

## Licensing Committee Agenda

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**Date:** Monday, 4th March, 2019  
**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.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

### **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 paragraph 2.32 of the Committee Procedural Rules and Appendix 7 to the Rules 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 - 6)

To approve the minutes of the meeting held on 5 November 2018.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 12)

To receive the minutes of the following meetings:

**Licensing Act Sub-Committee**

22 November 2018

**General Licensing Sub-Committee**

11 December 2018

14 February 2019

6. **Review of the Scrap Metal Dealers Act 2013 Fees and Charges for the Period 2019 to 2022** (Pages 13 - 16)

To consider the proposed fees in relation to applications for Scrap Metal Dealers licences.

7. **Annual review of the Mobile Homes Act 2013 - Fees and Charges Policy 2019-2020** (Pages 17 - 30)

To consider the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy for 2019-2020.

8. **Revised Statement of Licensing Policy** (Pages 31 - 86)

To consider a draft revised Statement of Licensing Policy.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 5th November, 2018 at Committee Suite 1, 2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor D Bebbington (Vice-Chairman, in the Chair)

Councillors Rhoda Bailey, E Brooks, J Bratherton, B Dooley, C Green,  
A Harewood, O Hunter, M Parsons, G Wait and J Wray

**OFFICERS PRESENT**

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

**1 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors S Davies, I Faseyi, M Warren  
and J Weatherill.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**4 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 5 March 2018 be  
approved as a correct record and signed by the Chairman.

**5 MINUTES OF LICENSING SUB-COMMITTEES**

RESOLVED – That the minutes of the following meetings be received:

(a) Licensing Act Sub-Committee meetings held on:

30 April 2018  
30 July 2018  
2 August 2018  
13 August 2018  
6 September 2018  
17 October 2018

(b) General Licensing Sub-Committee meetings held on:

27 February 2018  
20 March 2018  
19 April 2018  
21 May 2018  
21 June 2018  
23 August 2018  
18 September 2018  
23 October 2018

### **6 REVISED STATEMENT OF GAMBLING PRINCIPLES**

The Committee considered a report regarding the Council's draft revised Statement of Gambling Principles.

The Gambling Act 2005 required Local Authorities to prepare and publish a statement of the principles that they proposed to apply when exercising their functions under the Act.

The Council was required to review its existing Statement of Gambling Principles and publish a revised version every three years. The review included a statutory consultation exercise with stakeholders identified within the Gambling Act 2005.

RESOLVED

- (a) That the content of the revised Statement of Gambling Principles, as set out in appendix 1 to the report, be approved.
- (b) That Council be recommended to formally adopt the revised Statement of Gambling Principles for 2019 to 2022.

### **7 REVIEW OF LICENSING FEES AND CHARGES**

The Committee considered a report seeking approval to increase the licensing fees and charges for the issuing and renewal of licenses, consents and permits issued by the Licensing Team with effect from April 2019.

Some fees were set by statute or regulations, while others could be set by Local Authorities in order to cover the cost of administration, compliance and some elements of enforcement. Where the Council had the discretion to set fees, they were subject to review by the Licensing Team and confirmation by the Licensing Committee.

### RESOLVED

- (a) That the fees payable as set out in appendix 1 to the report be confirmed.
- (b) That the Licensing Team Leader be authorised to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions.
- (c) That authority be delegated to the Director of Planning and Environment to consider any objections received and determine the final fees payable, in consultation with the Chairman of the Licensing Committee.

The meeting commenced at 2.00 pm and concluded at 2.07 pm

Councillor D Bebbington (Vice-Chairman, in the Chair)

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Thursday, 22nd November, 2018 at Council Chamber - Town Hall,  
Macclesfield, SK10 1EA

**PRESENT**

Councillor S Davies (Chairman)

Councillors M Parsons and M Warren

**OFFICERS IN ATTENDANCE**

Jennifer Knight, Senior Licensing Officer  
Nathan Murphy, Licensing Officer  
Aoife Ryan, Lawyer  
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 TO VARY A PREMISES LICENCE - VICTOR'S, 46  
LONDON ROAD, ALDERLEY EDGE SK9 7DZ**

This application was withdrawn prior to the meeting.

**19 APPLICATION TO VARY A PREMISES LICENCE - THE BOTANIST,  
41A KING STREET, KNUTSFORD WA16 6DW**

The Sub-Committee considered a report regarding an application to vary a premises licence for The Botanist, 41a King Street, Knutsford WA16 6DW.

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

- two representatives of the applicant
- a local resident

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 applied for, subject to:

- (a) The conditions proposed by Cheshire Police, as set out in Appendix 3 of the report.
- (b) The conditions proposed by the Council's Environmental Protection Team, as set out in Appendix 4 of the report.
- (c) The following additional conditions proposed by the applicant:
  1. A Smoking Policy and Dispersal Policy shall be implemented and adhered to.
  2. The external area shall cease to be used for drinking and dining at 23:00 daily.
  3. SIA registered door supervisor(s) shall be employed at the premises from 22:00 until close on Fridays and Saturdays. At all other times, SIA registered door supervisor(s) shall be employed in accordance with a risk assessment to be carried out by the DPS.
  4. The premises shall provide a contact telephone number for local residents so that contact can be made immediately if any issues arise.
  5. No admission shall be permitted to the premises after 00:30 on Friday and Saturday (save for returning smokers).

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 of service of the written notice of the decision.

The meeting commenced at 10.00 am and concluded at 10.45 am

Councillor S Davies (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 11th December, 2018 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor S Davies (Chairman)

Councillors J Bratherton, M Parsons and M Warren

### **OFFICERS IN ATTENDANCE**

Sarah Baxter, Democratic Services Officer  
Tracey Billington, Enforcement Officer  
Kim Evans, Licensing Team Leader  
Aoife Ryan, Lawyer

### **25 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor S Davies be appointed Chairman.

### **26 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor G Wait.

### **27 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **28 EXCLUSION OF THE PUBLIC AND PRESS**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that it 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.

### **29 18-19/9 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 the Licence holder's wife 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 does not remain a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence and the licence is revoked.

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

The meeting commenced at 10.00 am and concluded at 10.30 am

Councillor S Davies (Chairman)

## CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 14th February, 2019 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillors E Brooks, S Davies, M Parsons and J Wray

### **Officers in attendance**

Richard Hellon, Licensing Officer

Aoife Ryan, Lawyer

Rachel Graves, Democratic Services Officer

### **Observers**

Amanda Andrews, Licensing Officer

Vicky Fox, Lawyer

### **30 APPOINTMENT OF CHAIRMAN**

#### **RESOLVED:**

That Councillor S Davies be appointed as Chairman for the meeting.

*Councillor Davies in the Chair.*

### **31 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor M Warren.

### **32 DECLARATIONS OF INTEREST**

In the interests of openness, Councillor M Parsons declared that his parents had known the grandparents of the proprietor of the Taxi company.

### **33 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 as amended 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.

**34 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS 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 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 a licence be granted.

The meeting commenced at 10.00 am and concluded at 10.35 am

Councillor S Davies



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## **Licensing Committee**

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**Date of Meeting:** 04 March 2019

**Report Title:** Review of the Scrap Metal Dealers Act 2013 Fees and Charges for the Period 2019 to 2022

**Portfolio Holder:** Councillor Ainsley Arnold – Portfolio Holder for Housing, Planning and Regeneration

**Senior Officer:** Frank Jordan – Executive Director Place and Acting Deputy Chief Executive

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### **1. Report Summary**

- 1.1. In accordance with the provisions of the Scrap Metal Dealers Act 2013, the Council is permitted to charge a fee for administering the statutory licensing for scrap metal dealers. The Council must set the fees on a cost recovery only basis as set out in the guidance issue by the Secretary of State. The purpose of this report is to request that the Licensing Committee approve the proposed fees as set out in the report.

### **2. Recommendation/s**

- 2.1 To approve fees in relation to applications for Scrap Metal Dealers licences. The proposed fees for the three year period from 1<sup>st</sup> April 2019 are:
- Site Licence Application – £225.00
  - Collectors Licence Application - £194.00
  - Replacement of a Licence - £15.00 (per licence)
  - Additional Collectors Licences - £15.00 (per licence)

### **3. Reasons for Recommendation/s**

- 3.1. In accordance with the Scrap Metal Dealers Act 2013, the Council must undertake a review of the fees to ensure they reflect the costs of administering the licences.

#### **4. Other Options Considered**

- 4.1. There are no alternatives as the setting of fees is in accordance with the Scrap Metal Dealers Act 2013.

#### **5. Background**

5.1. The Scrap Metal Dealers Act 2013, created a new licensing regime which replaced the previous registration system for scrap metal dealers in accordance with the Scrap Metal Dealers Act 1964. The 2013 Act maintained local authorities as the principal regulator, but gave them the power to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if a dealer becomes 'unsuitable'.

5.2. The 2013 Act, provides that an application for a licence must be accompanied by a fee, which is to be set locally by each local authority on a cost recovery only basis. When setting the fee local authorities must have regard to guidance issued by the Secretary of State, which sets out what should be considered when setting the fee and what activities the fee can cover. The fee is an essential component of the licensing regime as it provides local authorities with the funding they need to administer the regime and ensure compliance.

5.3. In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure they accurately reflect the full costs associated with the provision of the service. The majority of the applications will be received during 2019/2020 with other spread out over the other two years.

