

Licensing Committee

Agenda

Date: Monday, 4th November, 2019
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

Membership

Chairman: D Edwardes (Independent)
Vice Chairman: K Flavell (Labour)
Conservative Councillors: M Benson, S Davies, L Gilbert, L Smetham,
J Weatherill and J Wray
Labour Councillors: J Barber, H Faddes, A Harewood and S Handley
Independent Group Councillors: M Goldsmith and I Macfarlane
**Real Independent Group
Councillor:** L Roberts

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 meetings are audio recorded and the recordings are 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.

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

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.

4. **Minutes of Previous Meeting** (Pages 3 - 4)

To approve the minutes of the meeting held on 2 September 2019.

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

To receive the minutes of the following meetings:

Licensing Act Sub-Committee

1 October 2019
9 October 2019

General Licensing Sub-Committee

22 August 2019
17 September 2019

6. **Review of Licensing Fees and Charges** (Pages 13 - 20)

To consider a report seeking 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 2020.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 2nd September, 2019 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor D Edwardes (Chairman)
Councillor K Flavell (Vice-Chairman)

Councillors J Barber, M Benson, S Davies, H Faddes, L Gilbert, M Goldsmith,
A Harewood, I Macfarlane, L Smetham, J Weatherill and J Wray

NON-COMMITTEE MEMBERS IN ATTENDANCE

Councillor M Warren

OFFICERS PRESENT

Kim Evans, Licensing Team Leader
Bankole Thomas, Lawyer
Julie Zientek, Democratic Services Officer

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

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 4 March 2019 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:

25 October 2018
22 February 2019
8 March 2019

14 March 2019
11 June 2019
21 June 2019
6 August 2019

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

19 March 2019
20 June 2019
16 July 2019

6 TERMS OF REFERENCE

RESOLVED – That the Committee’s Terms of Reference be noted.

7 DESIGNATION OF STREETS WITHIN THE BOROUGH FOR THE PURPOSES OF STREET TRADING

The Committee considered a report which sought Members’ approval for amendments to the current designation of streets for the purposes of regulating street trading within Cheshire East.

It was good practice to review and update street trading designations to ensure that they remained relevant. The Council’s current street trading designations had not been amended since the inception of the Council in 2009.

RESOLVED

- (a) That a resolution be passed confirming the Council’s intention to designate the identified streets within the ‘Schedule of Streets’, as set out in Appendix A to the report, for the purposes of Street Trading, and
- (b) That authority be given to the Licensing Team Leader to follow any necessary statutory procedures including the publication of the required Notices to complete the designation process.

The meeting commenced at 2.00 pm and concluded at 2.08 pm

Councillor D Edwardes (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Tuesday, 1st October, 2019 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillor D Edwardes (Chairman)

Councillors S Davies and M Goldsmith

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader
Jennifer Knight, Senior Licensing Officer
Bankole Thomas, Lawyer
Julie Zientek, Democratic Services Officer

10 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor D Edwardes be appointed Chairman.

11 DECLARATIONS OF INTEREST

There were no declarations of interest.

12 APPLICATION FOR A PREMISES LICENCE - LATURKA BISTRO LIMITED, UNIT 3, CASTLE STREET, MACCLESFIELD SK11 6AF

The Sub-Committee considered a report regarding an application for a Premises Licence for Laturka Bistro Limited, Unit 3, Castle Street, Macclesfield SK11 6AF.

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

- three representatives of the applicant
- Councillor Liz Braithwaite

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

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

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

the following course of action had been agreed:

RESOLVED - That the application for a premises licence be granted as applied for, subject to the cessation of all licensable activities at 12 midnight Sunday to Thursday.

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 1.30 pm and concluded at 3.00 pm

Councillor D Edwardes (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Wednesday, 9th October, 2019 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor D Edwardes (Chairman)

Councillors M Benson and K Flavell

OFFICERS IN ATTENDANCE

Amanda Andrews, Licensing Officer
Kim Evans, Licensing Team Leader
Jennifer Knight, Senior Licensing Officer
Bankole Thomas, Lawyer
Julie Zientek, Democratic Services Officer

13 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor D Edwardes be appointed Chairman.

