

# Council Agenda

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**Date:** Thursday, 12th December, 2013  
**Time:** 12.00 pm  
**Venue:** The Assembly Room - Town Hall, Macclesfield SK10 1EA

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The agenda is divided into two parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

## **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Prayers**
2. **Apologies for Absence**  
To receive apologies for absence.
3. **Minutes of the Meeting Held on 17 October 2013** (Pages 1 - 12)  
To approve the minutes as a correct record.
4. **Mayor's Announcements**  
To receive such announcements as may be made by the Mayor.
5. **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.
6. **Public Speaking Time/Open Session**

In accordance with Council Procedure Rule 35 and Appendix 7 to the rules, a total period of 15 minutes is allocated for members of the public to speak at Council meetings.

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 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. It is not a requirement to give notice of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

7. **Notices of Motion** (Pages 13 - 14)

To consider any Notices of Motion that have been received in accordance with Procedure Rule 12

8. **Recommendation from Cabinet - Council Tax Base 2014/15** (Pages 15 - 20)

To consider the recommendation of Cabinet.

9. **Recommendation from Cabinet/Licensing Committee - Revised Statement of Licensing Policy** (Pages 21 - 72)

To consider the recommendations of Cabinet and the Licensing Committee.

10. **Audit and Governance Committee Annual Report 2012/13** (Pages 73 - 98)

To receive the Audit and Governance Committee Annual Report 2012/13.

11. **Leader's Report to Council and Leader's Announcements**

12. **Questions**

In accordance with Procedure Rule 11, opportunity is provided for Members of the Council to ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.

Questions to the Mayor or Chairman of a Committee must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting. There is no requirement for questions to be submitted in writing which relate to the work of the Cabinet.

At Council meetings, there will be a maximum question time period of 30 minutes. Questions will be selected by the Mayor, using the criteria agreed by Council. Any questions which are accepted, but which cannot be dealt with during the allotted period will be answered in writing. Questions must be brief, clear and focussed.

**CHESHIRE EAST COUNCIL****Minutes of a meeting of the Council**

held on Thursday, 17th October, 2013 at Grand Hall Congleton Hall,  
Congleton Town Hall, High Street, Congleton CW12 1BN

**PRESENT**

Councillor D Flude (Chairman)

Councillor W Fitzgerald (Vice-Chairman)

Councillors C Andrew, Rachel Bailey, Rhoda Bailey, G Barton, G Baxendale, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, R Cartledge, J Clowes, S Corcoran, W S Davies, R Domleo, J P Findlow, R Fletcher, H Gaddum, S Gardiner, L Gilbert, M Grant, P Groves, J Hammond, A Harewood, P Hayes, S Hogben, D Hough, P Hoyland, L Jeuda, M Jones, S Jones, A Kolker, J Macrae, D Mahon, D Marren, A Martin, M A Martin, S McGrory, R Menlove, G Merry, A Moran, B Moran, B Murphy, H Murray, D Neilson, D Newton, P Nurse, M Parsons, P Raynes, L Roberts, J Saunders, B Silvester, M J Simon, D Stockton, C G Thorley, A Thwaite, D Topping, G Wait, G M Walton, M J Weatherill, R West, P Whiteley, S Wilkinson and J Wray

**Apologies**

Councillors D Bebbington, Carter, H Davenport, D Druce, K Edwards, I Faseyi, M Hardy, O Hunter, J Jackson, F Keegan, W Livesley, M Sherratt and L Smetham

**36 PRAYERS**

The Mayor's Chaplain said prayers at the request of the Mayor.

**37 MINUTES OF PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting held on 18 July 2013 be approved as a correct record.

**38 MAYOR'S ANNOUNCEMENTS**

The Mayor:-

1. Announced that since the last Council meeting, she and the Deputy Mayor had attended over 70 events across the Borough. Details of the events had been circulated around the Chamber.
2. Announced that, since the last Council Meeting, two of the Council's Honorary Aldermen had passed away. Honorary Aldermen Ken Jagger had died in August and Honorary Aldermen Norman

Edwards earlier in the month. Both were former Mayors of Macclesfield. She also informed Council that Councillor Irene Faseyi's husband had recently died, necessitating her absence from the meeting. Members stood for a period of silence as a mark of respect.

