons Alcohol and Tobacco Survey 2013 reported that more young people aged 14-17 in Cheshire East binge drink compared to the North West. According to the same survey, fewer young people aged 14-17 in Cheshire East have never tried alcohol compared to the North West.

Research conducted by Cheshire East Trading Standards shows that 15% of test purchases of alcohol by under-18s were successful.

The report 'Silent Voices' highlighted the issue of parental alcohol misuse. Applying the national estimates given in the report to the estimated under 16 population of Cheshire East indicates that 19,700 children are likely to be living with at least one binge drinker, whilst over 5,200 could be living with 2 binge drinkers. Nearly 4,000 children live with a dependant drinker. These figures are likely to underestimate the scale of the problem locally due to Cheshire East's higher binge drinking rates.

### **Domestic abuse**

The main contributing factors for both the victims and the perpetrators of domestic abuse are related to mental health, alcohol and drugs. The Cheshire Constabulary's 2011/12 domestic abuse data for Cheshire East identified that in 32% of cases considered by Multi-Agency Risk Assessment Conferences (MARACs) the perpetrator had been drinking alcohol. In 17% of the cases the victim had been drinking alcohol.

### **Admissions**

In 2012/13 there were 163 emergency admissions to hospital for liver disease in the under 75s; 65% related to alcohol. Internally Macclesfield LAP has the highest rate.

The emergency admission rate for alcohol-related liver disease in 2012/13 for NHS Eastern Cheshire CCG falls within the worst quartile nationally. The rate



within NHS South Cheshire CCG is slightly better than the national average. Both CCGs have identified alcohol related admissions as a priority.

### **Deaths**

The rate of premature death from liver disease in Cheshire East in 2010-2012 was not significantly different from the national average. However, this equates to approximately 55 deaths per year, 90% of which are considered preventable. Approximately half are due to alcoholic liver disease. Internal variation is not significant but death rates are higher in Crewe and Macclesfield Local Area Partnerships.

Public Health  
RA/10.09.2014

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# Annex 4

# TIIG Cheshire and Merseyside Themed Report

The use of Accident and Emergency data in the Licensing Process  
April 2011 to March 2014

June 2015

Jennifer Brizell, Karen A Critchley, Simon Russell and Mark Whitfield



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## FOREWORD

Nationally in 2013/14, 53% (704,000) of total violent incidents involving adults (1,327,000) were alcohol related<sup>1</sup>. In addition to the implications for violence, alcohol is responsible for 8% of all hospital admissions<sup>2</sup>. The impact on Emergency Departments (EDs), the police and the public wellbeing is considerable.



The Licensing Act 2003 aims to: target those who may be selling alcohol irresponsibly; reduce crime, disorder and harm; and, improve public safety. The Licensing Authority relies on robust multi-agency working and multi-source intelligence so that processes of licensing, application of conditions or revoking of licenses is to be efficient and effective. This report provides significant examples of the impact of robust data collection and sharing in effective decision-making and actual reduction in alcohol related assaults and hospital admissions.

While it is acknowledged that our EDs are under significant and multifaceted pressures, this report emphasises the positive effect that complete and enhanced ED data can have on the outcomes for public safety, violence prevention and ED admissions. Local partnership working and flexibility are key to this success.

It is imperative that Emergency Departments capitalise on the opportunity to enhance their assault data and to learn from those who are already achieving optimum standards in this area. The Trauma and Injury Intelligence Group (TIIG) are central to the intelligence gathering by local and regional EDs and the data sharing mechanisms which enable the data to be efficiently processed and presented to the appropriate local authorities.

In summary this report demonstrates the opportunity for real change in violence prevention and alcohol-related assaults based on enhanced and efficient intelligence gathering in our Emergency Departments.

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<sup>1</sup> Office for National Statistics. (2015). Available at: <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime-and-sexual-offences--2013-14/sty-facts-about-alcohol-related-violence.html>.

<sup>2</sup> Public Health England (2015). Available at: [http://www.alcohollearningcentre.org.uk/library/BACKUP/DH\\_docs/Hospital Admissions for Alcohol-related Harm.pdf](http://www.alcohollearningcentre.org.uk/library/BACKUP/DH_docs/Hospital%20Admissions%20for%20Alcohol-related%20Harm.pdf).

## ACKNOWLEDGEMENTS

With thanks to the Emergency Departments involved with the collection of the data used in this report. Thank you also to Cheshire East and West Council, Wirral Borough Council and Liverpool City Council Public Health Team for their continued involvement in the Trauma and Injury Intelligence Group. Thank you to Gareth Hill, Linda Simms and Andy Ashcroft for their contributions and thanks also to Raphaela Kane for writing the foreword for this report. Finally, thank you to James Marrin and Jane Harris at the Centre for Public Health for their assistance in proof reading this report.



## KEY FINDINGS

- Licensing authorities have the responsibility of reviewing the licence of a premise if it has been found to breach the conditions of its licence. Health data from Emergency Departments (EDs) can be used to supplement police recorded crime data in a licence review, which is particularly useful where a violent incident has occurred but the victim has not informed the police.
- Both the College of Emergency Medicine (CEM) Guidelines and the Standard on Information Sharing to Tackle Violence recommend that EDs collect and share data on assault related attendances with local partners. In particular, a detailed assault location can be utilised to help and support a licence review process. Both CEM and Information Sharing to Tackle Violence recommend collection of:
  - Date and time of assault;
  - Specific location of assault; and,
  - The weapon used in the assault.
- The Trauma and Injury Intelligence Group (TIIG) also recommend that EDs collect and share data on:
  - Whether alcohol had been consumed prior to the assault;
  - Specific location of where the alcohol was consumed;
  - Whether the incident had or would be reported to the police; and,
  - Details of the attacker/s, including gender, number of attackers and relationship to the victim.
- Using Arrowe Park Hospital and The Royal Preston Hospital as examples, data collection and sharing appears to work most effectively when it is flexible and can be adapted to suit local partner needs. This could include additions or modifications to data items collected at the ED or changes to the way data is presented and shared with local partners.
- Multidisciplinary meetings, which include representatives from TIIG, the ED and local partners, also facilitate discussions on how data improvements can be made and how ED data can be used effectively in supporting licensing reviews.
- Where ED data has been used as part of a successful licence review process, the key enhanced assault fields utilised were:
  - Date and time of assault;
  - Weapon used;
  - Location of assault; and,
  - Whether the incident was reported to the police.
- Optimal data collection and sharing can allow those working in violence prevention and licensing to target their work more effectively.
- While not all EDs are collecting enhanced assault data to the optimum standard, lessons can be learnt from those who are. TIIG, the EDs and local partners should collaborate to ensure that the data collected is being used effectively, and work together to consider where improvements can be made.

## INTRODUCTION

### ALCOHOL LICENSING

Estimates suggest that approximately 1,000 per 100,000 people will be a victim of alcohol-related crime each year (Institute of Alcohol Studies, 2013). In terms of violent crime, during 2012/13 almost half (49%) of victims believed that their offender(s) was/were under the influence of alcohol during the incident (ONS, 2014). The overarching aims of the Licensing Act 2003 were to target those who may be selling alcohol irresponsibly, reduce crime, disorder and harm, and improve safety.

It is the responsibility of licensing authorities to manage and administer the Licensing Act in their local area, including issuing licenses and enforcing the conditions of the licence (Gov.UK, 2013). Under the Licensing Act 2003, on the 1st April 2013 the Primary Care Trusts' function as a responsible authority was transferred to Directors of Public Health (DsPH) in local authorities (Department of Health, 2012). In addition to DsPH other public bodies, which are responsible authorities entitled to make representations to the licensing authority in relation to applications under the Licensing Act, include the Police Licensing Unit, Planning and Building Control, Trading Standards, Fire and Rescue Service, Environmental Health, and the Safeguarding Children Board (Liverpool City Council, n.d.).

Across England and Wales, any businesses, organisations or individuals who wish to sell alcohol are legally required to apply for a premises licence<sup>3</sup> or club premises certificate<sup>4</sup> from their local licensing authority. On the 31st March 2014 in England and Wales, there were 204,282 premises licences in force which represented a 0.1% increase on the previous year. Throughout 2013/14, 97% (n=8,763) of new premise licences were granted (Home Office, 2014).

In addition to granting premise licences, it is the responsibility of licensing authorities to enforce the conditions of the licence which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and,
- The protection of children from harm.

Where the licensing authority has evidence to show that a particular licensed premise is breaching one of the conditions of its licence, then an application may be submitted to review the licence of the premises. During 2013/14 across England and Wales, 838 completed reviews were carried out, of 3,435 which went to committee hearing, the majority of which (78%) were linked to issues around crime and disorder. Of the completed reviews, 56% of the premises had new conditions placed on their licence and 24% had their licence revoked (Home Office, 2014). As part of the licence review process, the licensing authority is required to provide evidence to support their claim and this information may come from a number of sources such as Emergency Department (ED) data and police recorded crime. Information on attendances to EDs may be useful in supplementing police recorded crime data particularly where a violent incident has occurred but the victim has not informed the police.

<sup>3</sup> Any premises which sells alcohol. Applications must come from a personal licence holder.

<sup>4</sup> For private members clubs which sell alcohol.



When collected to a high standard, data collected by EDs can be extremely useful in highlighting:

- Hotspot areas, where a high level of violent crime occurs in a particular licensed premises;
- Time periods, where certain times of the day may be more likely for violent incidents to occur<sup>5</sup>;
- Use of weapons, where particular weapons occur in a high number of assaults, such as glass bottles<sup>6</sup>;
- Underage drinking, where people under the age of 18 are using the licensed premise; and,
- High alcohol consumption, where perpetrators or victims of violence have been involved in excessive or risky levels of drinking.

This report considers how ED data, collected in line with the College of Emergency Medicine (CEM) guidelines, can be used effectively to support the licensing review process. This is illustrated using case studies which provide successful models of data sharing and usage and key figures on violence-related attendances from Arrowe Park Hospital, Merseyside and Royal Preston Hospital, Lancashire. This report also provides an overview of the current picture across Merseyside and Cheshire, specifically focusing on where data could be used to support licensing reviews and where improvements could be made.

## NEW STANDARD ON INFORMATION SHARING TO TACKLE VIOLENCE

The Health and Social Care Information Centre published a new Standard in September 2014<sup>7</sup>. The *Standard on Information Sharing to Tackle Violence* will ensure EDs collect and share data about injury attendances involving violent crime with Community Safety Partnerships (CSPs), including:

- Time and date of incident;
- Time and date of arrival to ED;
- Specific location of incident; and,
- Primary means of assault (i.e. weapon or body part used).

This dataset is in line with the College of Emergency Medicine guidelines, with the addition of the time and date of arrival to the ED; however, this information is already collected by EDs via their patient management systems.

## COLLEGE OF EMERGENCY MEDICINE GUIDELINES

The College of Emergency Medicine (CEM) produced guidelines to assist EDs sharing data with CSPs to reduce community violence. CEM recommends EDs routinely collect, electronically if possible, data about assault attendees; in particular the inclusion of a detailed assault location, which can be utilised to help and support the licence review process.

<sup>5</sup> In such cases, restrictions on premises' opening hours may be beneficial. It has been suggested that the fixed and early closing times established under the Licensing Act 1964 was one of the key causes of rapid binge drinking prior to closing time which was linked to disorder and disturbances when customers were leaving premises simultaneously. One of the Licensing Act 2003 objectives was to reduce concentrations and achieve slower dispersal of customers from licensed premises through flexible opening times (Liverpool City Council, 2014).

<sup>6</sup> In such cases glass drinking vessels may be replaced with polycarbonate alternatives.

<sup>7</sup> <https://www.gov.uk/government/news/aes-and-police-to-share-information-to-help-tackle-violence>

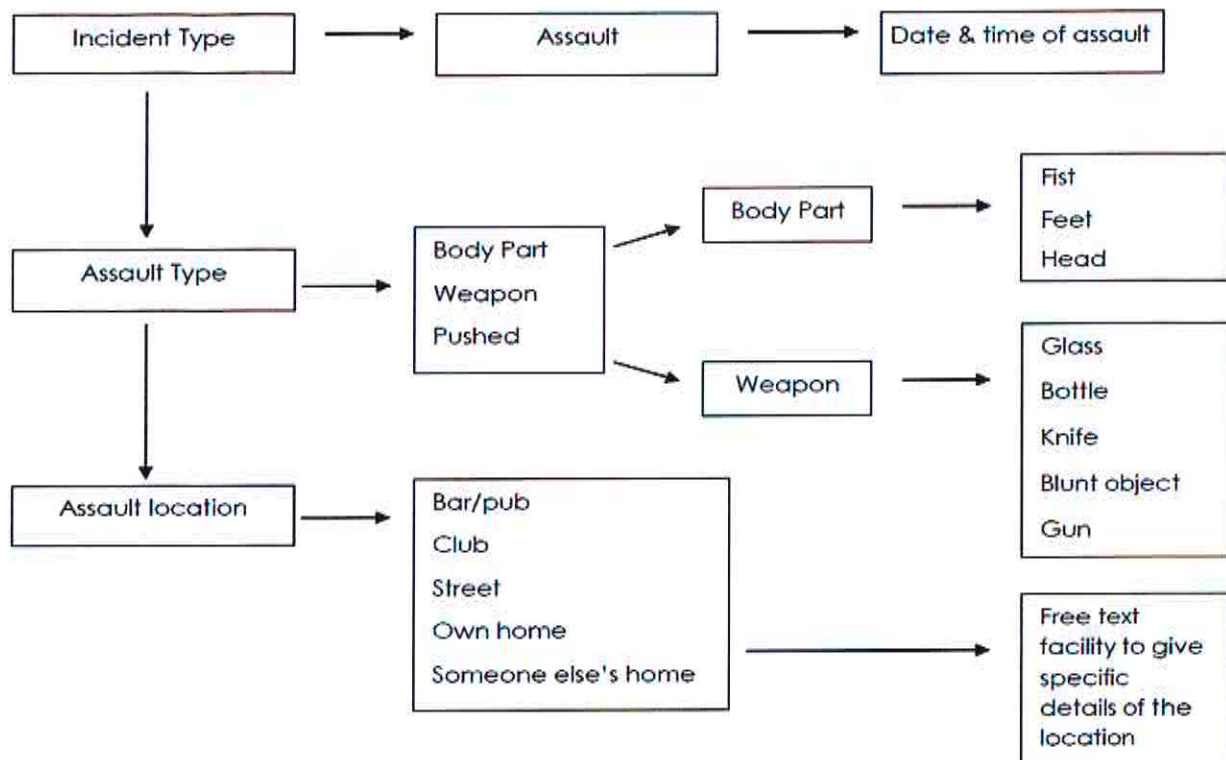


Figure 1 - Data Items to be collected by ED receptionists (CEM, 2011)

## TIIG GUIDELINES

In addition to the CEM recommended dataset outlined above, TIIG also recommends the following data are recorded, as requested by local partners:

- Whether alcohol has been consumed in the 3 hours prior to the incident;
- Location of where alcohol was last consumed;
- Whether the incident has been or will be reported to the police; and,
- Number of attackers, gender of attacker/s and relationship to attacker/s.

In conjunction with CEM guidelines and the Information Sharing Standard, these additional questions can assist in the licensing review process by highlighting incidents the police may not have been made aware of and providing details of the last location alcohol has been consumed, where alcohol has been identified as a causal factor in an incident of violence.



## A&amp;E DATA AND THE LICENSING PROCESS

## CASE STUDY 1: ARROWE PARK HOSPITAL

## BACKGROUND

Arrowe Park Hospital, located on the Wirral in Merseyside, is part of the Wirral University Teaching Hospital Trust. Arrowe Park Hospital has been sharing all injury ED attendance data with TIIG since 2005 and TIIG store data for Arrowe Park Hospital from April 2004 onwards. As well as routine biyearly injury reports, TIIG also share data with local partners on assault related ED attendances. Assault data were previously shared with local partners bi-weekly to inform police meetings which were arranged to meet the objectives of the Tackling Knives Action Programme (TKAP; Gov. UK, 2010). It was agreed in 2014 that data sharing was no longer needed on a biweekly basis and could occur on a monthly basis. In addition to the calendar month data file, a rolling data file is updated on a monthly basis which includes attendances made to the ED from 1st January 2014 to the current reporting month. Following discussions and to suit local partner needs, several amendments were implemented in November 2014 to the data summaries presented for both the monthly assault report and the rolling data. The changes made to the data summaries in the reports are outlined below.

## MONTHLY ASSAULT REPORT

- The data summary now presents figures as numbers and percentages (not just percentages, as was the case previously).
- Now included in the summary is the number and percentage of assaults:
  - which occurred at a licensed premise (defined as public house or nightclub [inside/outside]);
  - involved a body part; and,
  - by relationship to attacker.
- The *Key locations* are now calculated from the number of attendances where the assault location was recorded as the Wirral (omitting those which occurred in Liverpool or the location was unknown, other or not recorded).