14 DECLARATIONS OF INTEREST

There were no declarations of interest.

15 APPLICATION FOR A REVIEW TO THE PREMISES LICENCE AT TNT BAR, 31-33 NANTWICH ROAD, CREWE CW2 6AF

The Sub-Committee considered a report regarding an application for a review of the Premises Licence for TNT Bar, 31-33 Nantwich Road, Crewe.

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

- four representatives of the applicant
- two members of the public, who had submitted relevant representations
- a representative of one of the members of the public

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 premises licence be revoked.

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

The meeting commenced at 2.00 pm and concluded at 3.20 pm

Councillor D Edwardes (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Thursday, 22nd August, 2019 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillors M Benson, D Edwardes, H Faddes, K Flavell and L Smetham

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader
Amanda Andrews, Licensing Officer
Bankole Thomas, Lawyer
Rachel Graves, Democratic Services Officer

14 APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor D Edwardes be appointed Chairman.

15 APOLOGIES FOR ABSENCE

There were no apologies for absence.

16 DECLARATIONS OF INTEREST

There were no declarations of interest.

17 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.

18 19-20/6 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED:

That the licence holder 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 11.05 am

Councillor D Edwardes

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Tuesday, 17th September, 2019 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillor D Edwardes (Chairman)

Councillors M Benson, S Davies, H Faddes and I Macfarlane

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader
Martin Kilduff, Licensing Officer
Bankole Thomas, Lawyer
Julie Zientek, Democratic Services Officer

19 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor D Edwardes be appointed Chairman.

20 APOLOGIES FOR ABSENCE

There were no apologies for absence.

21 DECLARATIONS OF INTEREST

There were no declarations of interest.

22 EXCLUSION OF THE PUBLIC AND PRESS

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

23 19-20/7 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

whether the application for a Joint Hackney Carriage/Private Hire Driver's Licence should be granted.

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

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

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

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

The meeting commenced at 10.00 am and concluded at 11.47 am

Councillor D Edwardes (Chairman)



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Licensing Committee

Date of Meeting: 04 November 2019

Report Title: Review of Licensing fees and charges

Senior Officer: Frank Jordan, Executive Director - Place

1. Report Summary

- 1.1. To seek Members 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 2020.

2. Recommendation/s

- 2.1. That the Licensing Committee resolves to:
 - 2.1.1 Confirm the fees payable as set out in appendix 1.
 - 2.1.2 Authorise the Licensing Team Leader to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions.
 - 2.1.3 That delegated authority be given to the Director of Environment and Neighbourhood Services to consider any objections received and determine the final fees payable in consultation with the Chairman of the Licensing Committee.

3. Reasons for Recommendation/s

- 3.1. A review of the fees payable in respect of various types of licence and permits administered, enforced by the Licensing Team, has been undertaken. For the fees to be lawful and levied correctly a review of all licensing fees needs to be undertaken and the fees confirmed by Committee.

4. Other Options Considered

- 4.1. Consideration has been given to not increasing the fees payable. However, the costs associated with providing the service have increased and it is necessary for the service to be, so far as possible, cost neutral.

5. Background

- 5.1. The Licensing Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations but some fees can be set by Local Authorities to cover the cost of administration, compliance and some elements of enforcement; Locally Set Fees. The Council is not able to make a general profit from licensing fees.
- 5.2. Where possible, the Licensing Team aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, purchase costs etc.
- 5.3. A number of fees are fixed by Statute; these are highlighted in Appendix A. It is envisaged that the increase in fees would take effect in April 2020 (subject to consultation and consideration of any objections).

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. Regulation 2 (6) of the Local Authorities (Functions and Responsibilities) Regulations 2000 confirms that where the issuing of any licence, permit, or consent is a Council function, the fee must also be set by the Council. The Council has made provision in its Constitution for the setting of fees to be delegated to the Licensing Committee.
- 6.1.2. The Licensing Act 2003 (along with all licences except those relating to taxis and gambling) are also subject to the EU Service Directive (2006). This directive, which has been incorporated in UK law by the Provision of Services Regulations 2009, confirms:
 1. Fee charges must be proportionate to the cost of the process
 2. Fees cannot be used as either a deterrent or to raise funds
 3. Enforcement should not be included in the fees
- 6.1.3. Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire

drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.

