

# Licensing Committee Agenda

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**Date:** Monday, 2nd March, 2020  
**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 in the 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.

### **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 4 November 2019.

5. **Minutes of Licensing Sub-Committees** (Pages 5 - 16)

To receive the minutes of the following meetings:

**Licensing Act Sub-Committee**

23 October 2019

**General Licensing Sub-Committee**

14 November 2019

10 December 2019

21 January 2020

13 February 2020

6. **Annual review of the Mobile Homes Act 2013 - Fees and Charges Policy 2020-2021** (Pages 17 - 30)

To consider the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy for 2020-2021.

7. **Designation of Streets within the Borough for the purposes of Street Trading** (Pages 31 - 38)

To consider a report seeking approval for amendments to the current designation of streets for the purposes of regulating street trading within Cheshire East.

**THERE ARE NO PART 2 ITEMS**

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

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 4th November, 2019 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

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

Councillors M Benson, H Faddes, M Goldsmith, A Harewood, I Macfarlane,  
J Weatherill and J Wray

**NON-COMMITTEE MEMBERS IN ATTENDANCE**

Councillor M Warren

**OFFICERS PRESENT**

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

**8 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors J Barber, S Davies, L Gilbert, S Handley, L Roberts and L Smetham.

**9 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**10 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**11 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 2 September 2019 be approved as a correct record and signed by the Chairman.

## 12 MINUTES OF LICENSING SUB-COMMITTEES

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

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

1 October 2019  
9 October 2019

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

22 August 2019  
17 September 2019

## 13 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 2020.

Members noted that the heading ‘Sexual Entertainment Venues’ in appendix 1 should read ‘Sex Establishments’.

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 Environment and Neighbourhood Services to consider any objections received and determine the final fees payable following consultation with the Chairman of the Licensing Committee.

The meeting commenced at 2.00 pm and concluded at 2.13 pm

Councillor D Edwardes (Chairman)

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Wednesday, 23rd October, 2019 at Committee Suite 1 & 2,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor D Edwardes (Chairman)

Councillors M Benson and L Gilbert

**OFFICERS IN ATTENDANCE**

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

**16 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor D Edwardes be appointed Chairman.

**17 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**18 APPLICATION TO TRANSFER A PREMISES LICENCE - TNT BAR, 31-33 NANTWICH ROAD, CREWE, CW2 6AF**

Note: The start of the meeting was delayed in order to allow the Director of Retro Bar (Crewe) Limited, the applicant, to arrive at the meeting, and to enable all parties to read late additional written representations.

The Sub-Committee considered a report regarding an application from Retro Bar (Crewe) Ltd to transfer the premises licence for TNT Bar, 31-33 Nantwich Road, Crewe.

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

- a representative of the applicant
- three representatives of Cheshire Police

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 transfer a premises licence be refused.

The meeting commenced at 9.40 am and concluded at 11.46 am

Councillor D Edwardes (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 14th November, 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 A Harewood

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Judith Bramhall, Lawyer  
Kim Evans, Licensing Team Leader  
Richard Hellon, Licensing Officer  
Bankole Thomas, Lawyer  
Julie Zientek, Democratic Services Officer

### **24 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor D Edwardes be appointed Chairman.

### **25 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **26 DECLARATIONS OF INTEREST**

The following declarations were made in the interests of openness:

Councillor M Benson declared that he had had previous professional dealings with the legal representative of one of the licence holders.

Councillor H Faddes declared that she lived near to one of the licence holders.

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

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

**28 19-20/9 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

It was reported that the solicitor acting on behalf of the licence holder had requested that consideration of the case be deferred to a later meeting of the General Licensing Sub-Committee, as the Licence Holder was unable to attend.

The Sub-Committee RESOLVED that the request be refused, and that the case be considered in the absence of the licence holder.

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.

Two witnesses attended the hearing and made representations in respect of the case.

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

RESOLVED - That the licence holder is no longer a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that the licence be revoked with immediate effect.

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

**29 19-20/10 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

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

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

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



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

RESOLVED

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

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

**30 19-20/11 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

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

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

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

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

RESOLVED - That the licence holder is no longer a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and that the licence be revoked.

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

The meeting commenced at 10.00 am and concluded at 12.55 pm

Councillor D Edwardes (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 10th December, 2019 at East Committee Room - Municipal  
Buildings, Earle Street, Crewe, CW1 2BJ

### **PRESENT**

Councillor D Edwardes (Chairman)

Councillors S Davies, H Faddes, A Harewood and J Wray

### **OFFICERS IN ATTENDANCE**

Amanda Andrews, Licensing Officer  
Judith Bramhall, Lawyer  
Kim Evans, Licensing Team Leader  
Nashwan Fazlani, Lawyer  
Julie Zientek, Democratic Services Officer

### **31 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor D Edwardes be appointed Chairman.

### **32 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **33 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **34 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.