## ROLLING DATA

- There are now two separate data summaries for this report; the first details all assault attendances and the second details those which occurred at licensed premises (defined as public house or nightclub [inside or outside] and where a premise name has been recorded under 'specific location').
- Figures, including those outlined above, are presented as numbers and percentages.
- The *Key locations* are now calculated from the number of attendances where the assault location was recorded as the Wirral (omitting those which occurred in Liverpool or the location was unknown, other or not recorded).
- The summary for all assault attendances is further broken down to detail incidents which occurred within Wirral local authority (omitting those which occurred in Liverpool or the location was unknown, other or not recorded).
- Hotspot locations for licensed premises remain unchanged:
  - Hotspot licensed premises where three or more assaults occurred, inside or outside the venue
  - Hotspot licensed premises where three or more assaults occurred, by assault weapon.

- All licensed premises, including the count and percentages of assaults that occurred in specifically named venues, as recorded by ED staff. Percentages are calculated from the sum of all assaults where the specific location of licensed premise was recorded.

Since data are shared with local partners on a monthly basis and the rolling data file is updated monthly, it may be beneficial for the two data files to be combined. This would involve TIIG providing one monthly data file rather than two, with a data summary added to the rolling data file which would detail attendances made in the past month. Monthly data could still be viewed at record level by using filters on the data tab to select the current year and month. If this was to be implemented, as decided by the Scrutiny Group, the rolling data file would have the following tabs:

- Cover sheet
- Summary – [current month]
- Summary – all assaults
- Summary – licensed premises
- Data – all assaults
- Data – licensed premises
- Hotspots – licensed premises
- Metadata

## WIRRAL SCRUTINY GROUP

In September 2014, Wirral's Public Health Manager arranged a Scrutiny Group meeting to promote discussions around the use of TIIG data in local violence prevention. An informal meeting was held, attended by representatives from TIIG, Arrowe Park Hospital, Wirral Local Authority (public health and licensing) and Merseyside police, to outline the purpose of TIIG and provide examples of how data have been used in other areas within violence prevention and the licensing process. The meeting allowed local partners to meet and discuss the establishment of a Scrutiny Group and its purpose for future meetings. It was agreed that partners would meet again the following month and then on a quarterly basis from then on.

The meeting in October 2014 involved discussions around the frequency of reporting and how the summaries should be presented in the data files shared with local partners. Several amendments were agreed which are outlined above. The Licensing Sergeant discussed pending licensing applications, though it was later decided by the Public Health Manager and the TIIG Project Lead that this was not applicable to the Scrutiny Group meetings. Future meetings will continue to discuss licensing and how TIIG data can be improved and used to support the licensing function within Wirral, though the meetings will also discuss wider TIIG data uses in violence and injury prevention.

## DATA ITEMS AND COMPLETION RATES

This section of the report presents data from Arrowe Park Hospital focussing on assault related attendances and provides figures on both the data collected and completion rates.



## COMPLETION RATES

All data at Arrowe Park Hospital is collected to a high standard and the majority is in keeping with national guidance, which recommends that detailed assault data is collected for at least 70% of ED assault patients. Assault related data items go beyond both the CEM recommended guidelines and TIIG guidelines and thus provide a very detailed picture of assaults attendances to Arrowe Park Hospital.

Table 1 displays a list of assault related data items which are collected by Arrowe Park Hospital and the completeness of these items for the financial year 2013/14. Arrowe Park collects a wide range of information which allows local partners working in licensing to understand when, where and how an assault occurred as well as knowing whether it was alcohol related. Improvement of the completion of the assault date and time fields would be welcomed, since this information can be useful during the license review process in reviewing opening hours of off licences as well as licensed premises. This issue has recently been highlighted at the Wirral Scrutiny Group (see Wirral Scrutiny Group section of this report) and discussions are taking place between TIIG, Arrowe Park Hospital and local partners to consider ways of improving these fields.

Data item	Completion rate
Date of assault	43%
Time of assault	47%
Location of assault, e.g. nightclub, pub, home	99%
Detailed location of assault, e.g. name of pub, club	98%
Number of attackers involved in the assault	99%
Whether the patient has been assaulted by the attacker before	99%
Relationship to attacker, e.g. stranger, partner	99%
Weapon used in the assault, e.g. body part, blunt object	99%
Whether the patient believes the attacker was drunk	99%
Whether the patient has or intends to inform the police of the assault	99%
Had the patient consumed alcohol up to three hours prior to the assault	100%
If alcohol had been consumed, where was it consumed, e.g. nightclub, pub, home	99%
Detailed location of last drink location, e.g. name of pub, club	80%

Table 1 - Arrowe Park assault data items and completion rates (2013/14)

## ASSAULT-RELATED INJURY ATTENDANCES TO ARROWE PARK HOSPITAL (2011/12 TO 2013/14)

This section of the report presents an overview of assault related attendances to Arrowe Park Hospital between April 2011 and March 2014<sup>8</sup> split by core data items (e.g. demographics of patient, how they arrived and discharge method), CEM guideline questions (e.g. weapon of assault and location of assault) and TIIG recommended questions (e.g. whether alcohol had been consumed prior to the assault).

<sup>8</sup> For full details of assault attendances to Arrowe Park during this time period please visit <http://www.cph.org.uk/tiig/merseyside/#ED003>

## CORE DATA ITEMS

Between April 2011 and March 2014 there were 4,467 assault attendances to Arrowe Park ED (Table 2) and during this time there was a 9% reduction in the number of assault attendances. Data from TIIGs violence trends report (Brizell, Critchley and Whitfield, 2014), demonstrates that there has been a significant reduction in assault attendances at Arrowe Park during the TIIG data sharing period; for example, between 2006/7 and 2012/13 Arrowe Park assault attendances have reduced by approximately 49%. Although other factors may have also influenced this drop, optimal data collection and sharing allow partners working in violence prevention and licensing to inform and target their work more effectively.

Financial year	Number of attendances
2011/12	1591
2012/13	1435
2013/14	1441
<b>Total</b>	<b>4467</b>

Table 2 - Arrowe Park assault attendances by financial year (April 2011 to March 2014)

Figure 2 shows that between April 2011 and March 2014, the majority of assault attendees were male (3,070; 69%). Females represented 31% of attendances (1,396)<sup>9</sup>.

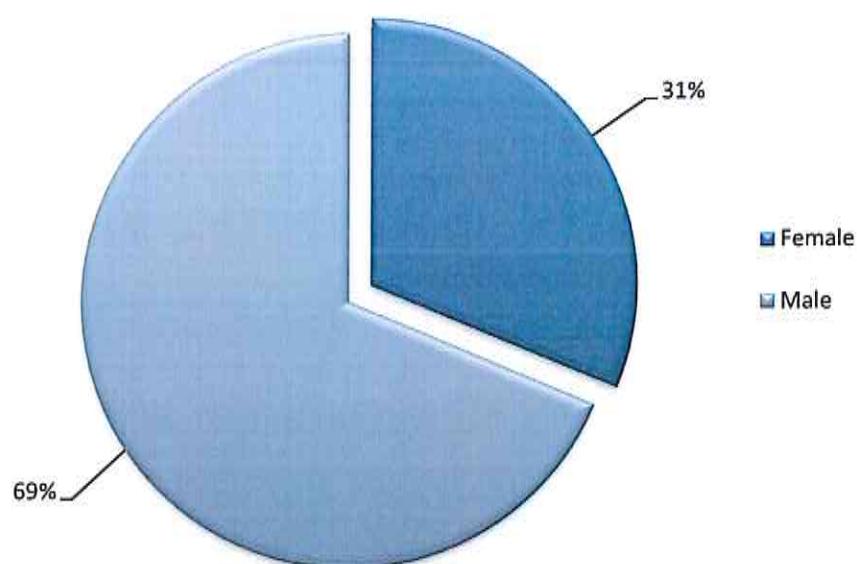


Figure 2 - Arrowe Park assault attendances by gender (April 2011 to March 2014)

The majority of assault attendances were comprised of those aged between 15 and 29 years of age (2,291; 51%) and 30 and 59 years (1,834; 41%). Less than one percent of attendances were made by those aged between 0 and four years of age (Figure 3). The largest proportion of attendances was made by males aged between 15 and 29 years (36%) and those aged between 30 and 59 years (27%).

<sup>9</sup> Please note there was one attendee during this time who did not have a sex recorded.

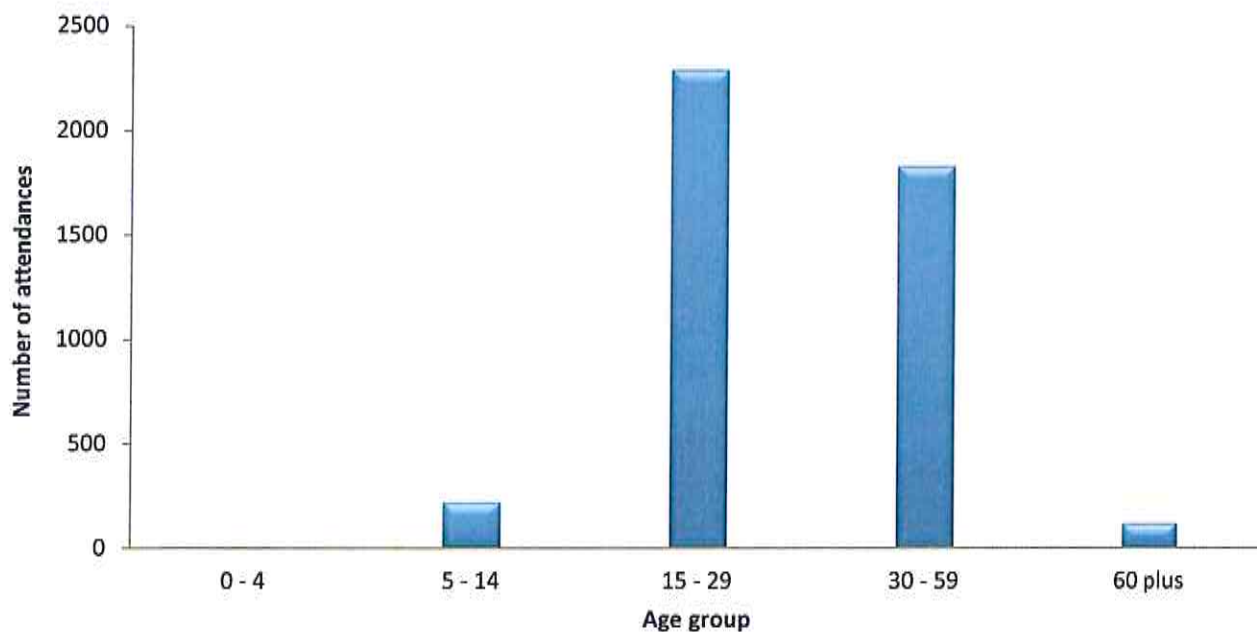


Figure 3 - Arrowe Park assault attendances by age group (April 2011 to March 2014)

Table 3 shows the method of arrival to Arrowe Park Hospital. Between April 2011 and March 2014, the majority of assault attendances arrived at the ED by private transport (2,034; 46%) or ambulance (1,970; 44%). The majority of patients self-referred to Arrowe Park ED (3,870; 87%, Table 4).

Arrival mode	Number of attendances	%
Private transport	2034	46
Ambulance	1970	44
Police vehicle	250	6
Public transport	134	3
Walked	52	1
Other	27	1
Total	4467	100

Table 3 - Arrowe Park assault attendances by arrival mode (April 2011 to March 2014)



Source of referral	Number of attendances	%
Self-referral	3870	87
Emergency services	283	6
Police	202	5
Other	74	2
Health care provider: same or other	16	0
Work	11	0
Educational establishment	6	0
Unknown	5	0
<b>Total</b>	<b>4467</b>	<b>100</b>

Table 4 - Arrowe Park assault attendances by source of referral (April 2011 to March 2014)

Almost half of patients (2,091; 47%) were discharged from Arrowe Park ED with no follow up required; 12% (528) were admitted into the hospital (Table 5).

Disposal method	Number of attendances	%
Discharged - No follow-up required	2091	47
Admitted	528	12
Left department before assessment	438	10
Discharged – General practitioner to follow up	394	9
Discharged – Maxillofacial clinic	222	5
Discharged – Ear, nose and throat clinic	184	4
Left department against advice	149	3
Discharged other	121	3
Discharged - Fracture clinic	104	2
Discharged – General practitioner practice nurse	82	2
Transferred to other health care provider	47	1
Discharged - Ophthalmology clinic	37	1
Discharged - Adult emergency department clinic review	36	1
Unknown	9	0
Discharged – Walk in centre to follow up	8	0
Discharged - Paediatric emergency department clinic review	5	0
Discharged - District nurse to follow up	***	0
Discharged - School nurse to follow up	***	0
Discharged - Physiotherapy follow up arranged	***	0
Discharged - Primary care assessment unit	***	0
Died in department	***	0
Discharged - To general practitioner out of hours	***	0
<b>Total</b>	<b>4467</b>	<b>100</b>

Table 5 - Arrowe Park assault attendances by disposal method (April 2011 to March 2014)<sup>10</sup>

<sup>10</sup> Please note that, throughout this report, where attendance numbers are less than five and can be back calculated from totals they have been suppressed (\*\*\*). Where there is only one number less than 5, two numbers will be suppressed at the next level (e.g.<10).



Arrowe Park Hospital routinely collects and shares information on the date and time a patient arrived at the ED. Between April 2011 and March 2014, 11% of assault patients attended Arrowe Park between 8pm (Friday evening) and 3:59am (Saturday morning) and 10% between 8pm (Saturday evening) and 3:59am (Sunday morning, Table 6).

Day	Time					
	00-03:59am	04-07:59am	08-11:59am	12-15:59pm	16-19:59pm	20-23:59pm
Sunday	293	153	117	154	140	172
Monday	100	41	73	117	104	156
Tuesday	98	23	57	100	94	116
Wednesday	70	26	65	68	80	91
Thursday	71	19	58	67	90	128
Friday	106	39	53	80	105	197
Saturday	273	149	115	133	111	165
Total	1011	450	538	719	724	1025

Table 6 - Arrowe Park assault attendances by day and time of attendance (April 2011 to March 2014)

#### COLLEGE OF EMERGENCY MEDICINE (CEM) DATA ITEMS

In addition to core data items such as a patient's gender, age, disposal method and source of referral, Arrowe Park also collect all data items recommended by the CEM guidelines. This includes date and time of assault, weapon used in the assault and location of assault. Table 7 shows the day and time when the assault happened; 43% (824) of assaults occurred on a Saturday or Sunday<sup>11 12</sup>.

Day	Time					
	00-03:59am	04-07:59am	08-11:59am	12-15:59pm	16-19:59pm	20-23:59pm
Sunday	311	24	***	<10	27	36
Monday	143	6	***	<15	22	23
Tuesday	134	***	5	***	24	29
Wednesday	117	***	***	15	10	19
Thursday	124	***	6	<15	15	36
Friday	201	9	***	<10	29	60
Saturday	296	24	5	14	26	50
Total	1326	72	28	72	153	253

Table 7 - Arrowe Park assault attendances by day and time of assault (April 2011 to March 2014)

In the majority of assaults, a body part was used as the main weapon (3,368; 75%), 5% of assaults involved a blunt object and 3% involved a knife (Figure 4).

<sup>11</sup> This figure represents a percentage of where the data was collected which was in 43% of assault attendances.

<sup>12</sup> The high proportions of assault attendances recorded in the early hours on Saturday and Sunday morning are likely to reflect violent incidents which occurred during the night time economy on Friday and Saturday nights respectively.

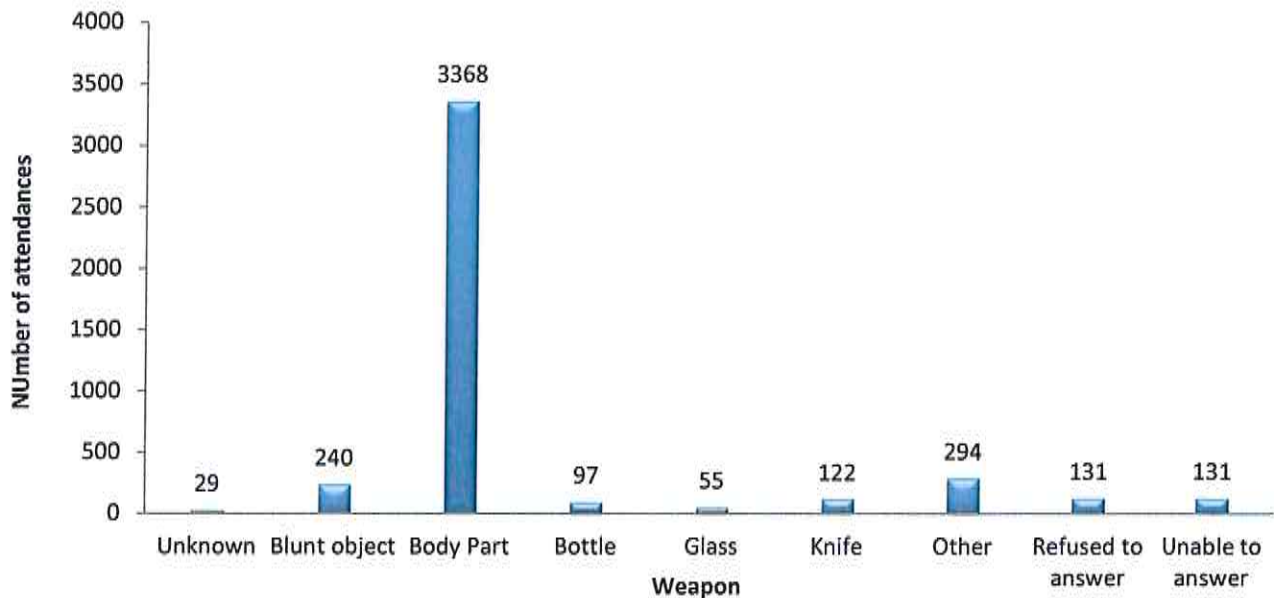


Figure 4 - Arrowe Park assault attendances by weapon (April 2011 to March 2014)

Arrowe Park Hospital collects data in line with the CEM guidelines regarding the location of an assault. Between April 2011 and March 2014, 37% (1,659) of assaults occurred in a public place, 17% (773) in the home and 16% (707) on a street/road. Four percent of assaults occurred in a nightclub and 6% in a public house<sup>13</sup> (Figure 5).