#### **6. Implications of the Recommendations**

##### **6.1. Legal Implications**

6.1.1. Schedule 1(6) of the Scrap Metal Dealers Act 2013, provides that an application for a licence must be accompanied by a fee set by the local authority. In setting the fee the authority must have regard to any guidance issued by the Secretary of State. Guidance issued by the Secretary of State recommends that all fees are set on a cost recovery only basis and this may be different for the different types of licences.

6.1.2. Currently the Council has 45 licenced scrap metal dealers, which comprises of 25 collector's licences and 20 site licences.

**6.2. Finance Implications**

6.2.1. Fees must be set locally by Cheshire East Council on a cost recovery only basis, in line with the guidance issued by the Secretary of State, which outlines what should be considered by the Council when setting the fee and what activities the fee can cover.

6.2.2. In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure that they accurately reflect the full costs associated with the provision of the service.

6.2.3. The proposed fee for site licences is £225.00, which is an increase of £31.00 to reflect the extra officer time required for inspecting sites. The proposed fee for collectors is £194.00, which is an increase of £46.00 and reflects the additional time required to administer a collector's licences and the collector licence plates, which are different to those for the sites. The fees for additional collector's licences are £15.00, which is an increase of £5.00 due to the increase cost of purchasing the licence plates and staff time to prepare the duplicate licences.

**6.3. Policy Implications**

6.3.1. The fees proposed are compatible with our charging strategy.

**6.4. Equality Implications**

6.4.1. There are no direct equality implications arising from this report.

**6.5. Human Resources Implications**

6.5.1. There are no direct resource implications arising from this report.

**6.6. Risk Management Implications**

6.6.1. There are no direct risk management implications arising from this report.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. Borough wide.

**8. Consultation & Engagement**

8.1. There are no requirements in legislation for any prior consultation or engagement.

**9. Access to Information**

9.1. The background papers relating to this report are available from the following sources.

The Scrap Metal Dealers Act 2013 is available here

<http://www.legislation.gov.uk/ukpga/2013/10/enacted/data.htm>

The Scrap Metal Dealers Act 2013: Licence Fee Charges Guidance is available here

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

**10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Nick Kelly

Job Title: Environmental Protection Team Leader

Email: [nick.kelly@cheshireeast.gov.uk](mailto:nick.kelly@cheshireeast.gov.uk)



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## **Licensing Committee**

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**Date of Meeting:** 04 March 2019

**Report Title:** Annual review of the Mobile Homes Act 2013 - Fees and Charges Policy 2019-2020

**Portfolio Holder:** Councillor Ainsley Arnold – Portfolio Holder for Housing, Planning and Regeneration

**Senior Officer:** Frank Jordan – Executive Director Place and Acting Deputy Chief Executive

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### **1. Report Summary**

- 1.1. In accordance with the Mobile Homes Act 2013 (MHA13), the Council is permitted to charge a fee for administering the statutory licensing function for residential caravan sites. As part of setting the fees the Council is required to have a Fees and Charges Policy in place for mobile home sites, which must be reviewed annually to reflect the cost of administering the licensing function. The purpose of this report is to request that the Licensing Committee approve the proposed Mobile Homes Act 2013 Fees and Charges Policy 2019-2020, as set out in Appendix 1.

### **2. Recommendation**

- 2.1 The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy 2019-2020.

### **3. Reasons for Recommendation/s**

- 3.1. In accordance with the Mobile Homes Act 2013, the Council must produce a Fees and Charges Policy for the licensing of residential caravan sites where it intends to recover the costs of the service that it provides. These fees and charges shall be reviewed annually to reflect the costs of administering the licences. A copy of the proposed Fees and Charges Policy 2019-2020, is attached in Appendix 1.

**4. Other Options Considered**

4.1. There are no alternatives as the setting of fees is in accordance with the Mobile Homes Act 2013.

**5. Background**

5.1. In accordance with the MHA13, the Council may charge a fee for issuing and administering licences for residential caravan sites. In addition, to the licensing of sites the Council may also set a fee for other functions such as maintaining a register of site rules and transferring and amending licences.

5.2. The Council must set fees on a “cost recovery” only basis. Therefore, the fees have been set using a time monitoring approach together with officer knowledge of the times involved for carrying out the various functions to ensure the setting of fees is as accurate as possible.

5.3. The following is a summary of the proposed fees and charges as set out in the Mobile Homes Act 2013 Fees and Charges Policy 2019-2020. The fees have been calculated for caravan sites as both an initial application fee and an annual fee together with last years fees and charges for reference;

Number of Pitches	2018-2019 Application fee	2018-2019 Annual fee	2019-2020 Application Fee	2019-2020 Annual Fee
< =10	£188.00	£188.00	£192.00	£192.00
< =20	£232.00	£232.00	£234.00	£234.00
< =30	£272.00	£272.00	£274.00	£274.00
< =40	£341.00	£341.00	£342.00	£342.00
< =50	£384.00	£384.00	£376.00	£376.00
> 50	£514.00	£514.00	£447.00	£447.00

Additional fees that can be levied on sites are proposed as follows together with the fees for 2018-2019;

- Site Licence Transfer Fee - £112.00 (2018-2019 fee was £99.00);
- Licence amendment (simple) - £112.00 (2018-2019 fee was £99.00);
- Application by the licensee to amendment of conditions - £336 (2018-2019 fee was £279.00); and
- The deposit of site rules - £38.00 (2018-2019 fee was £33.00)

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Sections 3(2A) and 5A of the Caravan Sites and Control of Development Act 1960, provide local authorities with the power to charge a fee for administering licences for “relevant protected sites.” In addition, section 1(3) sets out that where ‘a local authority sets a fee it must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question...’. Guidance from the Secretary of State recommends that this should be undertaken by adopting Mobile Homes Act 2013 Fees and Charges Policy 2019-2020, which is attached as Appendix 1.

6.1.2. It is useful to note that sites cannot be licensed without first being granted planning and other relevant permissions.

### **6.2. Finance Implications**

6.2.1. With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities. The changes in the 2019-2020 fees (see table in paragraph 5.3) are due to improved cost accounting and reflect the site size and resulting officer input as well as any changes to staffing and other associated costs. The reason for the proposed site fees either increasing by only a small amount or with the larger sites decreasing, is due to a change in officers undertaking inspections, which are now only carried out by a grade 7 officer. Previous this was undertaken by a combination of grade 7 and 9 officers.

6.2.2. In addition to the licensing function, the guidance also proposes additional fees and charges which can be set by local authorities, such as the depositing of site rules and the issuing, transferring or amending of site licences, which are the more administrative functions of the regime.

### **6.3. Policy Implications**

6.3.1. The purpose of this report is to approve the Mobile Homes Act 2013 – Fees and Charges Policy 2019-2020.

**6.4. Equality Implications**

6.4.1. There are no direct equality implications arising from this report.

**6.5. Human Resources Implications**

6.5.1. There are no direct resource implications arising from this report.

**6.6. Risk Management Implications**

6.6.1. The MHA13 specifically empowers local authorities to set a local scheme of fees and charges on a cost recovery only basis.

6.6.2. As with all locally set fees and charges, there is a risk of challenge by those to whom the fee relates. However, it is hoped that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. Borough wide.

**8. Consultation & Engagement**

8.1. There are no requirements in legislation for any prior consultation or engagement.

**9. Access to Information**

9.1. The background papers relating to this report are available from the following sources.

The Mobile Homes Act 2013 is available here  
<http://www.legislation.gov.uk/ukpga/2013/14/contents/enacted>

The Mobile Homes (Site Rules) (England) Regulation 2014 is available here  
<http://www.legislation.gov.uk/cy/uksi/2014/5/made>

## 10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Nick Kelly  
Job Title: Environmental Protection Team Leader  
Email: [nick.kelly@cheshireeast.gov.uk](mailto:nick.kelly@cheshireeast.gov.uk)

## Appendix 1

Mobile Homes Act 2013 Fees and Charges Policy 2019-2020

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# Regulatory Services and Health

## Mobile Homes Act 2013 Fees and Charges Policy

2019-2020

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- 5 Licensing Fees
  - 5.1 Considerations
  - 5.2 Annual Fee
  - 5.3 New Licence Fee
  - 5.4 Transfer Fee
  - 5.5 Licence Amendments Fee
  - 5.6 Fee Combination
  - 5.7 Fees and Charges Payment Time-frames
- 6 Fees for Depositing Site Rules
- 7 Exemptions
- 8 Charges for Enforcement Notices
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## 1. Executive Summary

The Mobile Homes Act 2013 (MHA13) introduced new requirements for residential caravan sites only, which are referred to as Relevant Protected Sites in the legislation. It also amends the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983.

The MHA13 allows local authorities to charge for a range of licensing functions on a cost recovery basis and includes the following as chargeable functions;

- Licence applications;
- Annual licence fees;
- Licence amendments, when requested by the site owner;
- Transfer of a licence; and
- Deposit of site rules.

In order to be able to implement any fees and charges, Cheshire East Council must publish a fees and charges policy setting out all the relevant charges and how they have been calculated. This policy document is designed to fulfil the requirements of the legislation and enable Cheshire East Council to levy a charge for undertaking the licensing of residential caravan sites. In accordance with guidance, the Policy will be reviewed annually to ensure all the fees and charges are updated to cover costs of administering the licensing regime to the relevant sites. The Policy will be published and available on request from members of the public.