### **35 19-20/12 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 at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a licence be granted.

**36 19-20/13 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

It was reported that the applicant was unable to attend but that he was happy for the case to be considered in his absence.

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

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

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 the renewal of a licence be refused.

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

The meeting commenced at 10.00 am and concluded at 11.45 am

Councillor D Edwardes (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Tuesday, 21st January, 2020 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillor D Edwardes (Chairman)

Councillors M Benson, H Faddes, I Macfarlane and L Smetham

### **OFFICERS IN ATTENDANCE**

Tracey Billington, Licensing Officer  
Kim Evans, Licensing Team Leader  
Nashwan Fazlani, Lawyer  
Bankole Thomas, Lawyer  
Julie Zientek, Democratic Services Officer

### **37 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor D Edwardes be appointed Chairman.

### **38 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **39 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **40 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.

### **41 19-20/14 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

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

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

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

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

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

RESOLVED – That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence and that no further action be taken.

The meeting commenced at 11.00 am and concluded at 11.56 am

Councillor D Edwardes (Chairman)

## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 13th February, 2020 at Committee Suite 2/3 - Westfields,  
Middlewich Road, Sandbach, CW11 1HZ

### **PRESENT**

Councillors S Davies, D Edwardes, H Faddes and J Wray

### **OFFICERS IN ATTENDANCE**

Martin Kilduff , Licensing Officer  
Nashwan Fazlani, Lawyer  
Alison Burquest, Lawyer  
Rachel Graves, Democratic Services Officer

#### **42 APPOINTMENT OF CHAIRMAN**

##### **RESOLVED:**

That Councillor D Edwardes be appointed Chairman for the meeting.

#### **43 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor M Benson.

#### **44 DECLARATIONS OF INTEREST**

No declarations of interest were made.

#### **45 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.

**46 19-20/15 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE AND CONSIDERATION OF FITNESS TO HOLD A PRIVATE HIRE OPERATOR'S LICENCE**

The Sub-Committee considered a report regarding an application for the renewal of a Joint Hackney Carriage/Private Hire Driver's Licence and consideration of their fitness to hold a Private Hire Operator's Licence.

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

The licence holder and a supporter 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

- 1 the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence and Private Hire Operator's Licence; and
- 2 a formal warning be issued with respect to the licence holder's future conduct.

The meeting commenced at 10.00 am and concluded at 12.25 pm

Councillor D Edwardes (Chairman)





*Working for a brighter future together*

## Licensing Committee

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**Date of Meeting:** 02 March 2020

**Report Title:** Annual review of the Mobile Homes Act 2013 - Fees and Charges Policy 2020-2021

**Portfolio Holder:** Councillor Mick Warren – Portfolio Holder for Communities

**Senior Officer:** Frank Jordan – Executive Director Place and 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 fee setting 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. This report provides the background to the development of an updated charging policy for 2020-2021.

### 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 2020-2021 as set out in Appendix 1.

### 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.

### 4. Other Options Considered

- 4.1. Cheshire East Council has implemented a charging scheme for mobile home licensing functions for several years and in accordance with the Mobile Homes Act 2013. In taking this approach it has committed to the

production of a charging policy each year which provides a ‘cost recovery’ charging structure in accordance with guidance from the Secretary of State.

- 4.2. The Council could decide not to charge for this function and consequently would not need to produce and publish a charging strategy. This is contrary to the Charging and Trading Strategy.

## 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 or 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. This ensures the fees set are 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 2020-2021. The fees have been calculated for caravan sites as both an initial application fee and an annual fee. 2019-2020 fees are provided for reference purposes.

Number of Pitches	2019-2020 Application fee	2019-2020 Annual fee	2020-2021 Application Fee	2020-2021 Annual Fee
< =10	£192.00	£192.00	£198.00	£198.00
< =20	£234.00	£234.00	£241.00	£241.00
< =30	£274.00	£274.00	£283.00	£283.00
< =40	£342.00	£342.00	£353.00	£353.00
< =50	£376.00	£376.00	£389.00	£389.00
> 50	£447.00	£447.00	£463.00	£463.00

Additional fees that can be levied on sites are proposed below. 2019-2020 fees are again provided for reference purposes.