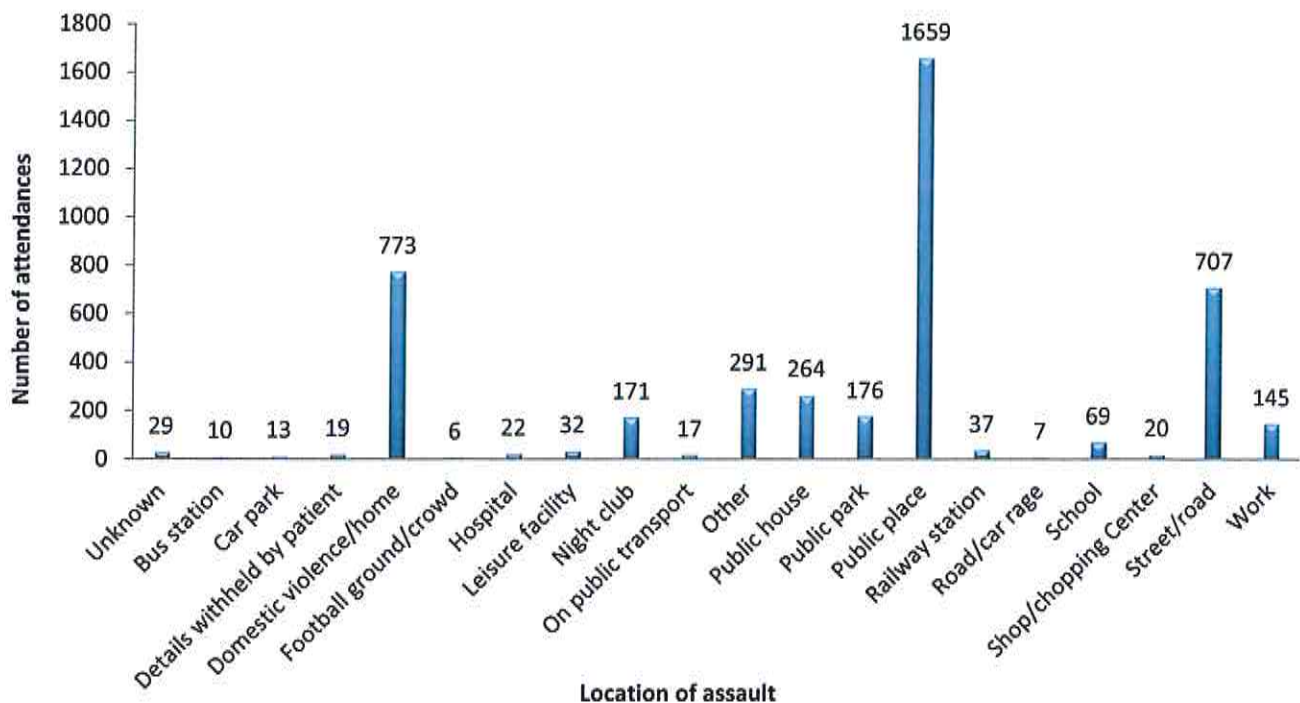


Figure 5 - Arrowe Park assault attendances by location of assault (April 2011 to March 2014)

<sup>13</sup> Arrowe Park now collects data on whether the assault occurred inside or outside of a nightclub or public house but collection of this additional information was only implemented in October 2013 and was therefore not available for the full monitoring period covered in this report. Nightclub Inside (18) and Nightclub outside (9) have been merged into Nightclub and Public house inside (36) and Public house outside (10) have been merged into Public house.



Arrowe Park collect two further assault location fields; the first details the area in which an assault occurred, e.g. Birkenhead, Wallasey or Liverpool city centre, and the second describes the specific location, e.g. name of street, pub or club. The first of these fields allows local partners to determine in which areas the highest numbers of assaults are occurring and how trends are changing over time. Figure 6 shows that overall, the highest number of assaults occurred in Birkenhead city centre (1,246; 28%) and Wallasey/Seacombe (559; 13%). In addition, data used in conjunction with the general assault location and date and time of assault fields can allow identification of areas with a high number of assaults occurring in and around licensed premises and when these assaults are most likely to occur.

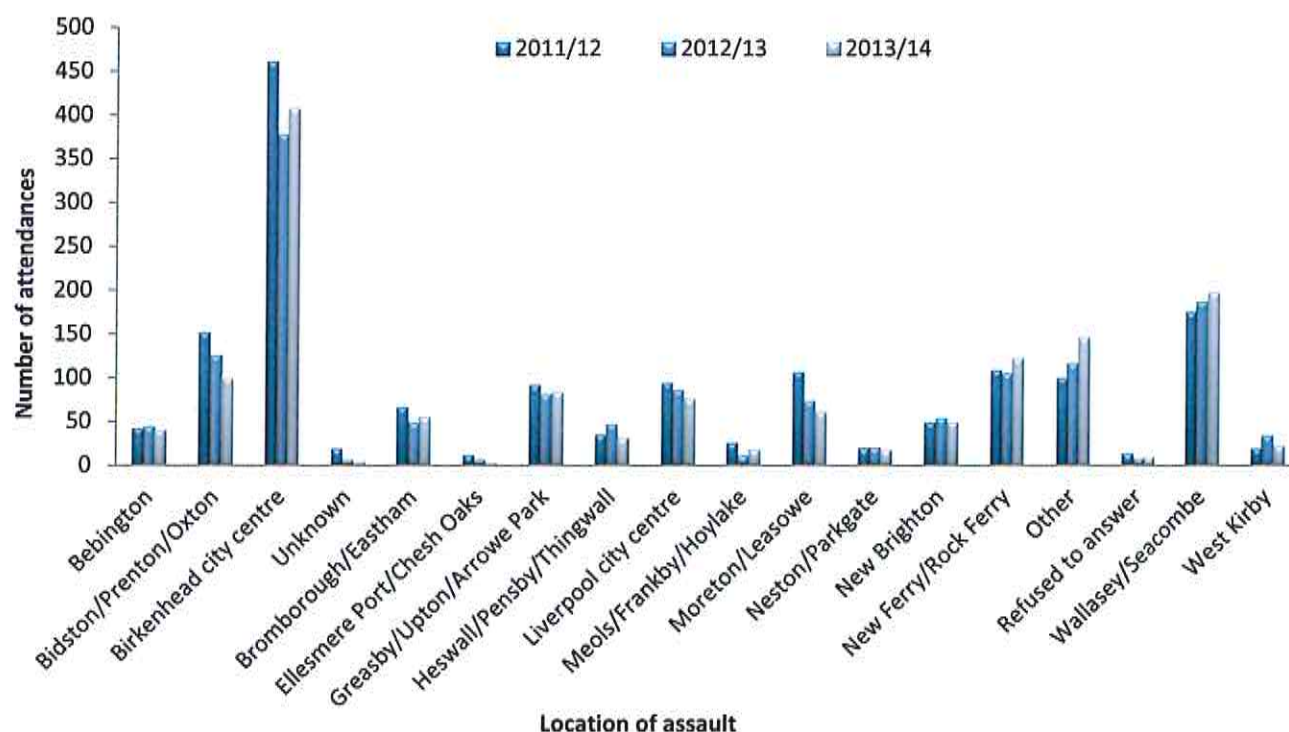


Figure 6 - Arrowe Park assault attendances by location of assault (April 2011 to March 2014)

While the detailed assault location field at Arrowe Park Hospital is collected to an extremely high standard, due to data sharing policy TIIG are unable to share the specifics of these data within this report,. However details on Arrowe Park Hospital assault location by Lower Super Output Area (LSOA) can be accessed via <http://www.cph.org.uk/tiig/merseyside/#ED003>. Furthermore data on the specific location of assault is made available to local partners working in community safety and licensing.<sup>14</sup>

## TRAUMA AND INJURY INTELLIGENCE GROUP DATA ITEMS

In addition to the CEM data items, TIIG recommend that Emergency Departments collect additional information on whether alcohol had been consumed prior to the assault, where the alcohol was consumed, and whether the incident has or will be

<sup>14</sup> Local partners working within community safety and licensing in Wirral local authority may be able to access anonymised patient level assault data; please contact [tiig@lmu.ac.uk](mailto:tiig@lmu.ac.uk) for further details.

reported to the police, along with details of the attacker, in terms of number of attackers, gender of attacker/s<sup>15</sup> and the victim's relationship to attacker/s.

Between April 2011 and March 2014, 49% (2,199) of assault attendees had consumed alcohol in the three hours leading up to their assault, while 46% (2,039) had not. The remaining five percent were either unable to or refused to answer. Where an attendee said that they had consumed alcohol (2,199 attendances), they were asked where they consumed their last alcoholic drink. The majority of attendees consumed their last alcohol drink in a public house (576; 26%) or at home (434; 20%), 17% (373) consumed their last drink in a nightclub and 6% (140) in a public place (Figure 7). As well as asking about the patient's alcohol consumption, Arrowe Park Hospital also asks assault attendees whether they believe their attacker was drunk at the point of assault. Between April 2011 and March 2014, 37% (1,663) of attendees believed their attacker was drunk, while 31% did not (1,372). The remainder were either unable to or refused to answer (1,432; 32%).

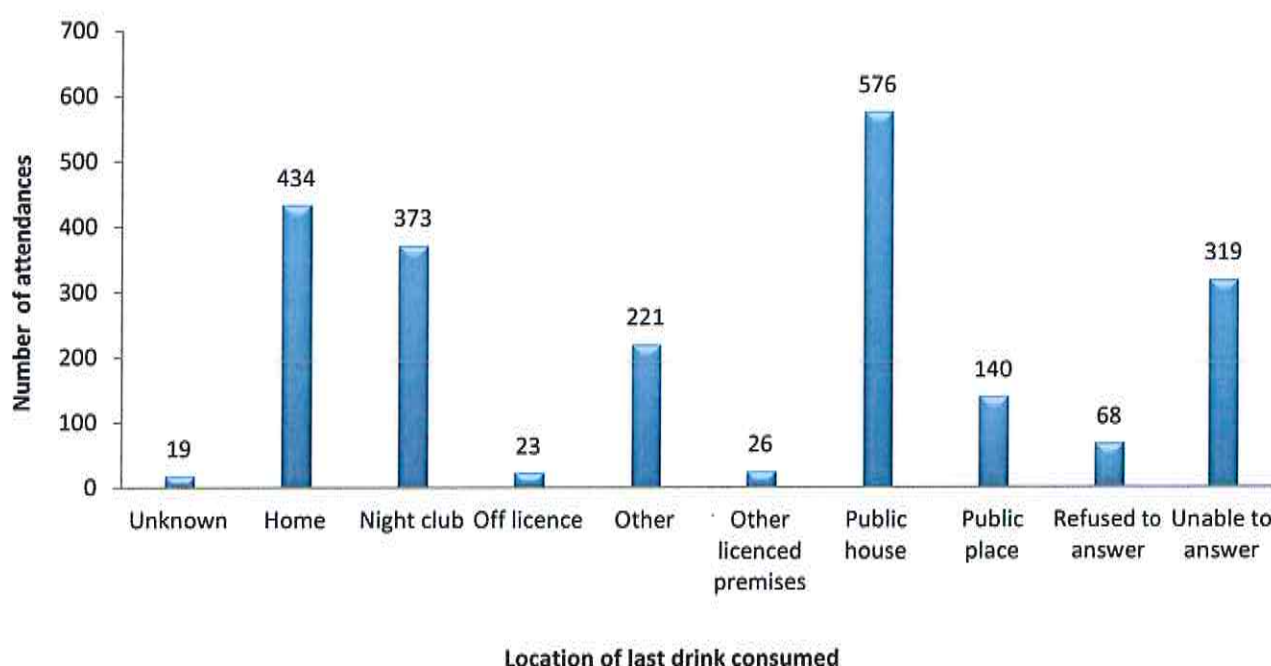


Figure 7 - Arrowe Park assault attendances by location of last drink consumed (April 2011 to March 2014)

Between April 2011 and March 2014, 67% (3,006) of assault attendees reported that they had informed or would be informing the police of their assault, 928 (21%) said they would not be informing the police and the rest were unable to or refused to answer (533; 12%). The majority of assault attendees were attacked by one person (2,662; 60%) and three quarters reported that they had not been attacked by the same person(s) previously (3,329; 75%). The majority of attendees were assaulted by a stranger (2,376; 53%), 18% (819) were assaulted by an acquaintance/friend and 8% (378) by their partner (Figure 8).

<sup>15</sup> Arrowe Park Hospital do not collect data on the gender of the attacker.



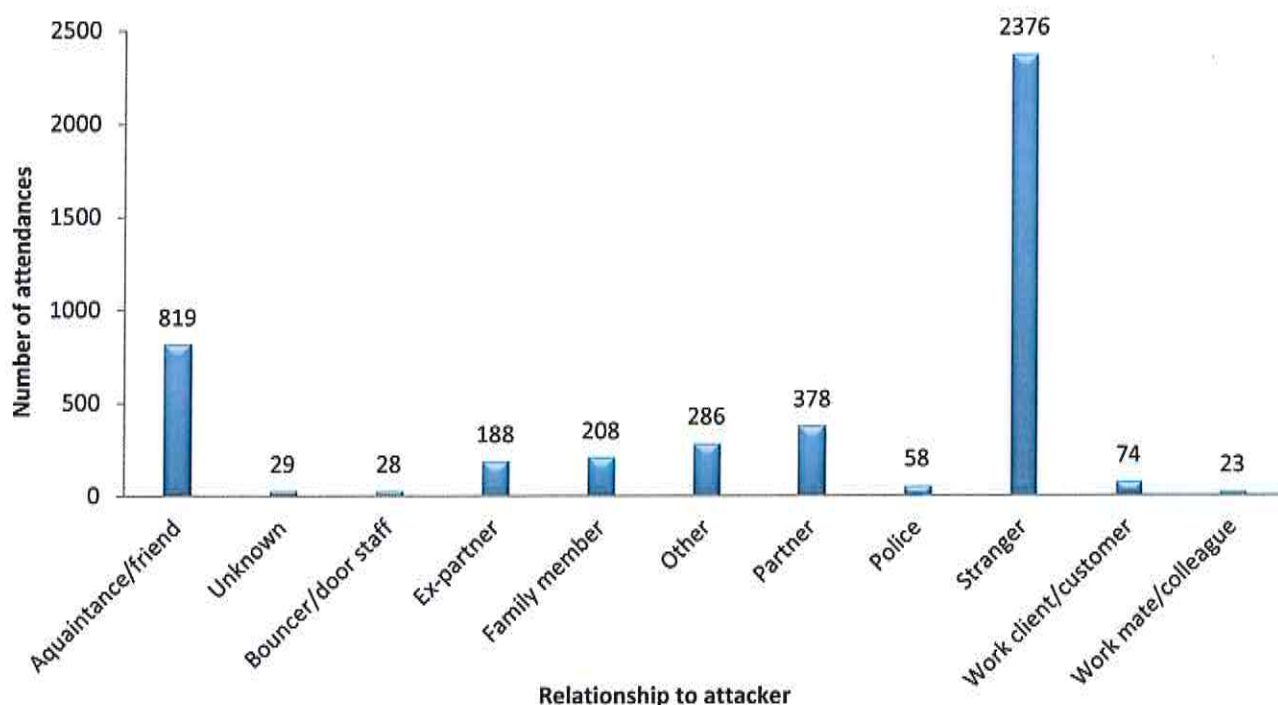


Figure 8 - Arrowe Park assault attendances by relationship to attacker (April 2011 to March 2014)

## DATA USES

The collection of good quality and detailed information regarding assault attendances to Emergency Departments can be used to support those working locally in policing, community safety and licensing. Data from Arrowe Park Hospital allows the identification and monitoring of where assaults are occurring, how they are occurring and potentially why they are occurring. Specifically for use in licensing reviews, the high level of detail collected around the location of assault allows local partners to easily identify licensed premises where a high level of violence is taking place. Accompanying data, such as the date and time of assault, whether the perpetrator or victim of violence had been drinking and whether the assault occurred inside or outside the premises creates a detailed picture of the circumstances under which an assault occurred. This data in conjunction with other health and police data sources can be used to strengthen a case during a license review process.

### Box 1: The view from Wirral Borough Council

We in Wirral are doubly blessed in TIIG terms. Firstly, our major hospital, Wirral University teaching Hospital at Arrowe Park, is one of the most outstanding in the region at collecting data for TIIG. The tireless work of the A&E staff involved in this (in face of so many other challenges) provides the foundation of some of the most comprehensive and accurate TIIG reports available. Secondly, the excellence of the Centre for Public Health team who work on TIIG and the strength of the relationship we have with them has turned a comprehensive data set into a highly useful and adaptable report.