The fees will not apply to sites which are classed as non-residential such as those used for recreational or holiday use or those which do not require a site licence.

The MHA13 introduces fees and charges for the deposit of site rules and maintaining a fit and proper person register. However, the requirements in respect of the fit and proper person register have not yet been enacted and therefore there is no proposal to levy a charge at the present time.

## 2. Introduction

The MHA13 received royal assent on the 26th March 2013, and introduced important amendments to the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. The legislation amends how local authorities licence residential caravan sites, which are termed as “relevant protected sites” under the MHA13.

The MHA13 introduced the ability for local authorities to charge fees for a range of activities associated with regulating relevant protected sites. Local authorities were able to implement the new fees and charges from the 1st April 2014. The range of site licensing functions, which attract a charge include;

- Determining and issuing new site licences;
- Annual fee for licensing existing residential sites;
- Amendments to site licences;
- Transferring existing licences to new site owners;
- Deposit of site rules with the Council; and
- Costs associated with issuing Enforcement Notices on site owners.

The site owner or licensee is responsible for the payment of all associated fees, as set out above, however they are only allowed to pass the equivalent cost of the annual licensing fee to site residents.

### **3. Setting of Fees and Charges**

In setting the fees and charges relating to the MHA13 functions, the Council has taken into account both national guidance and local policies. The aim being to ensure that the setting of the various fees is proportionate and transparent. In line with this, the MHA13 only allows Councils to set fees and charges to recover the actual costs incurred.

In 2015, it was decided to set the fees based on the number of units per site, which are banded in to the following categories:

Less than or equal to 10 caravans  
Less than or equal to 20 caravans  
Less than or equal to 30 caravans  
Less than or equal to 40 caravans  
Less than or equal to 50 caravans  
Greater than 50 caravans

This approach is based on using the number of units set out in the planning permission granted for the site or as historically numbered in the site licence where there is no specific number in planning terms.

### **4. Establishing the units (caravans) per Site**

All sites have varying numbers and types of units (qualifying caravans); the most equitable method for setting fees would be to make it relative to the number of units on site. This is backed up by officer experience that more time is spent licensing and inspecting those sites with a greater number of units compared to those with only a few, however size alone is not the only factor to consider. Therefore, it is important to establish the definition of a unit and how the Council determines the number of units per site.

For the purposes of this policy a unit (caravan) is classed as a single dwelling, which is capable of being moved from one place to another. This can be in the form of a traditional caravan, which is towed on the back of a vehicle or a chalet type dwelling normally made up of one or two parts joined together on site. The precise definition of a caravan can be found in Section 29(1) of the Caravan Sites and Control of Development act 1960 (as amended).

It is important for the setting of fees and charges to be able to determine the precise number of units on each site. All sites must have planning permission, deemed permission for those sites in existence with the enactment of the Caravan Sites and Control of Development Act 1960 or a Certificate of Lawful Use, which sets out the maximum number of permissible units. This will be the determining factor for calculating the number of units for each site. However, there may be occasions due to historic use where this information is not available within the planning permission granted for the site and in these instances calculations will be based on the number of units set out in the existing site licence.

## 5. Licensing Fees

### 5.1 Considerations

The following fees per band have been set using officer experience and previous time records as to the typical time taken for various activities, officer grades and on-costs, which include;

- Administration of licence fees;
- Pre and post inspection preparation and administration;
- Site inspection and where required re-inspection (including travelling time and mileage allowances at current rates);
- General administration and Licensing activities outside of the inspection related role (site liaison/advice, complaints and enquiries regarding caravan sites, maintaining files, electronic records and cost accounting);
- Training and research;
- Maintenance and development of ICT systems;
- Support and shared services on-costs e.g. HR and Legal
- Officer pay grades – these would range from a grade 5 officer responsible for administrative work but also grade 7 and 9 grade officers involved in day to day activities. In this latter case a midpoint grade 8 has been used to establish officer costs.

### 5.2 Annual Fee

The current fees set for 2019-2020 are;

<b>Number of pitches</b>	<b>Cost</b>
<=10	£192.00
<=20	£234.00
<=30	£274.00
<=40	£342.00
<=50	£376.00
>50	£447.00

### 5.3 New Application Licence Fee

It is estimated that processing a new licence would not be considerably different to the work proposed for the annual licence and as such it will duplicate the annual licence fee. Therefore, the fees for processing all new licence applications will be as follows:

<b>Number of pitches</b>	<b>Cost</b>
<=10	£192.00
<=20	£234.00
<=30	£274.00
<=40	£342.00
<=50	£376.00
>50	£447.00

### 5.4 Transfer Fee

A fee of £112.00 will be charged to cover this function, which is estimated to take 4 hours of officer time plus associated administration cost.

### 5.5 Licence Amendments Fee (application)

There is a statutory requirement to consult appropriate parties with regards to changes to any site licence conditions; this in turn has an impact on officer costs. Therefore, in setting the fees below, the same considerations will be used in section 5.1.

1. Licence amendment (simple) £112.00.  
Simple amendments are those requested by the site to change non condition related details e.g. site name change or changes to registered offices or mail addresses.
2. Licence (condition etc.) amendments application fee £336.  
Changes to the condition(s) will require consultation with both residents and the respective resident association, which will greatly increase work required for undertaking of this function.
3. Changes imposed by Local Authority – no charges payable.

### 5.6 Fee Combination

New sites are required to apply for a site licence on a non refundable fee basis as this will cover the administration and verification of application documents, whether granted or refused. Where the licence is granted the annual fee is also payable within the same year.

In cases where both simple and condition amendments are requested the fees will be whichever is the greatest.

### **5.7 Fees and Charges Payment Timeframe**

Annual Fees and Charges will be levied from the 1<sup>st</sup> April each year and all other fees are per application or required function. The payment of fees will be in line with Council's current terms, which is 28 days from the date of the invoice. Where a fee becomes overdue, if after three months the fees remain unpaid, the Council may apply to the Housing Tribunal for an order to revoke the site licence.

## **6 Fees for Depositing Site Rules**

Site rules are different to site licence conditions in that they are neither created nor enforced by the Council. They are a set of rules created by the site owner with which residents have to comply and whilst they may reflect the site licence conditions they will also cover matters unrelated to licensing. The MHA13 amends the Mobile Homes Act 1983 and requires existing site rules to be updated and deposited with the local authority within a specified timescale.

Local authorities will also be required to establish, keep up to date and publish a register of sites, which have deposited their site rules. In doing so, a local authority may levy a fee for the deposit, variation or deletion of site rules.

Once an administrative system is in place for holding and publishing site rules it is estimated that it will take approximately 2 hours of officer time per site, to undertake this function. It is therefore appropriate to set a fee of £38.00 (based on the appropriate hourly rate and associated administration) for the checking and depositing of site rules by site owners.

## **7 Exemptions**

Local Authorities can elect to exempt sites for reasons of risk and/or cost, scale etc.

- Any site that does not require a licence.
- Any site used exclusively for recreational type use.
- Any site exempted by legislation such as the Caravan Sites and Control of development Act 1960; Schedule 1.
- A recreational site where planning permission/Certificate of Lawful Use has been issued and the number of residential units on the site is 5% or less of the overall capacity.
- In accordance with the legislation Gypsy and Traveller sites owned by the Local Authority that do not require a site licence.

## **8 Charges for Enforcement Notices**

From the 1<sup>st</sup> April 2014, Section 9A of the MHA13 allows local authorities to serve statutory notices on site owners for non-compliance with licence conditions and to make a charge for that notice. These notices set out what the site owner must do to comply with the relevant licence condition(s) and the timescales. In accordance with the legislation, the site owner is not allowed to pass this charge on to residents of the site.

In accordance with the amendments imposed by the MHA13, the Council is entitled to recover costs associated with the service of a notice. This includes the costs incurred with inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the Council intends to charge. The demand for recovery is served with the notice and must provide a clear breakdown of the costs incurred. The right to recover costs is subject to appeal by the site owner in certain circumstances. These will therefore be calculated on a case by case basis. Where compliance with a notice is achieved through works in default then these costs would be passed on to the site owner.

Please note that this charge is only for the service of enforcement notices. Any associated costs with taking any action for non compliance such as action in Magistrates Court are recoverable through the court costs.

## **9 Review**

This fees and charges policy will be published on the Cheshire East Council website. The fees detailed in this policy have been determined based on experience of dealing with mobile home site licensing and with consideration of the changes the MHA13 has introduced. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government (fit and proper person), which may impact on the processes and time involved resulting in a revision to the proposed charges.

This policy will be revised no later than 31<sup>st</sup> March 2020 in line with the Council's fee setting process.



*Working for a brighter future together*

## **Licensing Committee**

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**Date of Meeting:** 04 March 2019

**Report Title:** Revised Statement of Licensing Policy

**Senior Officer:** Frank Jordan, Executive Director - Place

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### **1. Report Summary**

- 1.1. The Licensing Act 2003 requires that Licensing Authorities prepare and publish a statement of policy that they propose to apply when exercising their functions under the Act during the five year period to which the statement applies.
- 1.2. The Council is required to review its existing statement of policy and publish a revised version. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders identified within the Licensing Act 2003. The purpose of this report is to allow the Licensing Committee the opportunity to comment on the revision during this consultation period.