- Site Licence Transfer Fee - £116.00 (2019-2020 - £112.00);
- Licence amendment (simple) - £116.00 (2019-2020 - £112.00);
- Application by the licensee for amendment of conditions - £348

- (2019-2020 - £336.00); and
- The deposit of site rules - £38.00 (2019-2020 fee was £38.00)

## **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 a Mobile Homes Act 2013 Fees and Charges Policy.

6.1.2. A review of fees and charges has been undertaken and this has been used to produce a proposed charging policy for 2020-2021 (Appendix 1).

### **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 proposed new fees (see table in paragraph 5.3) are based on a cost accounting process that reflects site size, officer input and other associated costs.

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. The proposed new fees (see paragraph 5.3) are based upon officer time and associated costs.

### **6.3. Policy Implications**

6.3.1. The purpose of this report is to approve the Mobile Homes Act 2013 – Fees and Charges Policy 2020-2021.

### **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 allows local authorities to set a local scheme of fees and charges on a cost recovery only basis.

6.6.2. Where a local authority does choose to implement a charging regime this must be supported by a charging policy. This report addresses that need by providing a policy and seeking relevant approval for its implementation.

6.6.3. 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.

**6.10. Climate Change Implications**

6.10.1. The Mobile Homes Fees and Charges Policy has no implications for climate change.

**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: Sarah Sutton

Job Title: Commercial Services Team Leader

Email: [sarah.sutton@cheshireeast.gov.uk](mailto:sarah.sutton@cheshireeast.gov.uk)

## **Appendix 1**

Mobile Homes Act 2013 Fees and Charges Policy 2020-2021

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# Regulatory Services and Health

## Mobile Homes Act 2013 Fees and Charges Policy

2020-2021

Contents

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- 3 Setting of Fees and Charges
- 4 Establishing number of units (Caravans) per site
- 5 Licensing Fees
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  - 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
- 9 Review



## **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 range from a grade 5 officer to grade 11 and reflects the amount of time required for each grade.

### 5.2 Annual Fee

The annual fees are;

<b>Number of pitches</b>	<b>Cost</b>
<=10	£198.00
<=20	£241.00
<=30	£283.00
<=40	£353.00
<=50	£389.00
>50	£463.00

### 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	£198.00
<=20	£241.00
<=30	£283.00
<=40	£353.00
<=50	£389.00
>50	£463.00

### 5.4 Transfer Fee

A fee of £116.00 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) £116.00.  
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 £348.  
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> of April each year and all other fees are per application or required function. The payment of fees will be in line with the 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.

The administrative system for holding and publishing site rules estimates two hours of officer time per site. 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 2021 in line with the Council's fee setting process.



*Working for a brighter future together*

## **Licensing Committee**

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**Date of Meeting:** 02 March 2020

**Report Title:** Designation of Streets within the Borough for the purposes of Street Trading

**Senior Officer:** Frank Jordan – Executive Director Place

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### **1. Report Summary**

- 1.1. This report seeks Members' approval for amendments to the current designation of streets for the purposes of regulating street trading within Cheshire East.

### **2. Recommendations**

- 2.1. That Members consider the content of the report and resolve to:
  - I. Pass a resolution confirming the designation of streets within the 'Schedule of Streets' (appendix A) for the purposes of Street Trading, and
  - II. 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.

### **3. Reasons for Recommendations**

- 3.1. To ensure that the Council's Street Trading Designations are reviewed appropriately and that they are updated to ensure that they remain relevant.

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

- 4.1. No other options have been considered at this stage of the process.

## **5. Background**

- 5.1. On the 2<sup>nd</sup> September 2019, the Licensing Committee considered a report with proposed changes to the Designation of Streets for the purposes of Street Trading.
- 5.2. That report went into detail explaining the street trading process and why the designation of streets was requested.
- 5.3. Members resolved to pass a resolution confirming their intention to pass a further resolution to change the designation in line with the schedule attached at appendix A.
- 5.4. Following that initial resolution being passed, the Licensing Team commenced the process set out in paragraph 6.1.4. This included placing Notices in various newspapers circulating in the Borough.
- 5.5. No objections to the proposed changes have been received.
- 5.6. Accordingly, Members must now pass the resolution in paragraph 2.1 so that the changes can be further advertised in line with the statutory requirements and can therefore come into effect.
- 5.7. At the meeting on the 2<sup>nd</sup> September 2019, Members also expressed their wish to see amendments to the how street trading fees are administered. These amendments were to include flexibility for day, week, and monthly rates. This process is being considered as part of the Team's work to update the Street Trading Policy and a report will be presented to the Licensing Committee for consideration at a future meeting.