One direct outcome of this has been the establishment of the 'Wirral TIIG Scrutiny Group'. Spurred on by the availability of such excellent data, public health, the police, the local licencing team and key hospital staff have come together in the group to review TIIG reports and challenge each other about what we are doing about any trends identified.

A further outcome is that, by working with CPH TIIG team, the final reports Wirral receives have been adapted and modified to be better fit for our purposes. CPH recently made no fewer than nine changes to the way Wirral TIIG reports are presented including:

- The creation of a rolling data file;
- Data summaries now presented in numbers *and* percentages;
- Inclusion in the summary of number/percentage of assaults which occurred at licence premises; and,
- The summary for all assault attendances is further broken down to present figures for incidents which occurred within Wirral local authority as opposed to other areas such as Liverpool City Centre.

All in all, TIIG data and the way we have developed it in partnership with CPH leaves Wirral better informed and better able to act effectively be that targeting campaigns and resources more intelligently or getting actively involved in the licencing process and using TIIG data to support representations.

*Gareth Hill, Public Health Manager, Wirral Borough Council*

## CASE STUDY 2: ROYAL PRESTON HOSPITAL

Royal Preston Hospital ED, situated in Lancashire, is part of Lancashire Teaching Hospitals NHS Foundation Trust. Lancashire joined TIIG in 2008 and data are available from April 2006. Data sharing is well established in Preston, with effective partnership working between the ED, the Community Safety Partnership, public health and the police. The data sharing process in Lancashire involves TIIG collating injury data from all the EDs across the county into one data file and sharing this with the Multi-Agency Data Exchange (MADE), a service delivered on behalf of Lancashire County Council, on a monthly basis. MADE is a collation and dissemination facility which provides a reliable multi-agency information exchange for local partners responsible for improving community safety across Lancashire. Information is disseminated via a secure microsite which is only accessible by members registered with the MADE Partnership.

Royal Preston Hospital ED is fully compliant with the CEM recommended dataset and also collects further data for assault-related injury attendances. The following enhanced data are collected electronically via their patient management system, QuadraMed:

- Assault date
- Assault time
- Assault weapon
  - Body part
  - Sharp object
- Assault location
- Assault location details [free-text]
- Whether alcohol has been consumed in the 3 hours prior to the incident
- Location of where alcohol was last consumed (general description and specific details [free-text] are collected)
- Whether the incident has been or will be reported to the police

As requested by partners, the Trust agreed in December 2014 to start collecting information regarding the victim's relationship to attacker. The data item was planned to be added to the QuadraMed IT system in January 2015 which would enable data collection via a drop-down menu<sup>16</sup>.

The majority of data items are collected by receptionists when they present at the ED, unless they arrive by ambulance. The assault weapon is collected by a clinician (e.g. triage nurse or doctor) and recorded in the patient's triage notes. This is then entered onto the IT system by reception staff.

<sup>16</sup> As of March 2015 this is yet to come into effect.



Data item	Completion rate
Date of assault	97%
Time of assault	42%
Location of assault, e.g. nightclub, pub, home	100%
Detailed location of assault, e.g. name of pub, club	73%
Weapon used in the assault, e.g. body part, blunt object	57%
Specific body part used, e.g. fist, foot	93%*
Specific sharp object used, e.g. knife, bottle	94%*
Whether the patient has or intends to inform the police of the assault	23%
Had the patient consumed alcohol up to three hours prior to the assault	100%
If alcohol had been consumed, where was it consumed, e.g. nightclub, pub, home	56%^
Detailed location of last drink location, e.g. name of pub, club	41%^

\* Percentage of records where body part/sharp object are specified as assault weapon.

^ Percentage of records where alcohol was consumed prior to the incident.

Table 8 - Royal Preston Hospital assault data items and completion rates (2013/14)

## Box 2: Good practice: A&E Reception at Lancashire Teaching Hospitals

Engagement of A&E reception staff is crucial to the collection of comprehensive and high quality data. Given below is an overview of information collection processes at Lancashire Teaching Hospitals from the perspective of the Reception Manager.

"The receptionists are quite comfortable asking the questions for the assault data. Most of the time the patient is willing to answer the questions, the difficulties arise when the patient is drunk and not understanding what they are being asked. The only question they seem to have a problem with is when the patient is asked "have you reported the incident to the police" quite often the response the receptionist gets is "you're not going to ring them are you" but once it has been explained to them that we won't be ringing the police they are ok.

To help remind the receptionists about the importance of asking the assault data questions, I print off the reports that the TIIG team send to us highlighting the missing data, I have also put memos on the reception information clipboard to remind the staff about collecting the data." *Linda Simms, Acting Reception Manager, Lancashire Teaching Hospitals.*

TIIG data sharing and usage across Lancashire has benefitted greatly from the work of committed Reception Managers; the above is an example of good practice from Lancashire Teaching Hospitals. In addition to understanding and promoting the value of TIIG, practical solutions are offered to combat barriers encountered by both patients and reception staff. Providing patients with reassuring information about how the data is used can improve compliance and completion rates of data fields. Similarly, providing memos for staff which clearly outline what information is required and where improvements could be made, constitute good practice in terms of maintenance and development of the data collection process.



Multi-agency meetings take place at Royal Preston Hospital on a quarterly basis. These are well established and attended by the TIIG Project Lead, the Trust's Acting Reception Manager, Lancashire County Council's Senior Public Health Co-ordinator, Lancashire Constabulary's Licensing Sergeant for Preston, Chorley, South Ribble and West Lancashire and the Community Safety Manager for Preston's Community Safety Partnership. During these meetings, partners discuss completion rates and data quality, data collection in regards to meeting local public health priorities, examples of data use by local partners and receive a general update on the progress of TIIG across the county and regionally.

### Box 3: The use of TIIG data in making Preston safer

In December 2012, Lancashire Constabulary submitted an application to review the licence of a nightclub in Preston city centre due to crime and disorder associated with the premises. The following month, public health at the PCT submitted information collected by Royal Preston Hospital ED (cleaned and processed by TIIG) to support this review, including:

Numbers attending Royal Preston Hospital ED following an assault which stated they occurred at the licensed premise;

Times and days of assaults;

Weapons used;

Age and gender of attendees;

Outcome of attendances e.g. admitted to hospital, discharged from hospital, referred for further treatment, left department without treatment; and,

Whether the incident was reported to the police.

Alongside police evidence, in June 2013 ED data were presented in an aggregated format at the licence hearing in line with the local information sharing protocol, with numbers less than five suppressed to ensure patient anonymity. The hearing resulted in 30 conditions being attached to the licence, including some at the request of Lancashire County Council Public Health Team:

Open drinking vessels to be made of polycarbonate material;

Adequate seating away from dance areas to promote a calmer drinking environment;

Bar staff to receive comprehensive bar server training upon commencement of post and monthly thereafter; and,

Adoption of the *Safer Clubbing Guidance for licensing authorities, club managers and promoters*.

Moreover, the hearing resulted in the commitment of the venue's operator to carry out a significant refurbishment, installation of additional closed-circuit television (CCTV) cameras at the entrances and exits and increased security personnel. The nightclub re-opened in August 2013.

In the year following this review, compared to the preceding year there was a 59% decrease in the number of individuals attending Royal Preston Hospital ED following an assault in this nightclub (see Appendix 1).

*With thanks to Andy Ashcroft, Senior Public Health Coordinator, Lancashire County Council*



Local partners have access to Royal Preston Hospital ED's data on a monthly basis and data contributes to various public health objectives, including the maintenance of a responsible licensing authority in Preston. TIIG data allows for the identification of problematic premises based on the number and nature of assaults that take place within them. The drop-down menu on the Trust's IT system allows staff to capture whether the incident occurred inside or outside of a venue, with free-text space to record specific location details. The ability to confirm that incidents have occurred inside an establishment supports public health by providing robust evidence within licence hearings. A specific example of TIIG data being used in the licensing process is presented in Box 3.

As the focus of this report is on Merseyside and Cheshire, data from Royal Preston Hospital has not been provided<sup>17</sup>. However the information provided on data items and sharing practices can be used to highlight how well collected and shared data can be used effectively to support the licence review process (see Box 3 for a detailed example). While it is not possible to fully attribute a reduction in violence to improved data sharing, Royal Preston Hospital has experienced a 16% reduction in the number of assault related attendances since they began collecting enhanced assault data<sup>18</sup>.

## THE CURRENT PICTURE IN MERSEYSIDE AND CHESHIRE

This report highlights how effective data collection and sharing regarding assaults and alcohol can be used to help support the licence review process. Examples have been provided of both good data collection and sharing practices from two EDs across the North West. However both Arrowe Park Hospital and Royal Preston Hospital have been part of the TIIG surveillance system for many years and reaching this standard of data collection and sharing has been a gradual process. While not all EDs are currently collecting data to the same levels, work is being undertaken to improve data quality across the whole of Merseyside and Cheshire. Table 9 shows the extent of assault and alcohol related data collection across Merseyside and Cheshire. While some EDs are not collecting assault data, ongoing measures are being undertaken to improve the level of data collection across Merseyside and Cheshire. This includes:

- Multidisciplinary meetings at ED sites which are attended by representatives from TIIG, ED receptions, those working with the patient information systems and local partners and are used to discuss the potential for additional questions to be included on the ED information systems. From these meetings:
  - The potential for Aintree Hospital to share assault data has been discussed.
  - Whiston ED, who began collecting enhanced assault data in April 2014, now shares data with local partners on a monthly basis.
  - The Countess of Chester Hospital has commenced sharing all attendance data with TIIG during 2014 which includes enhanced assault data. This enhanced data is now being shared on a monthly basis with local partners.
  - Warrington Hospital commenced sharing all attendance data with TIIG during 2014 which includes enhanced assault data. This enhanced data is now being shared on a monthly basis with local partners.

<sup>17</sup> For those working locally in violence who wish to access Royal Preston Hospital assault data please contact [tiig@lpmu.ac.uk](mailto:tiig@lpmu.ac.uk) for details. To see an overview of all attendances to Royal Preston Hospital please visit <http://www.cph.org.uk/tiig/lancashire/#ED011>.

<sup>18</sup> Royal Preston Hospital began collecting enhanced assault data in January 2011. The percentage given compares the financial year 2011/12 to 2013/14.

- Modifications were made to enhanced assault data collection; both Arrowe Park Hospital and The Royal Liverpool University Hospital began collecting whether an assault occurred inside or outside a licenced premise in early 2014; and assault date, time and whether alcohol had been consumed prior to an assault, began to be collected at Southport District General Hospital from October 2014.
  - Identification of IT system limits are discussed with EDs. It was identified at some sites that their IT system did not allow modifications to existing data items or additions of new data items. Such limitations inhibit the ED in improving data quality and completeness but open dialogue between TIIG and EDs in question raise awareness and assist in initiating improvements to IT systems. In these instances discussions will be kept open and the opportunities for potential improvements will be explored.
- Monthly completion rates for assault data items are shared with local partners on a monthly basis where requested or required. These overview files allow for easy documentation of progress and identification of where improvements need to be made.
- The design, production and distribution of posters for both ED staff and patients who have been victims of assaults. Posters, placed in the ED waiting areas, have been designed to reassure victims of assaults that the information they volunteer will remain confidential and that shared information will be anonymised. According to ED staff, such reassurance is likely to help overcome barriers relating to non-compliance in the data collection process. Posters for staff, placed behind reception desks, have been designed to address the reported reluctance among ED staff to ask questions relating to assaults by providing information regarding how the data is used and where data use had successfully reduced community violence and therefore hospital admissions (see Appendices 2 and 3).



Area	Emergency Department	Date of assault	Time of assault	Assault location	Specific location	No. of attackers	Gender of attackers	Assaulted by attacker before	Relationship to attacker	Weapon	Was attacker drunk	Inform the Police	Consumed alcohol 3 hours previously	Location of last drink consumed	Specific location of last drink
Merseyside	Alder Hey Children's Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Aintree University Hospital	Y	Y	Y	Y	N	N	Y	Y	Y	N	Y	Y	Y	Y
	Arrowe Park Hospital	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
	Southport District General Hospital	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y
	Royal Liverpool University Hospital	Y	Y	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y
	Whiston Hospital	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Cheshire	Countess of Chester Hospital	N	N	Y	Y	N	N	N	Y	N	N	N	N	Y	Y
	Leighton Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Macclesfield Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Warrington Hospital	Y	Y	Y	Y	N	N	N	N	Y	N	N	N	N	N

Table 9 - Assault data items collected across Merseyside and Cheshire



## RECOMMENDATIONS

**1. Health data should be used alongside other data sources to support injury and violence prevention work at a local level.**

As the co-ordinators of Emergency Department (ED) injury data across the North West of England, the Trauma and Injury Intelligence Group (TIIG) are aware of the potential uses of ED data within licence review processes. ED data can be used to identify the number of incidents and the nature of violence which has not been reported to the police, data which would not otherwise be available and which supplements existing data sources. Effective, detailed data collection with a specific focus on when, where, how (i.e. weapon used) and why (i.e. whether the assault was alcohol related) an incident of violence has occurred from EDs across Merseyside and Cheshire can greatly assist the identification of problematic licenced premises and the specific issues associated with that venue. From this information specifically derived conditions can be attached to the renewal of particular licenses, which can help prevent assaults in the future.

**2. Area wide meetings should be held to discuss the collection of ED data to support the licence review process.** The licence review process is an increasingly collaborative process with local health bodies such as hospitals being able to initiate a licence review (Government's alcohol strategy, 2012). The licence review process should not be considered the sole responsibility of those working in licencing; rather a multidisciplinary approach should be undertaken to help improve the quality of ED data which could help support a licence review. In this recommendation, proposed meetings would bring together representatives from TIIG, the EDs and those working in the licence review process from across Merseyside and Cheshire. For each area, meetings could be held quarterly throughout 2015/16, each with a specific focus and with different representatives taking the lead for separate meetings. The meetings would comprise:

- a. Learning about licensing – the aim of this meeting would be to discuss what the licensing process involves, why it is important, the impact effective license reviews can have and why the inclusion of ED data is important for the licence review process.
- b. Learning from the experts – Arrowe Park Hospital has been collecting detailed high level assault data for a number of years. This second session would involve the identification of barriers to the collection of enhanced assault data at other EDs and insight from Arrowe Park Hospital on how such barriers could be overcome.
- c. Learning about data sharing – the aim of this meeting would be to emphasise TIIG's role in the data sharing process with a particular focus on how TIIG can support EDs in collecting new data items through training sessions, meetings, delivery of completion rates and local partner feedback regarding data use.
- d. Bringing it all together – this final meeting would be to focus on collating what has been learnt and discussing the next steps in improving assault data collection across Merseyside and Cheshire.

**3. Action plans should be developed for each ED.** Alongside the meetings detailed above, TIIG could develop individual action plans for each ED across Merseyside and Cheshire. The action plans would be developed with the EDs involvement, and seek to investigate where the potential for improvements could be made, setting realistic and time-bound goals. Potential areas for development may include the improvement in the level of completion of data items, the addition of extra data items, the detail of information recorded and the timeliness of data provided.

4. **Data which are currently being collected should be utilised by local partners.** While not all EDs across Merseyside and Cheshire are collecting enhanced assault data to optimum standards, most are collecting at least partial datasets. It is estimated that around 80% of assaults which require ED treatment are not reported to the police and even those ED datasets with low completion rates may still provide useful data which would not otherwise be reported or shared. TIIG could also ensure that local partners understand the level of data which is available from EDs and ensure that data is shared in a timely manner.
  
5. **A constant feedback cycle should be employed.** There are increasing pressures on EDs to meet targets and there should be an acknowledgement that asking EDs to collect more information is adding to those pressures. Previous discussions between TIIG and EDs have identified that notification of where ED data has been used effectively could be a motivating factor in the continued collection and improvement of information. TIIG could ensure that ED staff are kept up to date on where data has been used by local partners and what the consequences have been; this should not be exclusively limited to where data has been used in the licensing process. In addition, local partners are often best placed to identify shortfalls in the data. For example the recent inclusion of inside/outside to licenced premises assault location was first identified and requested by those working in the licence review process. Local partners, TIIG and the EDs should ensure they are working cooperatively to proactively address changing policy and demands by considering where data can be used or modified to address emerging issues.
  
6. **ED data collection should go beyond the guidelines.** The guidelines set by the College of Emergency Medicine and the Standard on Information Sharing to Tackle Violence recommend that data collected on assault attendances should include date/time of assault, location of assault and weapon used in the assault. However additional data items, for example whether the incident was reported to the police, have also been used as part of a successful licence review. Beyond licensing, information such as the relationship between victim and perpetrator of violence could be useful in identifying and preventing incidents of domestic violence. Similarly, understanding whether the assault was a repeat offence by the same perpetrator could be useful in identifying and preventing incidents of bullying, especially among young people.