### **2. Recommendation/s**

- 2.1. That the Licensing Committee considers the content of the draft revised policy set out at appendix 1 and propose a final draft for the consideration of Cabinet and Council.

### **3. Reasons for Recommendation/s**

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

### **4. Other Options Considered**

- 4.1. No other options have been considered

## 5. Background

- 5.1. As set out above, the Licensing Act 2003, requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act
- 5.2. The draft statement, a copy of which is attached as Appendix 1, incorporates some amendments (set out in Appendix 2), while a number of appendices have been added, in essence the policy remains substantially the same as previous iterations.
- 5.3. The Licensing Team have not received any comments, either positive or negative, on the current policy. Similarly, the Council has not been subject to judicial challenge on the content of the policy.
- 5.4. The Statement of Licensing Policy is the policy document that the Licensing Act Sub-Committee will use when determining contested applications under the Licensing Act 2003. Consequently, it needs to adequately guide applicants, objectors, Licensing Authority Officers, and Committee Members.
- 5.5. The policy must reflect that the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives:
  1. The prevention of crime and disorder
  2. Public safety
  3. The prevention of public nuisance
  4. The protection of children from harm
- 5.6. The Statement of Licensing Policy establishes a local framework for decision-making when considering applications for relevant permissions, or variations to existing terms and conditions. The Policy is of significant importance as the Licensing Committee and Sub-Committee are required to have due regard to it when determining an opposed application. It is therefore paramount that the policy sets out how the objectives will be promoted. Any matters not relevant to the promotion of the licensing objectives must be disregarded.
- 5.7. In addition to having regard to the Statement of Licensing Policy, the Licensing Authority must also have regard to the statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

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

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

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

1. Cheshire Constabulary
2. North West Fire and Rescue Service
3. Planning Services
4. Trading Standards (Weights and Measures Inspector)
5. Environmental Health
6. Local Safe Guarding Children Board
7. Health and Safety
8. Representatives of the local licensing trade
9. Representatives of local businesses and residents

### **6.2. Finance Implications**

6.2.1. There are no direct financial implications in relation to the decision requested. However, preparation and consultation of the revised Statement of Licensing Policy has been funded from existing licensing budgets.

### **6.3. Policy Implications**

6.3.1. The Council is required to revise and adopt a Statement of Licensing Policy every five years.

### **6.4. Equality Implications**

6.4.1. Consideration has been given to the application of the 'public sector equality duty' (in accordance with section 149 Equality Act 2010) to the recommendation. The decision requested is likely to have a neutral effect in terms of its impact on those individuals with 'protected characteristics.'

**6.5. Human Resources Implications**

6.5.1. There are no human resource implications

**6.6. Risk Management Implications**

6.6.1. There are no direct risk management implications

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health. However, Public Health is a statutory consultee and has influenced the revision of policy.

**7. Ward Members Affected**

7.1. The Statement of Licensing Policy is a Borough wide policy and therefore has the potential to impact on all wards.

**8. Consultation & Engagement**

8.1. The statement is subject to a statutory consultation process set out within the legislation.

**9. Access to Information**

9.1. The changes made to the Statement during the revision have been logged and are attached at appendix 2 for ease of reference.

**10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Kim Evans  
Job Title: Licensing Team Leader  
Email: kim.evans@cheshireeast.gov.uk



**CHESHIRE EAST COUNCIL**  
**STATEMENT OF LICENSING POLICY**  
**(LICENSING ACT 2003)**  
**POLICY DATED 2019 TO 2024**

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## 1. Introduction

- 1.1 Cheshire East Council (**the Council**) is the Licensing Authority for the area of Cheshire East under the provisions of the Licensing Act 2003 (**the Act**).
- 1.2 This Statement of Licensing Policy (**the Policy**) is the result of the review and is published by the Council in accordance with section 5 of the Act. The Policy provides information and guidance to applicants and persons who are likely to be affected by an application (e.g residents and businesses) and Responsible Authorities or anyone interested in these matters. It will clarify the manner in which the Council will approach matters relating to licensing. Whilst the policy provides framework guidance regarding the considerations it will take into account when determining any licence application, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.
- 1.3 Cheshire East's mission is for 'Cheshire East to be a great place to live, work, visit and enjoy'. The mission statement complements the aims of this Policy. There are a number of Corporate Objectives some of which link with this Policy. They include:
  - Cheshire East has a strong and resilient economy
  - People live well and for longer
- 1.4 The context of the Policy includes the Council's 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.
- 1.5 The context of the Policy includes the Council's statutory duty under the Crime and Disorder Act 1998 to have regard to the need to do all that it reasonably can to prevent crime and disorder, misuse of drugs and alcohol and reoffending in its area.
- 1.6 The Policy takes into account the guidance issued under section 182 of the Act. The latest guidance was published by the Home Office in April 2018. A copy of the guidance may be accessed via the Home Office website [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

1.7 In accordance with section 4 of the Act, the Licensing Authority shall have regard to the Policy in the exercise of its functions in respect of Licensable Activities and qualifying Licensable Activities in accordance with Section 1 and Schedules 1 and 2 of the Act. The following is a summary of what comprises Licensable Activities:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
- The provision of regulated entertainment:
  - performance of a play
  - exhibition of a film
  - indoor sporting event
  - boxing or wrestling entertainment
  - performance of live music
  - playing of recorded music
  - performance of dance
  - entertainment of a similar description to the above

**There are certain exemptions to this definition, which relate to incidental live and recorded music, and spontaneous music, singing and dancing, which are set out in full in the Act. A summary of what entertainment is and is not licensable is set out at Appendix 4.**

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

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

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

## 2. The Aim of the Policy and Statutory Licensing Objectives

- 2.1 The aim of the Policy is to secure the safety and amenity of communities within the Cheshire East area, whilst facilitating a sustainable entertainment industry. The Council recognises the need of residents for a safe and desirable environment in which to work and live and the importance of well-run licensed premises in a vibrant and diverse local economy. The Council will promote the safety of residents and visitors whilst out at night and on their journey home.
- 2.2 In accordance with the guidance issued by the Secretary of State, the Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefits of our communities. A natural concern to prevent disturbance in the neighbourhood will always be balanced with the wider cultural benefits of our communities
- 2.4 The Council has a duty to protect the amenity of its residents. This extends to the business community, who can expect the Council to ensure that the environment is attractive and sustainable for the conduct of their business.
- 2.5 It is the Council's duty to exercise its licensing functions with a view to promoting the four Licensing Objectives set out in section 4 of the Act:
- **The prevention of crime and disorder**
  - **Public safety**
  - **The prevention of public nuisance**
  - **The protection of children from harm**
- 2.6 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 2.7 The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
- 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

2.8 The Licensing Authority will have proper regard to amongst other issues:

- Location and environmental impact of the proposed activity
- Suitability of the applicant
- Suitability of the premises to the application
- Operation and management of the premises
- Monitoring, review and enforcement

### **Policy Considerations**

2.9 This policy does not prejudice the requirement for the Licensing Authority to consider each application on its own merits.

2.10 Nothing in the policy will

- Undermine the rights of any individual to apply under the terms of the Act for a variety of permissions and have the application considered on its individual merits; or
- Override the right of a person or a body or a Responsible Authority (as defined in the Act) to make representations on an application or to seek a review of a licence or certificate in accordance with the provisions of the Act.

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

2.12 Following Relevant Representations the Licensing Authority will only depart from this Policy where there is satisfactory evidence/information that the

Licensing Objectives will be met in full. In cases where a departure occurs, the Licensing Authority shall provide reasons for the departure.

- 2.13 If an application for a licence or certificate has been made lawfully and there have been no Relevant Representations from Responsible Authorities or other persons, the Licensing Authority will grant the application, subject only to conditions consistent with the operating schedule and any relevant mandatory conditions.
- 2.14 To achieve its aims the Council is committed to working in partnership with the Responsible Authorities, local businesses, residents and others towards ensuring the continued success of this Policy in achieving the statutory objectives of the Act. In considering these issues the Council will focus on the four statutory Licensing Objectives.

### **3. Matters within the Control of the Premises Licence Holder**

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

### **4. Planning and need for Licensed Premises**

- 4.1 When exercising its licensing functions the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for a particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.
- 4.2 The Planning Regulation and Licensing Regulation functions are separate statutory regimes. The Licensing Authority recognises that there should be a clear separation of the planning, building control and licensing regimes in

order to avoid duplication. The Licensing Authority when exercising its licensing functions will not consider whether there has been any alleged breach of planning conditions. Planning Permission will usually be required prior to the use of premises for Licensable Activities.

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

## **5. Integrating Strategies**

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

- Any other relevant legislation drawn to its attention

5.4 The Licensing Authority will seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act.

### **Integration with Public Health**

5.5 The context of the Policy includes the Council's 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. In March 2017 the Board adopted a 'Reducing Alcohol Harm in Cheshire East: Position Statement and Forward Plan' acknowledging the potential negative impacts of excessive alcohol consumption and the need to work as a system to minimise harms to individuals, communities and businesses.