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

### **6.1. Legal Implications**

- 6.1.1. Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) grants a Local Authority the power to adopt legislation to control Street Trading within its area.
- 6.1.2. Schedule 4 of the 1982 Act sets out the powers available, including
  - I. The designation of streets as prohibited, consent, or licence
  - II. Exemptions
  - III. Setting of fees
  - IV. Applying conditions
  - V. Any offences



6.1.3. On the 13th October 2011 the Council resolved to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of the Borough.

6.1.4. Statutory Process for Designation of Streets

6.1.5. The following statutory process would need to be followed:

- I. A Public Notice would need to be published, stating the Council's intention to pass such a resolution, in a local newspaper.
- II. A copy of the notice must be served upon the Chief Officer of Police for the area and on the Highway Authority responsible for the street(s) in question.
- III. A period of at least twenty-eight days must elapse from the time of the initial publication of the notice, to the time the Council passes a resolution confirming the proposed designation, to allow for objections. Any objections would be considered by the Committee.
- IV. Once a resolution had been passed, after considering any objections received, a Public Notice would need to be published for two consecutive weeks in a local newspaper. The first of these public notices must be published within 28 days of the Council determining the outcome.

**6.2. Finance Implications**

6.2.1. There are a number of Notices that the Council is required to publish, to ensure that the process for designating streets complies with the legislative requirements.

6.2.2. These Notices will incur a cost that is estimated to be £5,000. The Licensing Team has made provision within the approved budget for this process to be undertaken.

**6.3. Policy Implications**

6.3.1. The Licensing Committee adopted a Street Trading Policy on the 16th July 2013. This Policy is also subject to review by the Licensing Committee prior to consultation.

#### **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 direct implications for Human Resources

#### **6.6. Risk Management Implications**

- 6.6.1. It is good practice to review and update (where necessary) street trading designations. Designations that have not been reviewed for many years may be more susceptible to challenge or scrutiny if they are no longer relevant.

#### **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. It is not considered likely that this report will have a positive or negative effect on Climate Change.

### **7. Ward Members Affected**

- 7.1. All Wards

### **8. Consultation & Engagement**

- 8.1. The Licensing Team informally consulted on the proposed designations as detailed in appendix A between 15th September 2016 and 27th October 2016 in the following ways:
- Public Consultation via the Council's web site
  - With other relevant Council departments and the Council's Event Safety Advisory Group

- With the Town and Parish Councils
- Cheshire Police

- 8.2. This was an informal consultation process designed to ascertain the views of interested parties at the first opportunity. It was not intended to remove the requirement for the statutory consultation required by the legislation.
- 8.3. No relevant consultation responses were received.
- 8.4. The publication of Notices referred to in 6.1.5 gave a further opportunity for objections to the proposed changes to be submitted.
- 8.5. In the event of any objections being received during the statutory consultation process, Members will be asked to consider the views put forward. This may or may not result in changes to the proposals.
- 8.6. As set out within paragraph 5.5 no objections to the resolution have been made.

## **9. Access to Information**

- 9.1. Members may wish to revisit the report presented to the Licensing Committee on the 2nd September 2019.

## **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](mailto:Kim.Evans@cheshireeast.gov.uk)

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# Appendix A

## Street Trading – Designated Streets Schedule



### Schedule of Consent Streets

Area	Name
All areas	All 'streets' (with the exception of those designated as prohibited streets and all parks/open spaces/car parks owned or operated by Cheshire East Council, which will be undesignated) within the Borough of Cheshire East shall be consent streets for the purposes of Street Trading

### Schedule of Prohibited Streets

Area	Name	Notes
All areas	All principal roads classified as an 'A' road together with adjoining streets for a distance of 50 meters	With the exception of the following, which shall be consent streets: 1. Lay-by on the A534 at the junction with Smethwick Lane 2. Lay-By on the A54 at the junction with Mill Lane at Browns Bank 3. Lay-by on the A536 at Gawsworth directly adjacent to the Chain and Gate Public House 4. Lay-by on the east side of the A523 at Adlington adjacent to the Legh Arms 5. Lay-by to the west of Monks Heath on the southern side of the A537
All areas	All roads classified as a 'B' road	With the exception of the following, which shall be consent streets: 1. Lay-by on the B5470 Mobberley Road near to the Longridge Trading Estate, Knutsford
Adlington	First Avenue Second Avenue Third Avenue	From the junction with the A523 for the remainder of its length
Knutsford	Princess Street King Street Tatton Street Canute Place	
Macclesfield	Market Place Mill Street Park Green Chestergate	

## Appendix A

	Castle Street Sunderland Street Waters Green Albert Place	With the exception of the area adjacent to number 6 Castle Street
Poynton	Park Lane Poynton Industrial Estate	
Wilmslow	Grove Street Hawthorn Lane Church Street	With the exception of an area at the junction of Grove Street and Grove Avenue