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## APPENDICES

## APPENDIX 1

# Role of Public Health in Licensing

Using Accident and Emergency Department Intelligence to Inform the Public Health Function as a Responsible Authority in Licensing in Preston, Lancashire  
Andrew Ascroft Senior Public Health Co-ordinator Lancashire County Council

## Background

The Police Reform and Social Responsibility Act 2011 outlined changes to the Licensing Act 2003. These changes included the addition of Primary Care Trusts (PCTs) as Responsible Authorities. On 1st April 2013 this function transferred to Directors of Public Health in Local Authorities. During the transition the PCT (Central Lancashire) and Public Health at Lancashire County Council implemented this role effectively to support the review of a Preston city centre nightclub licence, resulting in a reduction in the number of individuals attending the local Accident and Emergency Department due to assaults at the nightclub.

## The Information Sharing Process

- 1 When individuals attend Lancashire Teaching Hospitals NHS Foundation Trust Accident and Emergency Department following an assault the following information is recorded:
  - Assault weapon used
  - Detailed assault location
  - Incident date
  - Incident time
  - Whether police have been informed
  - Whether alcohol was consumed prior to incident
  - Location that last drink was consumed

### The Licence Review Process

**December 2012:** Lancashire Constabulary submitted an application to review the licence of a nightclub in Preston city centre due to crime and disorder associated with the premises.

**January 2013:** Public Health at the PCT submitted information to support this review outlining numbers of individuals attending Lancashire Teaching Hospitals Accident and Emergency Department following an assault when they stated took place in the nightclub.

**June 2013:** Representatives from Lancashire Constabulary and the Public Health Team at Lancashire County Council presented their evidence at a licensing hearing.

**Hearing Outcome:** The hearing resulted in a new licence being granted for the premises with new conditions attached, and a commitment by the premises operator to carry out a refurbishment.

- 2 This information is shared monthly with the Trauma Injury Intelligence Group (TIIG) at Central Public Health who share the data.

- 3 TIIG forward the cleaned data to Lancashire Multi-Agency Data Exchange (MADE) who make it available to relevant Lancashire Community Safety Partnership organisations.

- 4 Lancashire Constabulary and Public Health at Lancashire County Council jointly review this data each month to inform their joint licensing activity.

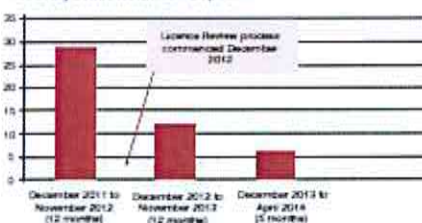
## Licence Conditions

There are now 30 conditions attached to the licence for Nightclub X. At the request of the Public Health Team at Lancashire County Council these include the following evidence based conditions:

1. Open drinking vessels will be made of polycarbonate material
2. The design of the venue will ensure adequate seating is provided away from dance areas to promote a calmer drinking environment
3. All bar staff to receive comprehensive responsible server training at commencement of post and every month thereafter
4. 'Safer Clubbing Guidance' for licensing authorities, club managers and promoters will be adopted by the venue

## Impact

Number of individuals attending Lancashire Teaching Hospitals NHS Foundation Trust Accident and Emergency Department Following an Assault at Nightclub X in Preston City Centre December 2011 to April 2014



## Lessons Learnt

- Implement accident and emergency department data sharing in line with College of Emergency Medicine 'Guidelines for Information sharing to reduce community violence'
- Establish information sharing protocols that allow aggregated accident and emergency department information to be shared in the public domain as part of the licensing process
- Identify evidence based interventions that can be utilised as licensing conditions
- Establish good working relationships between police licensing teams, accident and emergency departments and public health teams

Lancashire Teaching Hospitals  
NHS Foundation Trust



Lancashire  
Constabulary



**Lancashire**  
County Council



[www.lancashire.gov.uk](http://www.lancashire.gov.uk)



## For patients who have been assaulted...



Hospital A&E staff may ask you questions about your assault. This includes:

- Where you were assaulted
- When you were assaulted
- How you were assaulted
- Whether alcohol was involved
- Details about your attacker

While this information is shared with other agencies, **your personal information is not.**

Information collected is used to help target:

Interventions to  
prevent violence



Police safety in  
hotspot areas



Alcohol licensing  
rules



For more information please contact Simon Russell  
(Trauma & Injury Intelligence Group)

Tel: 0151 231 4500 | Email: [s.j.russell@lmu.ac.uk](mailto:s.j.russell@lmu.ac.uk)



## ED Staff - Assault Injuries

We understand that Hospital EDs are very busy but the data you collect in relation to assaults is vitally important. Data you collect allows police and community partners to develop and implement targeted prevention activities in your local area. Prevention activities can lead to reductions in violence in the community and reductions in assault attendances in your A&E. In the last 3 years, since additional data has been collected, some EDs have experienced a **45% reduction** in the number of assault-related injury attendances.

### The Process...



Assault-related data is collected in the ED and is sent to the Trauma and Injury Intelligence Group (TIIG) on a monthly basis



TIIG collates, processes and shares the assault data.



Assault data is shared with public health practitioners, Community Safety Partnerships, local police, licensing authorities and NHS Trusts

#### Please check you have recorded:

- ✓ Date and Time of assault
- ✓ Assault location and detailed description of location
- ✓ No of attackers, relationship to attacker and whether patient had been attacked by them before
- ✓ Assault weapon
- ✓ Whether attack was reported to the police
- ✓ Whether or not, how much and where alcohol was consumed prior to the attack

Assault data is used for targeting interventions to prevent violence, targeting police enforcement in hotspot areas and targeting alcohol licensing enforcement.

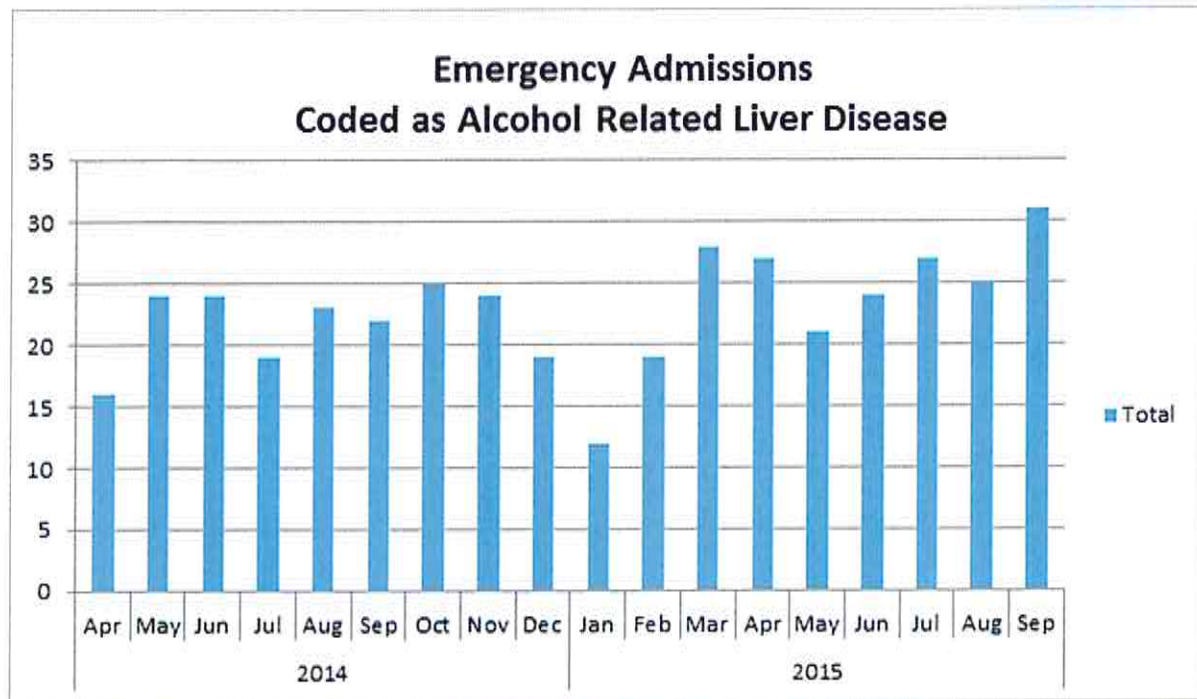


For more information please contact Simon Russell (TIIG Project Lead)  
Tel: 0151 231 4500 | Email: [s.j.russell@lmu.ac.uk](mailto:s.j.russell@lmu.ac.uk)









Row Labels	Count of PATIENT_ID
<b>2014</b>	
Apr	16
May	24
Jun	24
Jul	19
Aug	23
Sep	22
Oct	25
Nov	24
Dec	19
<b>2015</b>	
Jan	12
Feb	19
Mar	28
Apr	27
May	21
Jun	24
Jul	27
Aug	25
Sep	31
<b>Grand Total</b>	<b>410</b>



# Annex 5

Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.



## **CHESHIRE EAST – ALCOHOL RELATED CRIME AND INCIDENTS**

### **CAVEATS:**

Please be advised that work is currently being undertaken to back record convert addresses within Niche to ensure that they are representative of the new geographical structure. As a result, any volume based data reported against a 'location' within the new structure should be treated with extreme caution, as the data reported will not only be subject to fluctuation, but there will also be a proportion of occurrences that cannot be attributed to a specific location until BRC has taken place. It is advised that data users take note of the error rates published alongside all reports and consider the impact this may have on the reliability of any operational decisions made. Customers will be advised when BRC work is complete and when data can be treated as final and fully representative of actual performance rather than just indicative.

***Error Rate: The % of 'crimes' that cannot be apportioned to a location within the new structure is 1.2%. This equates to a total of 170 'crimes'.***

Review period: 1<sup>st</sup> December 2014 to 30<sup>th</sup> November 2015

The crime information used within this report is based upon the Committed From data to allow for the most accurate representation of the issues being considered.

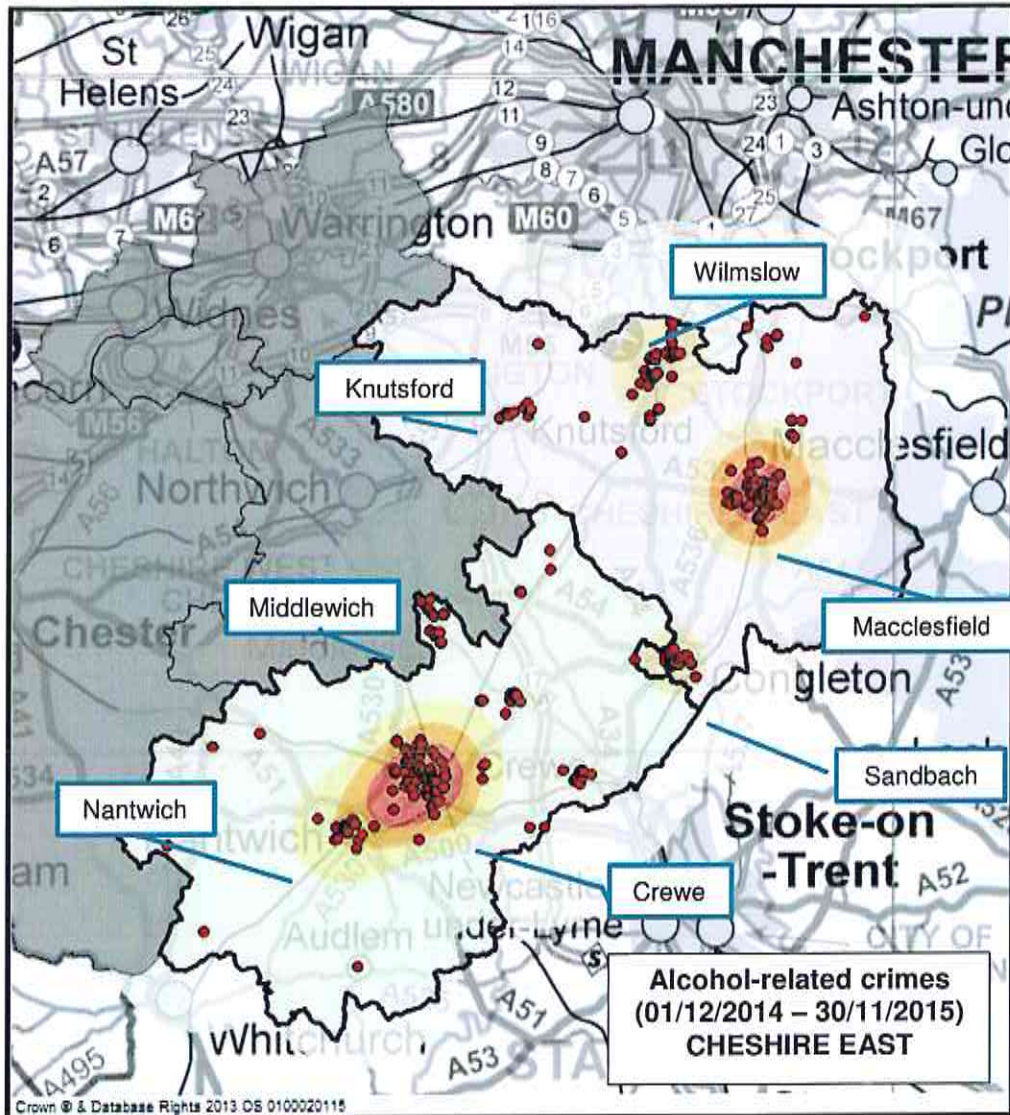
Definition of Alcohol related offences – those where it has been identified in Niche that the offender was affected by alcohol at time of the offence.

Definition of Alcohol related incidents – those where the qualifier code QAL has been applied as a sub code.

It should be acknowledged that the identification of alcohol in relation to either an offence or incident is subjective and is likely to be under representative of the actual issue.

Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

### 1. All Alcohol Related Offences between 00:00 and 05:59 hour



During the 12 month period from 1<sup>st</sup> December 2014 to 30<sup>th</sup> November 2015 a total of **496** offences flagged as alcohol related were committed between the hours of 00:00 and 05:59.

Hotspot mapping indicates concentrations of offences in Crewe, Macclesfield and Wilmslow.

The top offences, by Home Office Code were 8N Assault with injury (32.5%); 105A Assault without injury (28%); 9A Public fear, alarm or distress (5.6%); and 58C Criminal damage to a vehicle (4.4%).

The busiest months have been August 2015 (59); December 2014 (50); October 2015 (48); January 2015 (47); and March 2015 (46).

The combined peak days / times for offences were Saturday and Sunday between 00:00 and 03:00.



Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

Home Office Code Description	Total	%
Assault with Injury	161	32.5%
Assault without injury	139	28.0%
Public fear, alarm or distress	28	5.6%
Criminal damage to a vehicle	22	4.4%
Criminal damage to a dwelling	14	2.8%
Criminal damage to a building other than a dwelling	14	2.8%
Other Criminal damage	12	2.4%
Possession of controlled drugs (cannabis)	11	2.2%
Assault without injury on a constable	11	2.2%
Other Offences against the state or public order	11	2.2%
Possession of controlled drugs excluding cannabis	10	2.0%
Racially or religiously aggravated public fear, alarm or distress	7	1.4%
Shoplifting	7	1.4%
Harassment	5	1.0%
Theft - Making Off Without Payment	5	1.0%
Assault with Intent to cause Serious Harm	4	0.8%
Other theft	4	0.8%
Sexual assault on a female aged 13 or over	3	0.6%
Rape of a female aged 16 and over	2	0.4%
Arson not endangering life	2	0.4%
Arson endangering life	2	0.4%
Racially or Religiously Aggravated Assault with injury	2	0.4%
Burglary in a dwelling	2	0.4%
Threat or possession with intent to commit criminal damage	2	0.4%
Possession of other weapons	2	0.4%
Burglary in a building other than a dwelling	2	0.4%
Cruelty to Children/Young Persons	1	0.2%
Threats to kill	1	0.2%
Theft or unauthorised taking of a pedal cycle	1	0.2%
Attempted murder	1	0.2%
Stalking	1	0.2%
Making, Supplying or Possessing Articles for use in Fraud	1	0.2%
Theft from the person	1	0.2%
Rape of a male aged 16 and over	1	0.2%
Racially or religiously aggravated assault without injury	1	0.2%
Attempted burglary in a building other than a dwelling	1	0.2%
Racially or Religiously Aggravated Criminal Damage	1	0.2%
Aggravated vehicle taking	1	0.2%
<b>Grand Total</b>	<b>496</b>	<b>100.0%</b>



Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

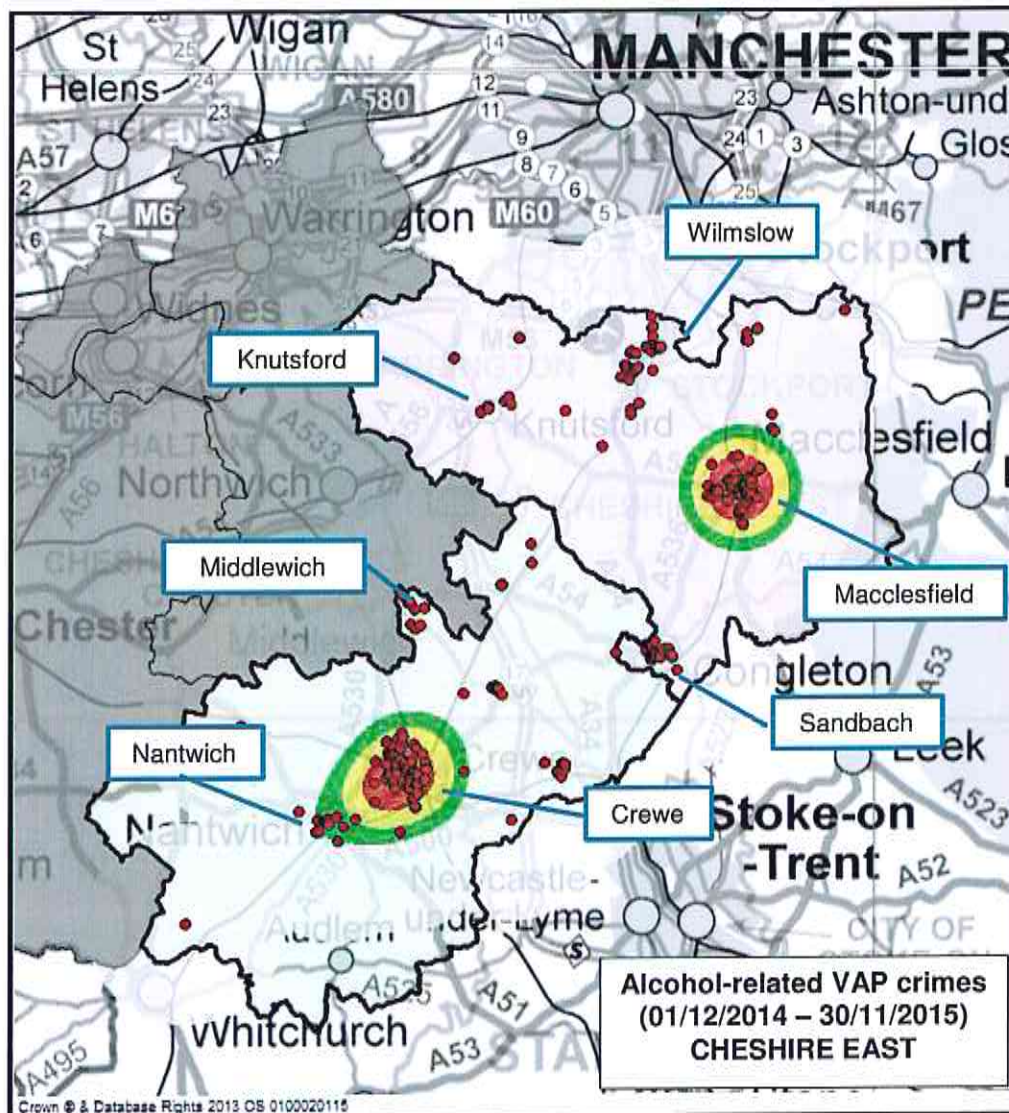
MONTH	TOTAL
December 2014	50
January 2015	47
February 2015	40
March 2015	46
April 2015	23
May 2015	34
June 2015	37
July 2015	35
August 2015	59
September 2015	40
October 2015	48
November 2015	37
<b>TOTAL</b>	<b>496</b>

Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00 - 00:59	13	6	9	10	20	43	31	132
01:00 - 01:59	8	2	5	6	12	36	59	128
02:00 - 02:59	12	2	3	11	8	32	34	102
03:00 - 03:59	4	1	7	4	8	28	27	79
04:00 - 04:59	4	3	1	6	6	11	8	39
05:00 - 05:59	1			3		2	10	16
<b>Total</b>	<b>42</b>	<b>14</b>	<b>25</b>	<b>40</b>	<b>54</b>	<b>152</b>	<b>169</b>	<b>496</b>

	40+
	30+

Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

## 2. Alcohol Related Violence against the Person (VAP) Offences between 00:00 to 05:59 hours



During the 12 month period from 1<sup>st</sup> December 2014 to 30<sup>th</sup> November 2015 a total of **327** Violence against the person offences, with an alcohol flag, were committed between 00:00 and 05:59.

Hotspot mapping indicates concentrations of offences in Crewe and Macclesfield.

The top offences by Home Office Description were 8N Assault with injury (49.2%); 105A Assault without injury (42.5%); and 104 Assault without injury on a constable (3.4%).

The busiest three months for offences were August 2015 (46), October 2015 (37) and January 2015 (30).

The combined peak days / times for offences were Saturday and Sunday between 00:00 and 02:59.



Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

Home Office Code Description	Total	%
Assault with Injury	161	49.2%
Assault without injury	139	42.5%
Assault without injury on a constable	11	3.4%
Harassment	5	1.5%
Assault with Intent to cause Serious Harm	4	1.2%
Racially or Religiously Aggravated Assault with injury	2	0.6%
Racially or religiously aggravated assault without injury	1	0.3%
Stalking	1	0.3%
Threats to kill	1	0.3%
Attempted murder	1	0.3%
Cruelty to Children/Young Persons	1	0.3%
<b>Grand Total</b>	<b>327</b>	<b>100.0%</b>

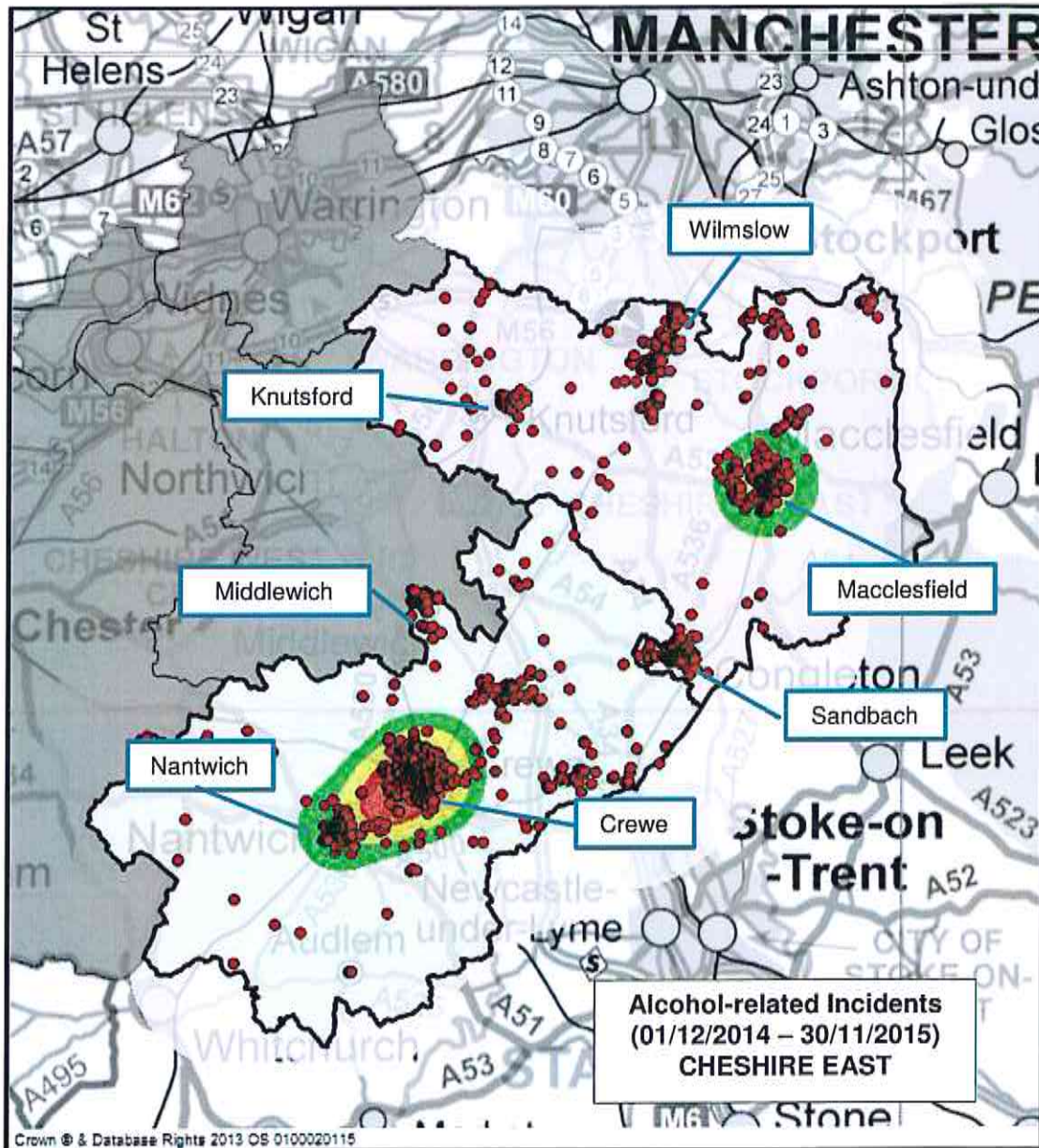
MONTH	TOTAL
December 2014	25
January 2015	30
February 2015	27
March 2015	27
April 2015	16
May 2015	25
June 2015	22
July 2015	22
August 2015	46
September 2015	27
October 2015	37
November 2015	23
<b>TOTAL</b>	<b>327</b>

Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00 - 00:59	9	5	4	5	12	29	20	84
01:00 - 01:59	6	1	3	4	8	24	45	91
02:00 - 02:59	11	2	1	3	6	22	28	73
03:00 - 03:59	2	1	6	3	1	16	16	45
04:00 - 04:59	3	2	1	4	5	5	6	26
05:00 - 05:59	1			2		1	4	8
<b>Total</b>	<b>32</b>	<b>11</b>	<b>15</b>	<b>21</b>	<b>32</b>	<b>97</b>	<b>119</b>	<b>327</b>

	30+
	20+

Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

### 3. All Alcohol Related Incidents between 00:00 and 05:59



During the 12 month period 1<sup>st</sup> December 2014 to 30<sup>th</sup> November 2015 a total of **1,832** incidents reported between 00:00 and 05:59 have been flagged as being alcohol related.

Hotspot mapping indicates concentrations of incident in Crewe and Macclesfield.

The top types of incident by closure code were BN – Nuisance anti-social behaviour (18.7%); Concern for safety / welfare (16.5%); Personal anti-social behaviour (15.3%); and Road related traffic offences (12.8%).

The busiest months for incidents were December 2014 (207), August 2015 (188), May 2015 (163) and March 2015 (162).



Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

The combined peak days / times for incidents were Saturday and Sunday between 00:00 and 04:00.

Final Classification Description	Total	%
NUISANCE ASB	343	18.7%
CONCERN FOR SAFETY OR WELFARE	302	16.5%
PERSONAL ASB	281	15.3%
ROAD RELATED TRAFFIC OFFENCE	234	12.8%
VIOLENCE / HARASSMENT / THREAT TO LIFE	147	8.0%
DOMESTIC INCIDENT - BETWEEN ADULTS	136	7.4%
CRIME NOT VERIFIED - NO VICTIM CONFIRMATION / VICTIM NOT TRACED	64	3.5%
SUSPICIOUS ACTIVITY	51	2.8%
POLICE GENERATED	48	2.6%
COLLAPSE / ILLNESS / INJURY / TRAPPED	34	1.9%
DAMAGE ONLY RTC	22	1.2%
ABANDONED PHONE CALLS	21	1.1%
CRIMINAL DAMAGE INCLUDING ARSON / MALICIOUS FIRES	20	1.1%
ENVIRONMENTAL ASB	20	1.1%
OTHER NOTIFIABLE CRIME	18	1.0%
MISSING PERSON	13	0.7%
RTC - INJURY - SERIOUS / MINOR	10	0.5%
CIVIL DISPUTES - NOT FOR CRIME / DOMESTIC / NEIGHBOUR INCIDENTS	9	0.5%
SIMPLE ADVICE / DIRECTIONS / ADMIN ENQS	7	0.4%
THEFT - OTHER	7	0.4%
SEXUAL OFFENCES	6	0.3%
DRUGS - (IF DRUG DEALING IN PUBLIC REPORTED CLOSE CNV WITH QDR & BG6)	5	0.3%
MESSAGE TO PASS	5	0.3%
HIGHWAY DISRUPTION - ACTUAL / POTENTIAL - ANY SORT - INCLUDES ANIMALS	5	0.3%
BAIL BREACHES / WANTED PERSON / BREACH OF COURT ORDER	4	0.2%
CRIME RELATED INCIDENT - FOR FURTHER CSD ACTION	3	0.2%
ABSENT PERSON	2	0.1%
COMPLAINTS AGAINST POLICE	2	0.1%
THEFT OF MOTOR VEHICLE	2	0.1%
BURG-DWELLING	2	0.1%
FOUND STOLEN VEHICLE	1	0.1%
PNC MARKERS AND MESSAGES	1	0.1%
DOMESTIC INCIDENT - INVOLVING A JUVENILE	1	0.1%
PRE-PLANNED EVENTS - ANY TYPE - INCLUDING POLICE OPERATIONS	1	0.1%
THEFT FROM MOTOR VEHICLE	1	0.1%
AUDIBLE ONLY ALARM - INCLUDES COMPLAINTS ABOUT ALARM NOISE	1	0.1%
PREVENT POTENTIAL BREACH OF THE PEACE	1	0.1%
ROBBERY	1	0.1%
LICENSING - ALCOHOL, TOBACCO, GAMBLING, CINEMA, FAST FOOD OUTLETS	1	0.1%
<b>Grand Total</b>	<b>1832</b>	<b>100%</b>

MONTH	TOTAL
December 2014	207
January 2015	153
February 2015	122
March 2015	162
April 2015	133
May 2015	163
June 2015	152
July 2015	138
August 2015	188
September 2015	109
October 2015	156
November 2015	149
<b>TOTAL</b>	<b>1832</b>

*Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.*

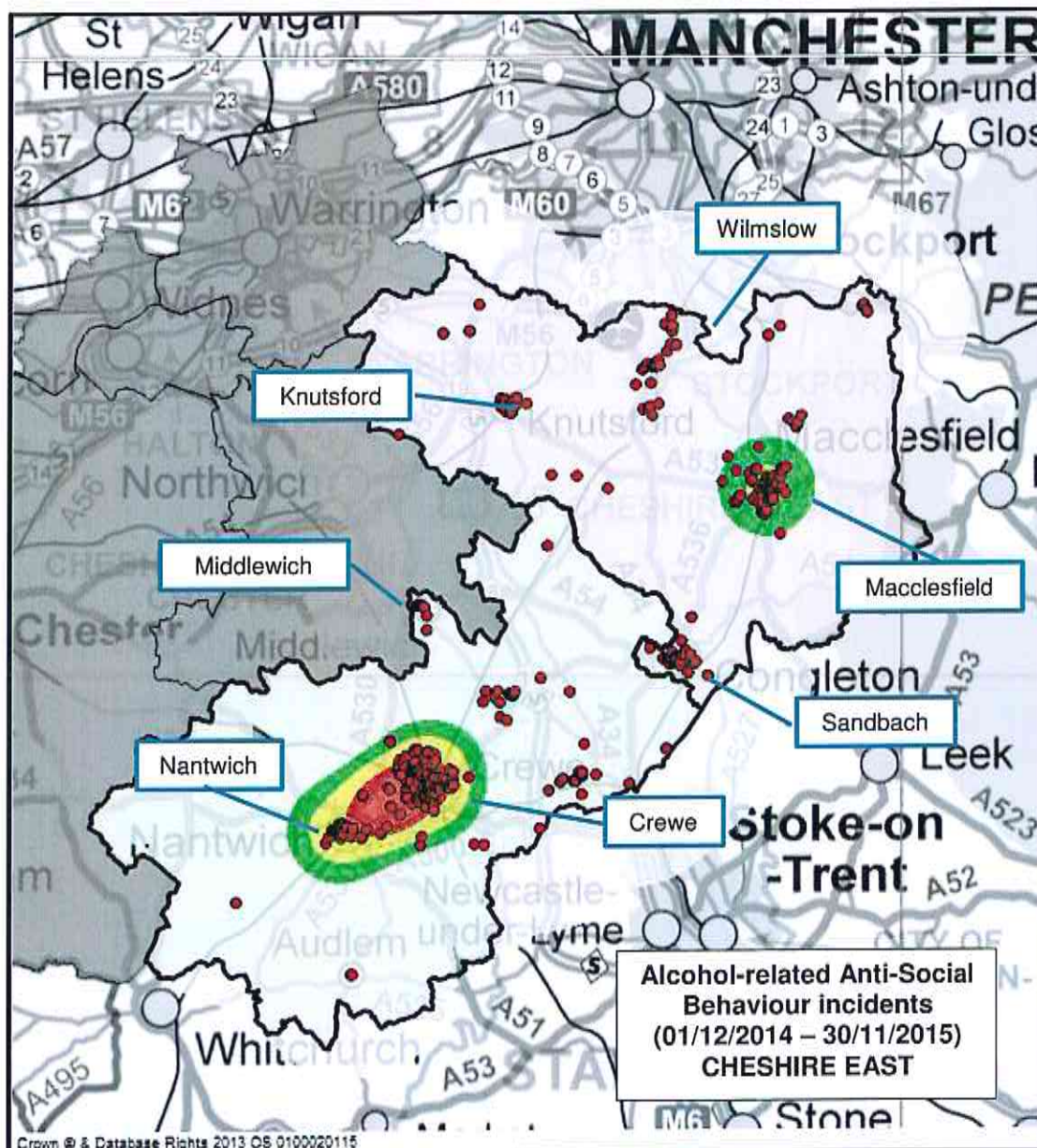
Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00 - 00:59	63	23	52	41	43	114	128	464
01:00 - 01:59	39	19	32	30	38	142	136	436
02:00 - 02:59	29	22	24	38	27	122	141	403
03:00 - 03:59	21	6	28	18	26	90	109	298
04:00 - 04:59	9	5	8	14	11	58	43	148
05:00 - 05:59	3	6	12	10	6	19	27	83
<b>Total</b>	<b>164</b>	<b>81</b>	<b>156</b>	<b>151</b>	<b>151</b>	<b>545</b>	<b>584</b>	<b>1832</b>

	130+
	90+



Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

#### 4. All Alcohol Related Anti-Social Behaviour Incidents between 00:00 and 05:59



During the 12 month period 1<sup>st</sup> December 2014 to 30<sup>th</sup> November 2015 a total of **644** Anti-Social Behaviour incidents with an alcohol qualifier between 00:00 and 05:59.