5.6 The Position Statement and Forward Plan has been drafted to support the actions of many organisations working to reduce levels of consumption and promote safe, sensible and social drinking. It brings together national policy and local aspiration and sets a direction for activity across Cheshire East. The Health and Wellbeing Board are working with partners to focus upon activity that will bring positive outcomes to the families, communities and businesses of Cheshire East. Reducing excess alcohol consumption is the overarching aim and the priority outcomes are:

- To reduce alcohol-related health harms
- To reduce alcohol-related hospital admissions
- To reduce alcohol-related crime, anti-social behaviour and domestic abuse
- To support a diverse, vibrant and safe night time economy
- To improve our co-ordination/partnership work to ensure that all the other priorities are achieved efficiently and effectively.

## **6. Anti-Social Behaviour**

6.1 The Licensing Authority recognises that in addition to the requirements for it to promote the Licensing Objectives, the Council has a duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder within its area.

6.2 The objective of the licensing process is to allow the retail sale of alcohol and the provision of other licensable activities in a manner that ensures the public's safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's aim to facilitate well run and managed premises with premises licence holders displaying sensitivity to the impact of their premises on local residents.

- 6.3 In accordance with the Guidance, the Licensing Authority does not regard this policy as a mechanism for the general control of anti-social behaviour by individuals once they have left the immediate vicinity of the licensed premises.
- 6.4 Recurring problems of alcohol-related anti-social behaviour, crime and disorder or serious public nuisance can occur in an area, which are not directly attributable to specific premises. In such cases, particularly if supported by the Police, the Licensing Authority may consider whether an Early Morning Alcohol Restriction Order (EMROs) might address the problems. These Orders are considered later in this Policy.

### **7. Prevention of Crime and Disorder**

- 7.1 The Licensing Authority will have regard to the Crime and Disorder Act 1998 (See Section 6.1 above). Any conditions attached to the premises licence should reflect any local crime prevention strategy. Including, the Safer Cheshire East Partnership Plan or a subsequent replacement plan.
- 7.2 The Licensing Authority will consider whether the premises make or will make a detrimental contribution to levels of crime and disorder, and whether the Operating Schedule is based on an adequate risk assessment, undertaken by the applicant, of the likelihood of crime and disorder occurring as a result of the application.
- 7.3 In order to meet its duty to prevent and reduce crime this Policy will have regard to the likely impact of licensing on related crime and disorder in the area. The Licensing Authority will consider the location of the premises and the impact, operation and management of the Licensable Activities. In particular these issues may include:
- Whether the layout, lighting and fittings of the premises have been designed so as to minimise conflict and opportunities for crime and disorder
  - Whether the Operating Schedule includes appropriate management measures to prevent crime and disorder
  - Door supervision together with the maintenance of an incident book
  - Use of toughened glass or plastic glasses
  - Mechanisms for combating drug dealing and use
  - Use of CCTV cameras
  - Membership of any Pubwatch or similar scheme
  - Use of ID scan equipment

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

- Appropriate ratio of tables to chairs to customers and for areas to be allocated for seated customers
- A requirement for Security Industry Authority door supervisors to control numbers and to deny entry to individuals who appear drunk, disorderly or intent on crime
- A requirement that drinking vessels do not form a sharp edge when broken
- Restrictions on drinking in areas within and outside the premises
- Procedures for checking the ages of young people who appear under the age 25 to ensure alcohol is not sold to those under 18 and that those under 16 are accompanied in alcohol-led premises
- Appropriate 'early warning' communication systems with the Police and with other licensed premises
- The installation of CCTV
- Clear policies and measures to prevent illegal drugs being brought onto and used on the premises
- Searching of customers and staff

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

### **Safer Clubbing**

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

## **Drugs**

- 7.7 Following Relevant Representations, conditions may need to be imposed for certain types of venues to seek to eliminate the sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions will take into account the above-mentioned 'Safer Clubbing' advice issued by the Home Office. In all cases where conditions are to be imposed advice will be sought from the Drug and Alcohol Action Team and the Police.
- 7.8 The Licensing Authority, Police and Licence Holders need to be aware that power is available under the Anti-Social Behaviour Act 2003 that allows for the closure of a licensed premises by the Police where there is production, supply or use of Class A drugs and/or serious nuisance or crime and disorder. This provides an extra tool to the Police in enabling instant action with regards to premises where there is a Class A drug problem.

## **Door Supervisors**

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

## **CCTV**

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

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

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

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

## **8. Public Safety**

- 8.1 The Licensing Authority wishes to promote high standards of public safety in relation to premises and activities within the scope of the Act.
- 8.2 The Licensing Authority recognises that the Public Safety Objective is concerned with the physical safety of the customers using the relevant premises and not with Public Health, which is dealt with by other legislation.
- 8.3 Where the Local Authority Director of Public Health submits a relevant representation the relevant Licensing Objective is likely to be Public Safety. This may include where a premises has undermined the objectives in respect of accidents and injury and other harms that may be caused by alcohol consumption. These issues may also impact on the prevention of crime and disorder objective and/or the protection of children from harm objective.
- 8.4 Where activities are organised by volunteers or a committee of a club or a society the Licensing Authority considers it good practice that the same level of Health and Safety protection is provided as if an employer/employee relationship existed, irrespective of whether there are strict legal duties applicable under Health and Safety legislation.
- 8.5 Following Relevant Representations, where the Licensing Authority considers that general health and safety duties do not adequately cover certain Licensable Activities, conditions may need to be attached to the licence to ensure public safety.
- 8.6 Organisers of temporary/large scale events will be encouraged to seek advice and information from the Council's Event Safety Advisory Group prior to submitting any application.

## **Fire Safety**

- 8.7 The Licensing Authority will have due regard to the representations of Cheshire Fire and Rescue Service regarding licensing applications.
- 8.8 Following Relevant Representations, the Licensing Authority may impose appropriate conditions in relation to fire safety matters in consultation with Cheshire Fire and Rescue Service.
- 8.9 The Licensing Authority will only include an occupant capacity condition on a Premises Licence or a Club Premises Certificate where there is a genuine fear or a genuine problem with overcrowding and it is considered appropriate

for public safety. This figure will be arrived at in consultation with Cheshire Fire and Rescue Service. If an occupant capacity is fixed in accordance with any risk assessment required by The Regulatory Reform (Fire Safety) Order 2005 that figure will be used.

- 8.10 Where the special provisions of Section 177 of the Act (dancing, amplified and unamplified music in premises with a capacity of no more than 200 persons) are utilised, the Licensing Authority reserves the right to confirm with Cheshire Fire and Rescue Service the safe capacity of the premises.

### **9. Prevention of Public Nuisance**

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

- Noise from premises
- Waste
- Litter
- Car parking
- Light pollution
- Noxious odours

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

### **Noise and Vibration**

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

- 9.4 Consideration will be given to whether the operating schedule contains adequate measures to prevent noise and vibration, generated from within the premises, outside it, or from an open site, that may cause disturbance. Stricter conditions will be considered on premises in areas that have denser residential accommodation or have residential accommodation close to them. Noise includes music and human voices. Measures in the Operating Schedule may include installation of soundproofing, air conditioning, acoustic lobbies, sound limitation devices or locking doors at specified hours. If the proposed operating schedule fails to address noise nuisance issues, the Environmental Health Department may request that an independent acoustic report is conducted. Environmental Health may use any recommendations from such a report to propose amendments to the Operating Schedule or suggest conditions for the consideration of any (Sub) Committee.
- 9.5 Applicants will be expected to have included measures in their Operating Schedules that make adequate provision to:
- Restrict the generation of any noise within the premises and from activities associated with the premises in the vicinity, or from an open air site
  - Limit the escape of any noise from the premises or open air site
  - Restrict any noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping
  - Minimise and control any noise from customers arriving and departing from the premises
- 9.6 The Licensing Authority will not impose conditions on licensed premises that cannot be directly controlled, or on matters not related to the vicinity of the premises.
- 9.7 If it is considered that any noise emanating from within the curtilage of a licensed premises is causing a public nuisance, under the provisions of the Anti-Social Behaviour Act 2003, an Authorised Officer can require its immediate closure for a period of up to 24 hours. It should be noted that the 'test' is a lesser one than that required to determine a Statutory Noise Nuisance and the statutory defence of 'best practicable means' is not available.

### **Eating, Drinking and Smoking Outside Premises**

- 9.8 The Licensing Authority will take the following into consideration:

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

### **Other Environmental Impacts**

9.9 Consideration will be given to whether Operating Schedules contain adequate measures to prevent:

- Litter, smells, fumes, dust, tobacco or other smoke, or other emissions
- Street fouling
- Light pollution
- Congestion of the pavement or roadway, impeding reasonable access

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

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

- Whether measures would be undertaken to prevent nuisance caused by the storage, handling and collection of refuse and recyclable materials
- Whether late night premises are likely to generate litter and whether the sale of take-away food is proposed and the measures planned to prevent littering in the vicinity and to clear up any litter that occurs

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

## **10. Protection of Children from Harm**

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

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

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

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

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

10.3 Where Relevant Representations have been received and it is considered necessary that the access of children should be restricted to protect them from harm then conditions may be attached to the licence. These may include:

- Limitation on the hours when children may be present
- Restrictions to the age of persons on a premises (e.g. to over 18's only)
- Restrictions on access to certain parts of the premises

- Limitations or exclusions when certain activities may take place
  - Require an accompanying adult to be present at all times
- 10.4 Where large numbers of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then the Licensing Authority may require the presence of an appropriate number of adult staff (who will have provided a satisfactory Disclosure and Barring Service check) to ensure their safety and protection from harm. The exact ratio is to be assessed in respect of each individual application and is dependent on the type and size of the premises and the control measures in place as outlined within the operating schedule, and importantly the particular group of children likely to visit the premises in question.