6.1.4. In respect of vehicle and operators' licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:

1. The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
2. The reasonable cost of providing Hackney Carriage stands.
3. Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles.
4. The Act, which dates from 1976, also states that the fee for vehicle and operator licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs £25 is not seen as a realistic fee to impose. The fee has not been set at this rate for a significant number of years.

6.1.5. In respect of drivers' licences the Act states that the Council may charge, 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences'.

6.1.6. Any other fees are restricted by legislation (e.g. Licensing Act 2003) and the Council has no power to vary such fees. There is no power to levy a fee for any Charitable Collection authorisations.

6.1.7. Additionally, there is some case law that has further developed the requirements in relation to the setting of all fees:

1. The Licensing Authority cannot make a profit and must carry forward surplus - R v Manchester CC ex parte King (1991) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
2. Deficits can be recouped through increasing fees (this can be done at any time including mid year) - R v Tower Hamlets LBC ex parte Tower Hamlets Combined Traders Association (1994) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
3. Only administration and issue costs can be taken into consideration - R (app Simply Pleasure and Ors) v Westminster CC (2012)
4. Compliance with a licence or conditions etc. is compliance rather than enforcement - R v Associated Octel co Ltd (costs) (1996)

6.1.8. The legislation and associated case law have been considered by Officers when calculating the proposed fee.

6.2. Finance Implications

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

6.2.2. The Licensing Team and their Lead Finance Partner carefully monitor licensing fee income through the financial year. If at any time, it was considered there would be a short fall between income and expenditure. The fees could be reconsidered an increased, subject to notice and consultation, at any time (including mid year).

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. The fees are calculated on a cost recover basis and will not disproportionately affect those with a protected characteristic.

6.5. Human Resources Implications

6.5.1. There are no human resource implications save to say that the cost recovery calculation will include staffing costs.

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 / Cared for Children

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.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change

7. Ward Members Affected

7.1. All wards.

8. Consultation & Engagement

8.1. In respect of certain fees, there is a requirement to publicise any increases in a local newspaper. This allows a period for objections to be made.

9. Access to Information

9.1. Not applicable.

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

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SCALE OF FEES AND CHARGES 2020/21 - CEC and ASDV	2019/20	2020/21	Has charge been raised by at least inflation? Yes / No	Approved By / Approval Route (Member / Member Meeting Required)	Portfolio Holder	Justification (Basis / reason for increase, decrease, keeping price the same, not applying standard inflationary increase)	Increase / Decrease on previous year £0.00p	Increase / Decrease on previous year %
Please do not filter this document. It is designed to present the prices not analyse them.								
LICENSING								
Hackney Carriage and Private Hire Vehicles								
* Hackney Carriage - 1 year	310.00	315.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	5.00	1.61%
* Private Hire Vehicle - 1 year	310.00	315.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	5.00	1.61%
* Hackney Carriage / Private Hire Test Fee	80.00	80.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Joint Hackney Carriage / Private Hire Driver - 3 years	100.00	105.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	5.00	5.00%
* Private Hire Operator - 5 years	350.00	360.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	10.00	2.86%
* Vehicle Re-test Fee	40.00	40.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Joint Hackney Carriage / Private Hire Driver - Renewal	120.00	125.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	5.00	4.17%
* Replacement Driver Badge	10.00	10.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Replacement Plate	10.00	10.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Replacement window sticker	5.00	5.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* DVLA Licence Check	5.00	5.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Knowledge Test	45.00	50.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	5.00	11.11%
* Knowledge Test Remark (new fee)		20.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	20.00	
* Transfer of Licence	40.00	40.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Check and Send Service	10.00	10.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Disclosure and Barring Service (DBS) Applications	50.00	50.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Street Traders	375.00	385.00	YES	Licensing Committee	Clr Mick Warren	To meet cost of service provision	10.00	2.67%
Sexual Entertainment Venues								
* New application	2,280.00	2,280.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Renewal	1,140.00	1,140.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Transfer	500.00	500.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%
* Variation	2,280.00	2,280.00	NO	Licensing Committee	Clr Mick Warren	To meet cost of service provision	0.00	0.00%

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