Hotspot mapping indicates concentrations in Crewe and Macclesfield.

Anti-Social behaviour incidents by closure code were BN – Nuisance anti-social behaviour (53.3%), BP – Personal anti-social behaviour (43.6%) and BE – Environmental anti-social behaviour (3.1%).

The busiest months for incidents were December 2014 (65), August 2015 (64), and January 2015 (62).

Please note that this report has been run with an Access Control Level (ACL) of 0 and therefore will not show data that is restricted in Niche with a higher ACL.

The combined peak days / times for incidents were Saturday and Sunday between 00:00 and 03:59.

Final Classification Description	Total	%
NUISANCE ASB	343	53.3%
PERSONAL ASB	281	43.6%
ENVIRONMENTAL ASB	20	3.1%
<b>Grand Total</b>	<b>644</b>	<b>100.0%</b>

MONTH	TOTAL
December 2014	65
January 2015	62
February 2015	45
March 2015	54
April 2015	48
May 2015	47
June 2015	51
July 2015	55
August 2015	64
September 2015	44
October 2015	56
November 2015	53
<b>TOTAL</b>	<b>644</b>

Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00 - 00:59	22	6	14	12	13	53	53	173
01:00 - 01:59	10	8	16	8	10	51	59	162
02:00 - 02:59	10	8	10	13	7	44	54	146
03:00 - 03:59	6	3	8	6	11	36	33	103
04:00 - 04:59	3	0	2	6	2	14	15	42
05:00 - 05:59	0	0	4	1	2	6	5	18
<b>Total</b>	<b>51</b>	<b>25</b>	<b>54</b>	<b>46</b>	<b>45</b>	<b>204</b>	<b>219</b>	<b>644</b>





# Annex 6



**BRIEFING PAPER**

Number 5021, 25 September 2015

# Alcohol: minimum pricing

By John Woodhouse &  
Philip Ward

**Inside:**

1. Introduction
2. Policy under the Coalition Government
3. Policy in Scotland
4. Continuing debate
5. Selected further reading



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## Summary

The debate about a minimum price for alcohol has been prompted by concerns about high levels of drinking, its effect on public health and public order, and a widespread belief that most of the alcohol which contributes to drunken behaviour is irresponsibly priced and sold. One policy option is to set a minimum price *per unit* of alcohol. Another is to ban the sale of alcohol below *cost price* (the level of alcohol duty plus VAT).

Alcohol licensing is a devolved matter. In May 2012 the Scottish Government passed legislation which would enable it to introduce a minimum unit price for alcohol in Scotland. The intended price is 50p per unit. The Scottish Whisky Association has been challenging the legislation in the courts. On 3 September 2015, the Advocate General to the European Court of Justice said that prescribing a minimum price for alcoholic drinks could only be justified to protect public health if no alternative measure could be found. The case will eventually return to the Scottish Court of Session. Scottish First Minister Nicola Sturgeon has said she will continue to “vigorously make the case” for a minimum unit price.

The Coalition Government’s alcohol strategy of March 2012 included a commitment to introduce a minimum unit price for alcohol. A consultation on the strategy recommended a price of 45p per unit. In July 2013, following its analysis of the consultation’s responses, the Coalition said that it would *not* be proceeding with a minimum unit price, claiming there was not enough “concrete evidence” that this would be effective in reducing the harms associated with problem drinking without penalising responsible drinkers. There would instead be a ban on the sale of alcohol below *cost price*. This came into force on 28 May 2014 and is one of the licensing conditions of the mandatory code of practice that applies to licensed premises.

Alcohol charities and public health groups continue to argue for the introduction of a minimum unit price, claiming that this would have more of an impact on alcohol-related harm than the ban on below cost selling.



# 1. Introduction

The debate about a minimum price for alcohol has been prompted by concerns about high levels of drinking, its effect on public health and public order, and a widespread belief that most of the alcohol which contributes to drunken behaviour is irresponsibly priced and sold.<sup>1</sup>

One policy option is to set a minimum price *per unit* of alcohol. Another is to ban the sale of alcohol below *cost price* (the level of alcohol duty plus VAT).

Calls for a minimum *unit price* have been made for some time. In his 2008 [annual report](#) on the state of the nation's health, the then Chief Medical Officer (CMO) for England, Sir Liam Donaldson, recommended setting a minimum price for alcohol at 50p per unit. The CMO's report argued that the policy would target harmful "binge drinking", while leaving the more moderate drinker unaffected.<sup>2</sup>

In its January 2010 report, [Alcohol](#), the Health Select Committee looked at the use of pricing to help curb alcohol consumption and whether the cost of alcohol should rise – either through the introduction of a minimum unit price, by raising the level of duty, or a combination of the two.<sup>3</sup> The Committee's report recommended the use of a minimum unit price and, in the longer term, a significant increase in duty rates – facilitated by an increase in the minimum alcohol duty rates set across the EU.<sup>4</sup>

Alcohol licensing is a devolved matter. The Labour Government introduced a code of practice containing mandatory conditions for the sale of alcohol in April 2010.<sup>5</sup> Although the code banned irresponsible promotions, it said nothing on minimum pricing. This may be because the then Government was less than enthusiastic about the idea.<sup>6</sup>

The Coalition Government's [alcohol strategy](#) of March 2012 included a commitment to introduce a minimum unit price for alcohol. A [consultation](#) on the strategy recommended a price of 45p per unit. In July 2013, following its analysis of the consultation's responses, the Coalition said that it would not be proceeding with a minimum unit price.<sup>7</sup> There would instead be a ban on the sale of alcohol below cost price. This came into force on 28 May 2014.

<sup>1</sup> See, for example, Home Office, [Rebalancing the Licensing Act: a consultation on empowering individuals, families and local communities to shape and determine local licensing](#), July 2010, p20

<sup>2</sup> Department of Health, [150 years of the Chief Medical Officer: on the state of public health 2008](#), March 2009, p22

<sup>3</sup> Health Select Committee, [Alcohol](#), HC 151 2009-10, January 2010, section 10

<sup>4</sup> Ibid, paras 328-331

<sup>5</sup> See Library Standard Note SN/HA/5351, [Mandatory conditions for alcohol sale](#)

<sup>6</sup> According to press reports, Andy Burnham, former Health Secretary, was in favour while Lord Mandelson was not: see ["Cost of cheap alcohol will double to curb binge drinking"](#), *Daily Telegraph*, 14 January 2010; See also "Brown won't buy 50p-a-unit alcohol plan", *Times*, 16 March 2009, p3

<sup>7</sup> Home Office, [Next steps following the consultation on delivering the Government's alcohol strategy](#), July 2013, p3

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In May 2012 the Scottish Government passed legislation which would enable it to introduce a minimum unit price for alcohol in Scotland. The intended price is 50p per unit. The Scottish Whisky Association has been challenging the legislation in the courts. On 3 September 2015, the Advocate General to the European Court of Justice said that prescribing a minimum price for alcoholic drinks could only be justified to protect public health if no alternative measure could be found.<sup>8</sup> The case will eventually return to the Scottish Court of Session.

Further detail on policy under the Coalition Government and in Scotland is set out below.

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<sup>8</sup> Europa website, [Opinion of Advocate General Bot](#), delivered 3 September 2015 (1), Case C-333/14, *The Scotch Whisky Association and Others v The Lord Advocate & The Advocate General for Scotland*



## 2. Policy under the Coalition Government

### Proposed ban on sales below cost price

The Coalition Agreement of May 2010 said the Government would ban the sale of alcohol below cost price.<sup>9</sup> A July 2010 [consultation](#) on "rebalancing" the *Licensing Act 2003* sought views on how to define the cost of alcohol; effective ways to enforce a ban; and the feasibility of using the mandatory code of practice to set a licence condition that no sale could be below cost price.<sup>10</sup>

Responses to the consultation "indicated a wide range of views...with no overall consensus".<sup>11</sup>

Government plans to ban the sale of alcohol below the rate of duty plus VAT were set out in a written statement of 18 January 2011:

(...) Banning the sale of alcohol below the rate of duty plus VAT is the best starting point for tackling the availability of cheap alcohol and will send a clear signal to retailers and the public that Government take this issue seriously. They will effectively set a minimum level below which alcoholic products cannot be sold and will stop the worst instances of deep discounting which result in alcohol being sold both cheaply and harmfully. Importantly this system will have a limited burden on business and can be delivered at low cost to the taxpayer.<sup>12</sup>

It was intended that the ban would come into force from 6 April 2012 and would be a new condition of the mandatory code of practice.<sup>13</sup>

### Alcohol strategy (March 2012) - a minimum unit price?

The Government's [Alcohol Strategy](#), published in March 2012, set out a range of proposals to address binge drinking, alcohol-fuelled violence and disorder, and the health problems associated with excessive drinking. One of the strategy's commitments was to introduce a minimum unit price for alcohol - rather than implementing the proposed ban on below cost sales.<sup>14</sup> The Prime Minister's foreword to the strategy claimed a minimum unit price would reduce both crime and alcohol-related deaths:

(...) we are going to introduce a new minimum unit price. For the first time it will be illegal for shops to sell alcohol for less than this set price per unit. We are consulting on the actual price, but if it is 40p that could mean 50,000 fewer crimes each year and 900 fewer alcohol-related deaths a year by the end of the decade.

<sup>9</sup> HM Government, [The Coalition: our programme for government](#), May 2010, p13

<sup>10</sup> Home Office, [Rebalancing the Licensing Act: a consultation on empowering individuals, families and local communities to shape and determine local licensing](#), July 2010, consultation question 24 on p20

<sup>11</sup> Home Office, [Responses to consultation: Rebalancing the Licensing Act](#), 2010, p11

<sup>12</sup> [HC Deb 18 January 2011 c34WS](#)

<sup>13</sup> [HC Deb 27 October 2011 c312W](#)

<sup>14</sup> [The Government's Alcohol Strategy](#), Cm 8336, March 2012, p7

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This isn't about stopping responsible drinking, adding burdens on business or some new kind of stealth tax - it's about fast, immediate action where universal change is needed.

And let's be clear. This will not hurt pubs. A pint is around two units. If the minimum price is 40p a unit, it won't affect the price of a pint in a pub. In fact, pubs may benefit by making the cheap alternatives in supermarkets more expensive...<sup>15</sup>

In a statement to the House, the Home Secretary said that a minimum price per unit would stop "the deep discounting and bargain basement sales that drive binge drinking... Most drinks will not be affected by minimum unit pricing, but the cheap vodka, super-strength cider and special brew lagers will go up in price".<sup>16</sup>

### Reaction

The charity Alcohol Concern welcomed the Government's plans,<sup>17</sup> as did the Alcohol Health Alliance.<sup>18</sup>

The BBC reported that some in the drinks industry, such as C&C Group which makes Magners cider and Tennent's lager, had given the Government's proposal a "cautious welcome".<sup>19</sup> Greene King and Waitrose, in evidence to the Health Committee, strongly supported the introduction of a minimum unit price.<sup>20</sup> However, Andrew Opie of the British Retail Consortium claimed it would be "a tax on responsible drinkers".<sup>21</sup>

In its July 2012 [report](#) on the Government's alcohol strategy, the Health Select Committee welcomed plans for a minimum unit price while remarking that it was "struck by how little evidence has been presented about the specific effects anticipated from different levels of minimum unit price".<sup>22</sup> The Committee also said that an appropriate mechanism would be needed to monitor and adjust a minimum price over time and recommended that there should be a "sunset clause" on any provisions for setting a price.<sup>23</sup>

The Wine and Spirit Trade Association told the Committee that it was "inconsistent with the operation of the free market for the state to intervene on price" and that minimum pricing could "therefore represent a barrier to trade and be illegal under EU law."<sup>24</sup>

<sup>15</sup> Ibid, p2

<sup>16</sup> [HC Deb 23 March 2012 c1072](#)

<sup>17</sup> Alcohol Concern, *Briefing paper on the Government's alcohol strategy*, March 2012, p1; Alcohol Concern favours a minimum price of 50p per unit.

<sup>18</sup> ["Health bodies say government must stand firm on minimum unit pricing"](#), Alcohol Health Alliance news release, 13 March 2013; the Alliance is a group of 32 organisations working to reduce the damage caused to health by alcohol misuse

<sup>19</sup> ["Minimum alcohol price planned for England and Wales"](#), *BBC News*, 23 March 2012

<sup>20</sup> Health Select Committee, [Government's Alcohol Strategy](#), HC 132 2012-13, July 2012, para 46

<sup>21</sup> ["Minimum alcohol price planned for England and Wales"](#), *BBC News*, 23 March 2012

<sup>22</sup> Health Select Committee, [Government's Alcohol Strategy](#), para 54

<sup>23</sup> Ibid, para 57

<sup>24</sup> Ibid, para 43



The Office of Fair Trading said that it was “important to distinguish between the current proposal for a statutory minimum price unilaterally imposed by Government, and the alternative of a voluntary agreement between retailers to agree prices”:

(...) A voluntary agreement on price would almost certainly infringe [The Competition Act 1998] and European competition law.

There may be constraints on minimum pricing legislation arising from wider European law. For example, minimum pricing legislation may raise issues of compatibility with European free movement rules. The OFT does not have jurisdiction over these areas of law – enforcement takes place at the European level...<sup>25</sup>

### Consultation on the strategy (November 2012)

A [consultation](#) on the Government’s alcohol strategy was published in November 2012 and sought views on five policy areas, one of which was for a minimum unit price of 45p.<sup>26</sup> According to estimates in the consultation paper, such a price would result in a reduction in consumption across all product types of 3.3%, 5,240 fewer crimes per year, a reduction in 24,600 alcohol-related hospital admissions and 714 fewer deaths per year after ten years.<sup>27</sup>

An Impact Assessment (IA) was published by the Home Office.<sup>28</sup> This used [version 2](#) of a model<sup>29</sup>, developed by the University of Sheffield’s School of Health and Related Research, for assessing the impact of alcohol pricing policies.<sup>30</sup> The IA gave the following costs of alcohol misuse in England:

- NHS costs, at about £3.5bn per year at 2009-10 costs
- Alcohol-related crime, at £11bn per year at 2010-11 costs
- Lost productivity due to alcohol, at about £7.3bn per year at 2009-10 costs (UK estimate).<sup>31</sup>

The impact of alcohol on health and crime was noted:

(...) Over the last ten years health harms have continued to grow. Alcohol-attributable deaths in England rose by 7%, from 14,000 in 2001 to 15,000 in 2010. In contrast, deaths from all causes in England fell by 7% over this period. Over the same period, alcohol-specific deaths rose by 30%. The rate of liver deaths in the UK has nearly quadrupled over 40 years, a very different trend from most other European countries. Approximately 60% of people with liver disease in England have alcoholic liver disease, which accounts for 84% of liver deaths. In addition, the rate of alcohol-related hospital admissions has also continued to rise by an average of 4% each year over the eight years 2002-03 to 2010-11. Alcohol is now one [of] the three biggest lifestyle risk

<sup>25</sup> Ibid, para 44

<sup>26</sup> Home Office, [A consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour](#), November 2012, chapter 5

<sup>27</sup> Ibid, p16

<sup>28</sup> Home Office, [Impact Assessment on a minimum unit price for alcohol](#), November 2012

<sup>29</sup> University of Sheffield Alcohol Research Group website, [The Sheffield Alcohol Policy Model version 2](#)

<sup>30</sup> Home Office, [Impact Assessment on a minimum unit price for alcohol](#), p8

<sup>31</sup> Ibid, p5

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factors for disease and death in the United Kingdom, after smoking and obesity.

There is also a strong link between alcohol and crime, particularly violent crime. In 2010/11, there were around 930,000 (44%) violent incidents in England and Wales where the victim believed the offender to be under the influence of alcohol, this rose to 58% in instances of stranger violence.<sup>32</sup>

The IA gave three reasons for preferring minimum unit pricing (MUP) over alcohol duties to achieve the same impact on alcohol prices:

1. MUP is a more targeted approach to address the problems of cheap alcohol; EU rules prevent alcohol duties being linked to their sale price. A rise in alcohol duty would affect all types of alcohol products, including the most expensive products. A MUP is intended to specifically target the sale of cheap alcohol products.
2. Alcohol duties alone could not bring about a system of minimum pricing as EU rules prevent wine and cider duties being directly linked to their alcohol content;
3. There is no requirement for retailers to pass through higher duties into prices, so higher duties will not automatically raise the price of cheap alcohol, and some evidence that in practice prices do not always rise to reflect higher duties.