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

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

## **11. Cumulative Impact**

- 11.1 The Licensing Authority does not consider that there are areas where Cumulative Impact occurs presently nor is there a need at this time for the Licensing Authority to adopt a special policy relative to designating 'Stress Areas'.
- 11.2 Where there is a concentration of licensed premises this can lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause or even a major contributing factor, of a particular problem. It is the **Cumulative Impact** of all the premises which causes problems for the wider area.
- 11.3 It is clear however, that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it should representation

be received. Due consideration will be given to the direct impact of the operation of the premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

- 11.4 It should be noted that 'Cumulative Impact' should not be confused with the issue of 'need', which relates to commercial demand for licensed premises. 'Need' is not a matter to be taken into account by the Licensing Authority.
- 11.5 Where a particular area becomes saturated with licensed premises making it a focal point for large groups of people to congregate, this might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further Premises Licenses or Club Premises Certificates may undermine the Licensing Objectives.
- 11.6 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a licence or certificate would result in a cumulative impact which undermines one or more Licensing Objectives, the following shall apply:

**Objections on the grounds of Cumulative Impact**

- 11.7 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to cumulative impact which would undermine one or more of the Licensing Objectives the objector shall:
- Identify the boundaries of the area from which it is alleged problems are arising
  - Provide full details and evidence as to the seriousness of the nuisance and disorder caused in the area
  - Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
    - The occupancy figure for the proposed premises
    - The nature of the licensed activity to be carried on at the premises and its patrons.

**Identifying Stress Areas**

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

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

### **Applications for a New Premises Licence in a Stress Area**

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

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

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

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

### **Existing Premises Licences in Stress Areas**

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

### **Applications for variations to existing Premises Licences in Stress Areas**

11.12 Applications for variations to existing Premises Licences in Stress Areas will not be granted where modifications directly affect the issue of Cumulative Impact in the Stress Area or otherwise undermine the Licensing Objectives. An example of where a modification may directly affect the issue of

cumulative impact would be where an application was received to extend premises and significantly increase the occupancy level of the premises.

## **12. Applications for New Grants and Variation of Existing Terms and Conditions**

- 12.1 In the absence of any Relevant Representations in respect of any application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any Mandatory Conditions prescribed in the Act. This will also apply to any applications made in respect of premises within an identified Stress Area.
- 12.2 The EU Services Directive (Directive 2006/123/EC) and the Provision of Services Regulations 2009 require the Authority to enable an electronic application facility. This is available through [www.GOV.uk](http://www.GOV.uk) for Premises Licence applications, renewals and variations and for Club Premises Certificates, renewals and variations. An automatic grant is not available for these applications since visits to premises are required in order to ensure the Licensing Objectives would be promoted. In addition the consideration of a licence needs to take into account the management of the premises.
- 12.3 The Licensing Authority will consider the same issues in respect of a variation and a renewal as they do in respect of an application for a new grant.
- 12.4 The Licensing Authority may take into account any non-compliance of other statutory requirements brought to its attention. Particularly where these undermine the Licensing Objectives, as non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 12.5 The Licensing Authority will consider whether appropriate measures have been put into effect by the applicant to mitigate any adverse impact.

## **13. Temporary Events**

- 13.1 Arrangements are made under Part 5 of the Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or a club premises certificate.
- 13.2 The Licensing Authority will provide advice about, amongst other things, public safety. Organisers of temporary/large scale events will be encouraged to seek advice and information from the Council's Event Safety Advisory Group prior to submitting any application.

- 13.3 Legislation states that a minimum of ten working days notice should be given to the Licensing Authority of temporary events (or five working days in respect of a late temporary event). In accordance with the Act, 'Working Day' excludes Saturday, Sunday and Bank Holidays. The Licensing Authority cannot and will not accept notification of a Temporary Event Notice or a late Temporary Event Notice outside the statutory time limit.
- 13.4 The Licensing Authority acknowledges that in exceptional circumstances, some Temporary Events may and do have an impact upon crime and disorder. Therefore, in cases of large scale events, organisers should consider providing as much notice as possible. The Licensing Authority considers two months notice to be advisable in relation to such events.
- 13.5 The Licensing Authority expects organisers to give due consideration to the four licensing objectives and to consider local residents and those attending events, in areas such as:
- Health and Safety
  - Noise Pollution
  - Use of Temporary Structures
  - Road Closures
  - Use of Pyrotechnics or Fireworks
  - Controlling Anti-Social Behaviour
- 13.6 The Licensing Authority may advise applicants to consult with Cheshire Fire and Rescue Service and North West Ambulance Service for guidance with regards to assessing possible risks.
- 13.7 Applicants will also be reminded that giving a Temporary Event Notice does not relieve the premises user from planning law and any requirement to obtain the appropriate planning permission where it is required.

### **14. Operating Schedule**

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

### **15. Hours of Operation**

- 15.1 The Licensing Authority will determine licensing hours based on the individual merits of each application.
- 15.2 The Licensing Authority will consider whether longer licensing hours will achieve a gradual dispersal of people leaving licensed premises and therefore promote the Licensing Objectives.
- 15.3 The Licensing Authority recommends that applicant's indicate within the operating schedule that consideration has been given to the impact the licensing hours applied for will impact on local residents and the surrounding area.
- 15.4 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting the hours. Consideration may be given to restricting the licensing hours of individual shops in circumstances where representations received indicate that the premises is a focus of disorder and disturbance.

## **16. Conditions**

- 16.1 The Licensing Authority may, when considering the content of the Operating Schedule, select appropriate conditions from the Home Office Guidance, pool of Conditions, where it is deemed appropriate to ensure that the Operating Schedule reflects the four Licensing Objectives.
- 16.2 Where appropriate, following receipt of Relevant Representations, the Licensing Authority, may attach conditions to the grant of a licence which seeks to regulate the behaviour of persons as they leave licensed premises.
- 16.3 Where existing law already places statutory obligations on applicants the Licensing Authority will not usually impose the same or similar duties by way of condition.
- 16.4 In addition to the Home Office Pool of Conditions, the Licensing Authority is aware that some operators seek out further guidance on the working of conditions. This is to ensure that conditions are enforceable, practical and appropriate. Additional, the Licensing Sub-Committee may seek to include conditions on a licence at a Hearing. In order to facilitate this, the Licensing Authority has compiled a list of frequently used conditions as a guide. It is not intended that these will form blanket conditions applied to all licenses. These conditions are set out at appendix 5.

## **17. Enforcement and Review**

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

### **Door Supervisors**

- 17.6 The Security Industry Authority (SIA) plays an important role in preventing crime and disorder by ensuring that door supervisors are properly trained and licensed. Specific enquiries or premises visits may occur in order to ascertain that SIA Licenses are being executed in the correct manner and not as a tool for crime and disorder such as fronts for serious and organised criminal activity. Intelligence led operations by the SIA, Licensing Authority and/or Police will be conducted without notice
- 17.7 At all times the Licensing Authority will have regard to the Council's Enforcement Policy, which is available on the Council's website.

### **18. Early Morning Alcohol Restriction Orders (EMROS)**

- 18.1 Under Section 172 A to E of the Act, the Licensing Authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of 24:00 and 06:00. They are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 18.2 The Licensing Authority will consider evidence that such a decision is appropriate for the promotion of the Licensing Objectives. Consideration will be given to evidence provided by partners, Responsible Authorities and the Local Community Safety Partnership as well as evidence the Licensing Authority has gathered to determine whether an EMRO would be appropriate for the promotion of the licensing objectives. The Licensing Authority will consider the problems that have been identified. A range of evidence may be considered, including local crime and disorder statistics, statistics on anti-social behaviour offences, health related statistics (e.g. alcohol related emergency attendances and hospital admissions, environmental health complaints, complaints recorded by the Council, residents' questionnaires, evidence from local councillors and evidence obtained through local consultation).
- 18.3 It is acknowledged by the Licensing Authority that an EMRO is restrictive, whilst also being a powerful tool to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified in particular other measures might include:
- Development of a Cumulative Impact Policy
  - Reviewing the licenses of specific problem premises
  - Encouraging the creation of business-led practice schemes
  - Use of powers of the Council to designate an area where alcohol may not be consumed publicly (Designated Public Places Order)
  - The confiscation of alcohol in designated areas
  - Police enforcement of the general law concerning disorder and anti-social behaviour
  - Prosecution for the offence of selling (or allowing such a sale) alcohol to a person who is drunk

- Use of Police powers to close down any licensed premises instantly for up to 24 hours in respect of which a TEN has effect

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

18.5 The Licensing Authority appointed a working group to consider the implementation of any EMROs. The group reported their findings to the Licensing Committee in November 2016. The findings of the working group were that EMRO(s) were not appropriate at that time. This decision was endorsed by the Committee. However, this matter can be revisited at anytime and should the evidence justify the making of an order, this will be given further consideration

## **19. Late Night Levy**

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

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

19.3 The Licensing Authority appointed a working group to consider the implementation of a Late Night Levy. The group reported their findings to the Licensing Committee in November 2016. The findings of the working group were that a Late Night Levy was not appropriate at that time. This decision was endorsed by the Committee. However, this matter can be revisited at anytime and should the evidence justify the implementation of a levy, this will be given further consideration.