It is therefore expected that MUP will be the most effective approach in terms of reducing the consumption of harmful and hazardous consumers in particular.<sup>33</sup>

On the link between alcohol price and harm, the IA acknowledged that no other country had yet implemented a minimum unit price for alcohol but that there was a "range of evidence that supports increasing the price of alcohol in order to reduce alcohol consumption and leading to reductions in alcohol harms, particularly with regard to health harms".<sup>34</sup> The IA referred to recent analysis of the effectiveness of "social reference pricing" in Canada which found that a 10% increase in the minimum price of any given alcoholic product reduced its consumption by between 14.6% and 16.1%.<sup>35</sup>

The IA said that MUP would help to curb the increase in "pre-loading" – or drinking at home – which studies had linked with alcohol-related crime and disorder.<sup>36</sup>

### **Government response to the consultation (July 2013)**

In July 2013 the Government announced that it would not be introducing a minimum unit price after all:

[The] consultation has been extremely useful. But it has not provided evidence that conclusively demonstrates that Minimum Unit Pricing (MUP) will actually do what it is meant to: reduce problem drinking without penalising all those who drink responsibly. In the absence of that empirical evidence, we have decided that it would be a mistake to implement MUP at this

<sup>32</sup> Ibid, pp5-6 (footnotes removed)

<sup>33</sup> Ibid, pp3-4

<sup>34</sup> Ibid, p6

<sup>35</sup> Ibid, p6

<sup>36</sup> Ibid, p7



stage. We are not rejecting MUP – merely delaying it until we have conclusive evidence that it will be effective.<sup>37</sup>

The Government said that it would instead go ahead with the ban on selling alcohol below cost price.

A detailed analysis of consultation responses was published by the Home Office.<sup>38</sup> There were 1,145 responses to the question on whether a minimum unit price (MUP) of 45p was targeted, proportionate and would achieve a significant reduction in alcohol-related harm. Of these, 395 respondents (34%) agreed that such a level would achieve the aims; 638 respondents (56%) disagreed.<sup>39</sup> Respondents from public health bodies, voluntary and community organisations and local government were more likely to agree that the proposed MUP would meet its aims. The largest group of respondents were members of the public (46%, 524 respondents), the majority (73%) of whom did not agree that the MUP would achieve its aims.

A number of other measures to tackle excessive drinking and alcohol-related crime were set out in the Government's plans. These included making the mandatory licensing conditions more effective, particularly those regulating irresponsible sales and promotions.<sup>40</sup>

## Reaction

Labour's Shadow Crime and Security Minister, Diana Johnson, said the Government had made a policy U-turn on minimum unit pricing. She referred to research by the Institute for Fiscal Studies which found that a ban on the sale of alcohol "below cost" would "raise the price of less than 1% of the alcohol sold in the off-trade, with most of that sold in discount stores, not supermarkets".<sup>41</sup>

Alcohol Concern said the "best chance" of tackling the problems caused by cheap drink had "been kicked into the long grass" and that the Government had "caved in to industry lobbying."<sup>42</sup> Alcohol Research UK also accused the Government of changing policy following "sustained pressure from sections of the alcohol industry" rather than on the basis of any new evidence.<sup>43</sup>

Public Health England<sup>44</sup> said it shared "the disappointment of the public health community" that the introduction of a minimum unit price was

<sup>37</sup> Home Office, [Next steps following the consultation on delivering the Government's alcohol strategy](#), July 2013, p3

<sup>38</sup> Home Office, [Analysis of responses to the consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour](#), July 2013

<sup>39</sup> Ibid, p6

<sup>40</sup> Home Office, [Next steps following the consultation on delivering the Government's alcohol strategy](#), ch 1 & 2

<sup>41</sup> [HC Deb 17 July 2013 c1115](#)

<sup>42</sup> ["Minimum unit price for alcohol proposal shelved"](#), *Guardian*, 17 July 2013

<sup>43</sup> ["Government alcohol strategy response – Alcohol Research UK comment"](#), News release, 17 July 2013

<sup>44</sup> Public Health England was established in April 2013 to bring together public health specialists into a single public health service. It is an executive agency, sponsored by the Department of Health.

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not being taken forward and noted that the evidence base for it was "strong and growing".<sup>45</sup>

The Portman Group, the "responsibility body for drinks producers in the UK", welcomed the Government's decision and gave details of the voluntary pledges that alcohol producers had made to promote responsible drinking.<sup>46</sup>

### Ban on sales below cost price introduced (May 2014)

A ban on selling alcohol below the "permitted price" was introduced through [\*The Licensing Act 2003 \(Mandatory Conditions\) Order 2014\*](#) and came into force on 28 May 2014. The schedule to the Order defines the "permitted price" as the level of alcohol duty plus VAT. This means that a can of average strength lager cannot be sold for less than 40p and a standard bottle of vodka cannot be sold for less than £8.89.<sup>47</sup>

Home Office [guidance](#) for alcohol suppliers and enforcement authorities was published in May 2014. This states that non-compliance with the ban could result in up to 6 months' imprisonment and/or a £20,000 fine.<sup>48</sup> It could also result in a licence being reviewed or the service on a premises of a closure notice.

<sup>45</sup> ["Alcohol Strategy consultation report"](#), Public Health England response, 17 July 2013

<sup>46</sup> ["Portman Group Response to Government's Alcohol Strategy Consultation Response"](#), Portman Group news release, 29 August 2013

<sup>47</sup> Home Office [Guidance on banning the sale of alcohol below the cost of duty plus VAT: for suppliers of alcohol and enforcement authorities in England and Wales](#), May 2014, p5

<sup>48</sup> *Ibid*, p18



### 3. Policy in Scotland

The *Alcohol (Minimum Pricing) (Scotland) Act 2012* paved the way for the introduction of a minimum price of 50p per unit.<sup>49</sup>

The Scottish Whisky Association has been challenging the legislation in the courts, claiming that minimum unit pricing is contrary to EU law.<sup>50</sup>

On 3 September 2015, the Advocate General to the European Court of Justice said that prescribing a minimum price for alcoholic drinks could only be justified to protect public health if no alternative measure - such as tax increases - could be found.<sup>51</sup>

The case will eventually return to the Scottish Court of Session. Scottish First Minister Nicola Sturgeon has said she will "vigorously make the case" for a minimum unit price.<sup>52</sup>

#### Policy development

The Scottish Government first attempted to introduce a minimum unit price by way of a change to its licensing laws.

The *Licensing (Scotland) Act 2005* introduced a range of measures designed to protect communities from alcohol-related harm. It established five "licensing objectives": protecting and improving public health; preventing crime and disorder; protecting public safety; protecting children from harm; preventing public nuisance. In many respects the Scottish Act replicates features of the *Licensing Act 2003*, the legislation which governs alcohol licensing in England and Wales. However, one difference is that the Scottish Act has the additional "licensing objective" of "protecting and improving public health".

Section 27 of the *Licensing (Scotland) Act 2005* states that all premises licences will be subject to mandatory conditions; these are detailed in Schedule 3 to the Act. Section 27 allows Scottish Ministers, via regulations, to set out further national mandatory or discretionary conditions to be attached to premises licences. The original intention was to add a new mandatory condition to Schedule 3(7), "Pricing of alcohol", to prescribe a minimum price per unit of alcohol.

#### **The *Alcohol etc (Scotland) Act 2010***

The proposal to introduce a minimum unit price through secondary legislation did not find favour with opposition parties in the Scottish

<sup>49</sup> ["Alcohol minimum pricing bill passed"](#), Scottish Government press release, 24 May 2012; for background to the Bill see SPICe Briefing 12/01, [Alcohol \(Minimum Pricing\)\(Scotland\) Bill](#), 5 January 2012

<sup>50</sup> ["Scotch Whisky industry challenges minimum pricing of alcohol"](#), SWA press release, 19 July 2012

<sup>51</sup> Europa website, [Opinion of Advocate General Bot](#), delivered 3 September 2015 (1), Case C-333/14, *The Scotch Whisky Association and Others v The Lord Advocate & The Advocate General for Scotland*

<sup>52</sup> ["FM comments on MUP"](#), Scottish Government news release, 3 September 2015

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Parliament.<sup>53</sup> Primary legislation was therefore introduced in November 2009 by the then Scottish Health Secretary Nicola Sturgeon.

The *Alcohol etc (Scotland) Bill* sought to amend Schedule 3 to the 2005 Act and introduce a further mandatory condition of premises licences granted under that Act. The condition was that alcohol would not be sold on the premises at a price below the minimum price. The Bill did not state what the unit price should be but would have given Ministers the power to set it in regulations. The proposed measure did not enjoy cross-party support. SNP Members were in favour but Labour, Liberal Democrat and Conservative MSPs were opposed.<sup>54</sup>

The Health Committee's stage 1 report on the proposed legislation recommended that the Scottish Parliament support the general principles of the Bill but urged the Government to specify a minimum price on the face of the Bill. It confirmed that MSPs remained divided over whether minimum pricing would be effective.<sup>55</sup>

Opposition continued throughout the Bill's passage, with Labour, Conservatives and Liberal Democrats arguing that the move would penalise responsible drinkers and might be illegal under European competition law. Although the Health Secretary attempted to re-insert minimum pricing into the legislation after it was removed at an earlier stage, Parliament opposed the move and the Bill was finally passed without the minimum pricing provision.<sup>56</sup>

The Scottish Parliament Information Centre (SPICe) published a [briefing paper](#) on the Bill.<sup>57</sup>

### **The Alcohol (Minimum Pricing) (Scotland) Act 2012**

The *Alcohol (Minimum Pricing) (Scotland) Bill*, introduced in October 2011, was the second attempt to legislate for a minimum unit price. The Bill was passed in May 2012 and paved the way for the introduction of a minimum price of 50p per unit.<sup>58</sup>

Further background to the 2012 Act is available from the Scottish Government [website](#) and a SPICe [briefing paper](#).<sup>59</sup>

### **Legal action by the Scottish Whisky Association**

The Scottish Whisky Association (SWA) claims that minimum unit pricing is contrary to EU law, will not be effective in tackling alcohol misuse, and penalises responsible drinkers. In July 2012 the SWA lodged a

<sup>53</sup> ["SNP crackdown on discount alcohol is delayed by a year"](#), *Scotsman*, 10 March 2009

<sup>54</sup> "MSPs split on party lines over alcohol pricing", *Times*, 28 May 2010

<sup>55</sup> ["Health committee split on alcohol pricing"](#), *BBC News*, 27 May 2010

<sup>56</sup> ["MSPs pass Alcohol Bill without minimum drink pricing"](#), *BBC News Scotland*, 10 November 2010

<sup>57</sup> SPICe Briefing 10/13, [The Alcohol etc \(Scotland\) Bill](#), 18 February 2010

<sup>58</sup> ["Alcohol minimum pricing bill passed"](#), Scottish Government press release, 24 May 2012

<sup>59</sup> SPICe Briefing 12/01, [Alcohol \(Minimum Pricing\)\(Scotland\) Bill](#), 5 January 2012



complaint with the European Commission and filed a petition for judicial review with the Scottish Court of Session.<sup>60</sup>

In a ruling of 3 May 2013, the Court refused the SWA's petition.<sup>61</sup> The Court ruled that the 2012 Act was not outside the legislative competence of the Scottish Parliament and that the proposed Order setting a minimum price per unit was within devolved competence and within the powers of the Scottish Ministers. The Court also decided that the measures were not incompatible with EU law.

The SWA appealed the decision. In April 2014 the Scottish Court of Session ruled that the case should be referred to the European Union's Court of Justice.<sup>62</sup>

On 3 September 2015, the Advocate General to the European Court of Justice said that prescribing a minimum price for alcoholic drinks could only be justified to protect public health if no alternative measure - such as tax increases - could be found.<sup>63</sup>

Scottish First Minister Nicola Sturgeon commented:

"We welcome this opinion, in which the Advocate General confirms that minimum unit pricing is not precluded by EU law, but sets out tests that the national court has to apply.

"Importantly, this initial opinion indicates it will be for the domestic courts to take a final decision on minimum unit pricing. The Advocate General finds that the policy can be implemented if it is shown to be the most effective public health measure available.

"As such, the legal process is ongoing and we await a final response from the European Court of Justice, before the case returns to the Scottish courts.

"While we must await the final outcome of this legal process, the Scottish Government remains certain that minimum unit pricing is the right measure for Scotland to reduce the harm that cheap, high-strength alcohol causes our communities. In recent weeks statistics have shown that alcohol related deaths are rising again and that consumption may be rising again after a period of decline. We believe minimum unit pricing would save hundreds of lives in coming years and we will continue to vigorously make the case for this policy."<sup>64</sup>

For discussion of the Advocate General's opinion see:

- Angus MacCulloch, ["Another Step in the Scottish Alcohol MUP Case"](#), Alcohol Policy UK, 17 September 2015
- ["Pro and anti minimum pricing groups claim good news over latest ruling"](#), Alcohol Policy UK, 9 September 2015

<sup>60</sup> ["Scotch Whisky industry challenges minimum pricing of alcohol"](#), SWA press release, 19 July 2012

<sup>61</sup> <http://www.bailii.org/scot/cases/ScotCS/2013/2013CSOH70.html>

<sup>62</sup> ["Legal challenge against Scottish Government's minimum alcohol pricing policy referred to European court"](#), *Daily Record*, 30 April 2014

<sup>63</sup> Europa website, [Opinion of Advocate General Bot](#), delivered 3 September 2015 (1), Case C-333/14, *The Scotch Whisky Association and Others v The Lord Advocate & The Advocate General for Scotland*

<sup>64</sup> ["FM comments on MUP"](#), Scottish Government news release, 3 September 2015

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- Neil McKeganey, "[European alcohol pricing decision a real headache](#)", *Scotsman*, 7 September 2015

## 4. Continuing debate

Despite the introduction of a ban on below cost selling in England and Wales, alcohol charities and public health groups, as well as some academics and parliamentarians, continue to argue for the introduction of a minimum unit price.

In its [Manifesto 2015](#), the All Party Parliamentary Group on Alcohol Misuse set out details of ten policies to minimise alcohol-related harm. After claiming that the ban on below cost sales would have a "negligible" impact, the Manifesto called for a minimum unit price to "precisely target" the products consumed by harmful drinkers and children.<sup>65</sup> A specific price was not recommended.

One of Public Health England's (PHE) seven priorities is to reduce harmful drinking and alcohol-related hospital admissions. PHE has said that it will "continue to set out the evidence base for the introduction of a minimum unit price for alcohol".<sup>66</sup>

Alcohol Concern has an ongoing campaign for a minimum unit price of at least 50p.<sup>67</sup>

In a September 2014 article in the *British Medical Journal*, Alan Brennan estimated that the ban on below cost selling would have "small effects on consumption and health harm" and that a minimum unit price, if set at levels between 40p and 50p, would have an "approximately 40-50 times greater effect".<sup>68</sup>

<sup>65</sup> All Parliamentary Party Group on Alcohol Misuse, [Manifesto 2015](#), August 2014, p5

<sup>66</sup> Public Health England, [From evidence into action: opportunities to protect and improve the nation's health](#), October 2014, p17

<sup>67</sup> Alcohol Concern website, [Minimum unit pricing](#) [accessed 25 September 2015]

<sup>68</sup> Alan Brennan et al, "[Potential benefits of minimum unit pricing for alcohol versus a ban on below cost selling in England: modelling study](#)", *British Medical Journal*, 30 September 2014



## 5. Selected further reading

- Alan Brennan et al, "[Potential benefits of minimum unit pricing for alcohol versus a ban on below cost selling in England 2014: modelling study](#)", *British Medical Journal*, 30 September 2014
- John Holmes et al, "[Effects of minimum unit pricing for alcohol on different income and socioeconomic groups: a modelling study](#)", *Lancet online*, 10 February 2014
- Jinhui Zhao et al, "[The relationship between minimum alcohol prices, outlet densities and alcohol-attributable deaths in British Columbia, 2002–09](#)", *Addiction*, vol 108 (6), June 2013, pp1059–69
- Alan Brennan et al, [A public response to the Adam Smith Institute's critique of the Sheffield Alcohol Policy Model](#). University of Sheffield Alcohol Research Group, January 2013; a [technical appendix](#) to the response was also published
- Tim Stockwell et al, "[The Raising of Minimum Alcohol Prices in Saskatchewan, Canada: Impacts on Consumption and Implications for Public Health](#)", *American Journal of Public Health*, vol 102 (12), December 2012, pp103–110
- John C Duffy and Christopher Snowdon, [The minimal evidence for minimum pricing: the fatal flaws in the Sheffield alcohol policy model](#), Adam Smith Research Trust, November 2012
- Tim Stockwell et al, "[Does minimum pricing reduce alcohol consumption? The experience of a Canadian province](#)", *Addiction*, vol 107 (5), May 2012, pp912–20
- Home Office, [The likely impacts of increasing alcohol prices: a summary review of the evidence base](#), January 2011
- BDRC Continental, [Public perceptions of alcohol pricing: market research report](#), November 2010
- Priscilla Hunt *et al*/for the Home Office, [Preliminary assessment of the economic impacts of alcohol pricing policy options in the UK](#), June 2010
- University of Sheffield School of Health and Related Research, [Alcohol pricing and criminal harm: a rapid evidence assessment of the published research literature](#), c2010
- Lila Rabinovich et al, [The affordability of alcoholic beverages in the European Union: understanding the link between alcohol affordability, consumption and harms](#), RAND Europe, 2009

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