## **20. The Licensing Process**

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

20.2 Applications can also be made via the government website [www.gov.uk](http://www.gov.uk). In order to fulfil its obligations under the Provision of Services Regulations 2009 (and the EU Services Directive) the Council will continue to enable the application process and payment online. Tacit consent is however not

applicable for applications under the Licensing Act 2003 since the suitability of an applicant and the suitability of premises are under consideration.

## **21. Delegation and Decision Making**

- 21.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated at an appropriate level to ensure an efficient and cost effective service.
- 21.2 The Licensing Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Home Office Guidance. The table at Appendix 1 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers
- 21.3 The Act itself creates a presumption that applications will be granted unless a Relevant Representation (objection) is raised. Where a function is delegated to an officer, that officer will be responsible for liaising between the applicants, objectors and Responsible Authorities to ensure that any licence granted is subject to any appropriately agreed conditions and relevant mandatory conditions
- 21.4 Where objections are made, an officer of the Licensing Authority may liaise with the Applicant, objectors and the Responsible Authorities to see if a 'settlement' is possible to overcome any objections, without the need for the matter to go before the Committee or Sub-Committee. Only where objections are raised which cannot be reconciled will matters be referred to either the Sub-Committee or the Full Committee for determination.
- 21.5 Contested Licensing Applications and Review Hearings are administrative in nature and the (Sub) Committee will ensure that any meetings are conducted as informally as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. Procedural requirements will be established to ensure that all parties are able to express their views openly and fairly. The (Sub) Committee procedure is inquisitorial rather than adversarial and, whilst applicants, objectors and Responsible Authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement or a necessity.
- 21.6 Whilst the (Sub) Committee usually meets in public, it does have the power to hear certain applications in private. The Committee, however, will always reach its decision in private. A public announcement of the decision is normally made at the end of the Hearing together with an outline of the reasons for that decision. However on occasion this may not be possible, due to time constraints and/or the complexity of the issues under consideration, in

which case a written decision will be issued as soon as possible after the Hearing.

- 21.7 The procedure which will generally be used by the (Sub) Committee, unless the Chairman of the (Sub) Committee takes the view that natural justice and fairness require a change to be made to the process, is set out at Appendix 2.

## **22. Exclusions**

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

### **Commercial Demand**

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

### **Zoning and licensing hours**

- 22.3 Fixed predetermined closing times for particular areas will not form part of the Policy and restriction on trading hours will be considered only where appropriate to meet Licensing Objectives. However, the Licensing Authority has produced a document to assist applicants, Committee Members and Responsible Authorities in considering what hours are suitable for Town Centre, Rural, or Residential locations. This is set out at appendix 6. While these times are not binding on applicants, where an applicant does apply for permissions beyond these suggestions there will be an expectation from all Responsible Authorities that additional measures to promote the Licensing Objectives will be included in the operating schedule accompanying the application.

### **Children**

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

### **Standardised conditions**

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

the premises in question. Conditions will not be imposed which are beyond the responsibility or control of the premises licence holder.

### **23. Consultation**

23.1 In reviewing this Policy the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. Various bodies have been consulted as set out within the Licensing Act 2003.

### **24. Changes to Legislation**

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

## Appendix 1

**Table of delegations of licensing functions**  
Functions under the Licensing Act will be dealt with as follows:

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

<b>Matter to be Dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
complaint is irrelevant, frivolous, vexatious, etc			
Decision to object when Local Authority is a consultee and not a lead authority		All cases	
Determination of a relevant objection to a Temporary Event Notice		All cases	
Power to issue a Counter Notice in respect of a Temporary Event			All cases
Determination of a minor variation			All cases
Decision to exercise the Licensing Authority's powers as a Responsible Authority			All cases

## CHESHIRE EAST COUNCIL

### Procedure for Hearings – Licensing Act 2003

#### The Licensing Committee

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

#### Officers at Hearings

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

#### PROCEDURE

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

<b>1</b>	<b>Chairman</b>	The Chairman will: (i) call the matter to be considered (ii) call for any declarations of interest (iii) ask all parties to introduce themselves (iv) summarise the procedure to be followed at the hearing (v) will consider any request made by a party for another person to appear at the hearing (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties)
<b>2</b>	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
<b>3</b>	<b>Committee Members</b>	May ask questions of the Licensing Officer
<b>4</b>	<b>Applicant</b>	Will present his/her case, calling witnesses, as appropriate.  <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>

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

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

**Notes**

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

## Summary of Procedure

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

## **Mandatory Conditions**

### **Mandatory conditions where licence authorises supply of alcohol**

1. No supply of alcohol may be made under this Premises Licence –
  - a) at a time when there is no designated premises supervisor in respect of the Premises Licence, or
  - b) at a time when the designated premises supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under this Premises Licence must be made or authorised by a person who holds a Personal Licence.

### **Where a Village Hall is exempt from needing DPS under s.19 Licensing Act 2003**

Every supply of alcohol under the premises licence must be made or authorised by the Management Committee.

### **Mandatory condition where the licence authorises the exhibition of films**

The admission of children to the exhibition of any film must be restricted in accordance with section 20 of the Licensing Act 2003. Admission of children must be restricted in accordance with any recommendation made by the British Board of Film Classification or the Licensing Authority.

### **Prohibited conditions: plays**

1. In relation to a premises licence which authorises the performance of plays, no condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under the licence.
2. But subsection (1) does not prevent a licensing authority imposing, in accordance with section 18(2)(a) or (3)(b), 35(3)(b) or 52(3), any condition which it considers necessary on the grounds of public safety.

### **Mandatory condition: Door supervision**

Each individual engaged in security activities at the premises must either:

- a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

b) be entitled to carry out that activity by virtue of Section 4 of the Private Security Industry Act 2001.

**LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS)( AMENDMENT)  
ORDER 2014**

**MANDATORY CONDITIONS**

**Condition 1**

1. The responsible person must ensure that staff on relevant premises no not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

a) Games or other activities which require or encourage, or are designed to require or encourage individuals to –

i. Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

ii. Drink as much alcohol as possible (whether within a time limit or otherwise);

b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period fo 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

- e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

**Condition 2**

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

**Condition 3**

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the reasonable person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- a) A holographic mark, or
- b) An ultraviolet feature

**Condition 4**

The reasonable person must ensure that –

- a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
  - i. Beer or cider: ½ pint;
  - ii. Gin, rum, vodka or whisky: 25ml or 35ml; and
  - iii. Still wine in a glass: 125ml;
- b) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) Where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

b) 'permitted price' is the price found by applying the formula—

$$P = D + (D \times V)$$

Where —

i. P is the permitted price,

ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence—

i. the holder of the premises licence,

ii. the designated premises supervisor (if any) in respect of such a licence, or

iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;

d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

e) 'valued added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### Non-regulated Entertainment

The Deregulation Act 2015 extended the deregulation of entertainment that was brought into effect by the Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, and The Legislative Reform (Entertainment Licensing) Order 2014. The following activities do not require authorisation under the Licensing Act 2003 (eg premises licence or temporary event notice):

Non-regulated Entertainment Matrix							
Plays and Dance	Films	Live Music unamplified	Live Music amplified	Recorded music	Boxing and Wrestling	Indoor Sport	Cross-activity Any entertainment
<b>At any time between 0800 and 2300</b>							
Audience up to 500		Audience unlimited	Audience up to 500		Audience up to 1000		Audience unlimited
<b>Conditions / Restrictions</b>							
	Consent from premises		Premises with an alcohol on-licence <b>or</b>		Greco Roman or Freestyle		On LA/hospital/school premises <b>or</b>
	Observe age ratings		Church hall, village hall or similar with the consent of person responsible <b>or</b>				At travelling circus provided:  1. No films, boxing or wrestling <b>and</b> 2. within a moveable structure accommodating audience <b>and</b> 3. not there for more than 28 days
	Not for profit <b>and</b>		Non-residential LA premises, school or hospital with the consent of body responsible <b>or</b>				
	on community premises		<b>Live music only</b> – a workplace (ie anywhere that is made available to any person as a place of work)				

## Sample Conditions

Conditions attached to a licence or certificate are the steps or actions the holder of the premises licence or the club premises certificate will be required to take, or refrain from taking, at all times when licensable activities are taking place at the premises in question.

Conditions are required to be clear, appropriate and enforceable and must be expressed in terms that are unequivocal and unambiguous. Further, such conditions should be open, transparent and reasonable.

Conditions must not be applied universally and treated as standard conditions. Licensing conditions are to be tailored to the size, style, characteristics and activities taking place at the premises concerned.

**The sample conditions list is neither exclusive nor exhaustive. The conditions relate to the four licensing objectives and can be used where appropriate to the particular circumstances of individual premises.**

**The list of sample conditions does not restrict any applicant, responsible authority, or other persons from proposing any alternative conditions nor would it restrict a licensing sub-committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives.**

### The Prevention of Crime and Disorder

#### CCTV

The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested

*NB The above condition is an example of the wording that could be used for premises where the customers might commit serious crime. The CCTV requirements would be expected to be 'scaled down' accordingly for smaller premises or those premises which are unlikely to prove as troublesome*

#### Incident Management

An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the Licensing Authority. The log will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of customers
- (c) any incidents of disorder (disturbance caused either by one person or a group of people)

*[There is no requirement to record the above incidents (a), (b) or (c) where they do not relate to a licensable activity]*

- (d) seizures of drugs or offensive weapons
- (e) any faults in the CCTV system or searching equipment or scanning equipment
- (f) any refusal of the sale of alcohol during the hours the premises is licensed to sell it

There must be at the premises a lockable 'Drugs Box' to which no member of staff, save the DPS and/or xx, shall have access. All controlled drugs (or items suspected to be or to contain controlled drugs) found at the premises must be placed in this box as soon as practicable. Whenever this box is emptied, all of its contents must be given to the Cheshire Police for appropriate disposal

### **Door Supervisors**

On any occasion that regulated entertainment is provided, not less than \*\* SIA registered door supervisors shall be engaged to control entry

At least \*\* female door supervisor(s) shall be engaged at the premises at such times as door supervisors are required to be provided.

When the premises is carrying on licensable activities after \*\*: \*\* hours, at least \*\* registered door supervisor(s) is(are) to be on duty at each door used for entry or exit.

A written search policy that aims to prevent customers or staff bringing illegal drugs, weapons or other illegal items onto the premises at any time shall be in place and operate at the premises

### **Late Night Refreshment**

There shall be no admission or readmission of customers to the premises after \*\*: \*\* hours save for customers using the agreed smoking area at the premises

On occasions where licensable activities are carried on past \*\*: \*\* hours admission of customers will be restricted to *[enter restriction e.g. a particular entrance, a particular area of the licensed premises etc]*

### **Public Safety**

All glasses in use at the premises shall be either toughened glass or polycarbonate material

No drinks of any sort are to be supplied to customers in glass bottles

### **The Prevention of Public Nuisance**

#### **Noise (regulated entertainment)**

All doors and windows shall remain closed at all times after \*\*:\*\* hours during the provision of regulated entertainment save for entry or exit, or in the event of an emergency

Loudspeakers shall not be located in the entrance lobby, [*specify another location if appropriate*] or outside the premises

#### **Noise (persons)**

A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours

Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly

Customers permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them

There shall be no sale of alcohol in unsealed containers for consumption off the premises

The Licence holder shall make available a contact telephone number to nearby residents and the Licensing Team/Environmental Protection Team/Police to be used in the event of complaints arising

### **The Protection of Children from Harm**

A log shall be kept at the premises and record all refused sales of alcohol for reasons that the person(s) is, or appears to be, under \*\* years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be made available on request by the Police or an authorised officer of the Council

A 'Challenge 25' Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, a photo card driving licence, an EU/EEA national ID card or similar document, or an industry approved proof of age identity card.

Children under the age of \*\* years shall not be allowed on the premises after \*\*:\*\*. hours unless accompanied by an adult.

Children under the age of \*\* years shall not be allowed on the premises

No single cans or bottles of beer or cider shall be sold at the premises

## **General**

Any designated queuing area shall be enclosed within appropriate barriers to ensure that the highway is kept clear

There shall be no sales of alcohol for consumption off the premises

There shall be no self service of spirits on the premises

There shall be no admission after xx:xx other than to

- 1) Residents of the hotel and their bona fide guests
- 2) Persons who have pre-booked to attend a function at the premises

## Suggested Hours Matrix

Area	Vision	Licensing Policy Direction	Premise Type				
			Restaurant	Club / Late Bar	Pub	Off Licence	LNR
The designated areas of Macclesfield and Crewe town centres	Creation of mixed use development	Our aim for this area includes:  To expand the early evening offer to introduce a new customer base and to reduce the reliance on vertical late night drinking	01:30	03:00	02:00	23:00	01:30
The designated areas of Wilmslow, Knutsford, Congleton, Sandbach, and Nantwich town centres	Creation of mixed use development.	Our aim for this area includes:  To expand the early evening offer to introduce a new customer base and to reduce the reliance on vertical late night drinking	01:00	02:00	01:00	23:00	01:00
All other areas	To protect the integrity of the existing community	Our aim for this area is to:  To protect the integrity of the area and to encourage businesses that are consistent with the needs and expectations of the area	00:30	X	00:00	23:00	00:00

Summary of logged changes to the Statement of Licensing Policy –

Paragraph	Type of change	Change
1.6	Update	Latest version of the Statutory guidance is currently April 2018
1.7	Addition	Sentence included stating that the SOLP sets out a summary of Regulated/Non-Regulated Entertainment at appendix 4
2.12	Removal	The vicinity test was removed under the Police Reform and Social Responsibility Act 2011 it is no longer necessary to draw its specific removal to the attention of interested parties. It is now an established principle that anyone can object to any application. This removal has necessitated the renumbering of the paragraphs in the remainder of section 2
5.4	Removal	List of strategies removed. This list was not exhaustive and some have been replaced, renamed or ceased to exist. It is therefore appropriate to speak of general strategies and allow responsible authorities, other persons, or applicants to draw any relevant strategies to the attention of the Licensing Authority at the appropriate time (eg in specific representations or at Hearings).
5.5 & 5.6	Addition	New paragraphs reflecting the request from the Public Health to highlight the impact alcohol consumption has on the public and referencing their strategies and priorities
7.1	Change	The following sentence changed from:  Including, the Safer Cheshire East Partnership Plan or a subsequent replacement plan.  To  Including, the Safer Cheshire East Partnership Plan the current version of which runs from 2017 to 2020 and is available on the Council's website
7.4	Change	References to challenge 21 removed as the expected standard is now challenge 25
16.4	Additional paragraph	In addition to the Home Office Pool of Conditions, the Licensing Authority is aware that some operators seek out further guidance on the wording of conditions. This is to ensure that conditions are enforceable, practical and appropriate. Additionally, the Licensing Sub-Committee may seek to include conditions on a licence at a Hearing. In order to facilitate this, the Licensing Authority has compiled a list of frequently used conditions as a guide. It

		<p>is not intended that these will form blanket conditions applied to all licenses. These conditions are set out at appendix 5.</p> <p>(Their inclusion has been put forward by the Council's Public Health Team and CHAMPS.)</p>
17.7	Additional paragraph	At all times the Licensing Authority will have regard to the Council's Enforcement Policy, which is available on the Council's website.
18.5	Additional paragraph	The Licensing Authority appointed a working group to consider the implementation of any EMROs. The group reported their findings to the Licensing Committee in November 2016. The findings of the working group were that EMRO(s) were not appropriate at that time. This decision was endorsed by the Licensing Committee. However, this matter can be revisited at any time and should the evidence justify the making of an order, this will be given further consideration.
19.3	Wording change	<p>Wording changes from:</p> <p>The Council will consider implementing a Late Night Levy if appropriate.</p> <p>To</p> <p>The Licensing Authority appointed a working group to consider the implementation of a Late Night Levy. The group reported their findings to the Licensing Committee in November 2016. The findings of the working group were that a Late Night Levy was not appropriate at that time. This decision was endorsed by the Licensing Committee. However, this matter can be revisited at anytime and should the evidence justify the implementation of a levy, this will be given further consideration.</p>
22.3	Additional wording	However, the Licensing Authority has produced a document to assist applicants, Committee Members and Responsible Authorities in considering what hours are suitable for Town Centre, Rural, or Residential locations. This is set out at appendix 6. While these times are not binding on applicants, where an applicant does apply for permissions beyond these suggestions there will be an expectation from all Responsible Authorities that additional measures to promote the Licensing Objectives will be included in the operating schedule accompanying the application.
23.1	Change of wording	Each individual reference to consultees removed and replaces with:

		Various bodies have been consulted as set out within the Licensing Act 2003.
24.1	Removed	<p>This paragraph (set out below) is now out of date, no longer necessary and replaced by Appendix 4 –</p> <p>This Statement of Licensing Principles reflects the law in force in June 2013. The following are some of the main changes which are currently proposed:</p> <ul style="list-style-type: none"> <li>▪ An authorisation for an indoor sporting event or a performance of a play or dance may be required only when the audience exceeds a specified number (1000 for an indoor sporting event and 500 for the performance of a play or dance) or the entertainment does not take place between 8am and 11 pm on any day</li> <li>▪ It is intended that it will be made clear that a contest exhibition or display which combines boxing or wrestling with one or more martial arts (a ‘combined fighting sport’) is licensable under the Act as a boxing or wrestling entertainment rather than an indoor sporting event</li> </ul>
Appendix 4	Addition	Appendix 4 is a new document that explains the changes made to the licensing of entertainment. Since various legislative changes (including the Deregulation Act 2015) the regulation of entertainment has been relaxed. However, applicants are still unclear where entertainment does or does not require authorisation under the Licensing Act 2003. This appendix is therefore added to provide that guidance for applicants.
Appendix 5	Addition	Appendix 5 is a completely new document and reflects the request from the Reducing Alcohol harm through Licensing group which is facilitated by Champs Public Health Collaborative to include sample conditions
Appendix 6	Addition	Appendix 6 is a completely new document and reflects the request from Cheshire Police to provide applicants etc with some guidance on hours for various locations. While these times are not binding on applicants, where an applicant does apply for permissions beyond these suggestions there will be an expectation from all Responsible Authorities that additional measures to promote the Licensing Objectives will be included in their operating schedules (ie conditions applied to the licence offered by the applicant).

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