3. Reminded Members that she would be holding her Civic Service on the afternoon of Sunday 20<sup>th</sup> October at St Andrew's Church, Crewe. She hoped that as many Members as possible would join her.
4. Was delighted to be able to inform Council that a soldier from the Mercian Regiment, Corporal Darren Lightfoot, who came from Crewe, had recently been Mentioned in Dispatches, the oldest form of recognition of gallantry in the British Armed Forces. Corporal Lightfoot had been part of a patrol in Helmand Province, Afghanistan in November of the previous year. The Patrol had come under fire and his bravery had saved the lives of a number of soldiers. She was sure that Members would join with her in congratulating Corporal Lightfoot.
5. Informed Members that the Council's newly appointed Chief Operating Officer, Peter Bates had now taken up his appointment and was present at the meeting. She welcomed him to Cheshire East, wished him well in his new job and asked him to stand up and make himself known to Members.

#### **39 DECLARATIONS OF INTEREST**

Cllr S Corcoran, P Butterill and G Baxendale declared a non-pecuniary interest in item 12 Notice of Motion 3, relating to pay day lending, by virtue of being a member of a credit Union. All the Cabinet Members also, by virtue of them being members of a credit union.

Cllr Hoyland stated that he had spoken on this matter, but had not become member of a credit union.

#### **40 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present wishing to use the public speaking facility.

#### **41 FIRST QUARTER REVIEW OF PERFORMANCE 2013-14**

Consideration was given to a report requesting formal approval of the issues recommended to Council by Cabinet on 19<sup>th</sup> August 2013 as part of the 2013/2014 First Quarter Review of Performance Report. As a procedural matter, these items required the approval of Council, in accordance with Finance Procedure Rules.

The items in question were set out in the report and related to Supplementary Capital Estimates and Virements over £1m, Supplementary Revenue Estimates and the establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections took place.

## **RESOLVED**

That the Supplementary Estimates / Virements and establishment of an earmarked reserve as set out below and detailed in paragraph 10.2 of the report be approved :-

- Supplementary Capital Estimates and Virements over £1m relating to Crewe Lifestyle Centre (Detailed in Appendix 1 of the report).
- Supplementary Revenue Estimates to be funded from General Reserves where information was either not known at the time the budget was set, or where further funding information had been received and needed allocating. (Detailed in Appendix 2 of the report).
- A Supplementary Revenue Estimate of over £1m for Public Health, to be funded from additional ring-fenced grant (Detailed in Appendix 3 of the report).
- The establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place (Detailed in Appendix 4 of the report).

## **42 RECOMMENDATION FROM CONSTITUTION COMMITTEE - REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS**

Consideration was given to a report requesting Council consideration of a newly-drafted section of the Constitution, which set out the Powers and Responsibilities of Officers and Proper Officer Provisions (which is given a new title in the document of Scheme of Delegation to Officers). These were the powers delegated by Council to Officers to make decisions and take action. A draft document was attached at Appendix 1 of the report and had been the subject of consideration by a Members' Working Group, set up by the Constitution Committee for this purpose and had been considered by the Constitution at its meeting on 9 October. As the meeting of the Constitution Committee had taken place after the Council agenda was published the minute of the meeting of the Constitution Committee was circulated at the meeting.

The Chairman of the Constitution Committee, Cllr A Martin, moved the recommendations as set out in paragraph 2 of the report, subject to amendment to the wording of the Scheme of Delegation to Officers, to delete the words "In consultation with" at the start of para 6.24 and to change the word "by" to "to" in the third line.

Paragraph 6.24 to now read :-

“The Chief Operating Officer, to apply the approved early retirement/redundancy scheme in certain circumstances EXCEPT that (a) decisions relating to redundancy must not be delegated to the Head of HR and OD under a local scheme of delegation and (b) decisions relating to redundancy of a post at Grade 15 and above shall be with the agreement of the relevant Portfolio Holder.”

(It was noted that these changes to the wording had been agreed by the Constitution Committee).

## **RESOLVED**

Noting that there is sufficient scope to ensure that changes can be made to the Scheme of Delegation to Officers to reflect the new officer structure of the Council and the powers which rest with officers under it, that : -

1. Subject to the above changes, the amended Scheme of Delegation to Officers be approved.
2. The Interim Head of Legal Services and Monitoring Officer, with the agreement of the Chairman of the Constitution Committee be authorised, to incorporate the new Management Structure into the Scheme of Delegation to Officers when all necessary aspects of the structure are settled and the scheme as amended, be submitted to the Constitution Committee for final confirmation, in accordance with paragraph 7.9 of the approved Scheme of Delegation, as amended.

## **43 RECOMMENDATIONS FROM CONSTITUTION COMMITTEE AND LICENSING COMMITTEE - IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013**

The Constitution Committee, at its meeting on 19 September 2013, had considered a proposed scheme of delegation for the Implementation of the Scrap Metal Dealers Act 2013 which would be coming into force on 1<sup>st</sup> October 2013. The Act was designed to provide a more robust scheme for monitoring the scrap metal industry. A scheme of delegation needed to be put in place to allow for full implementation of the Act by the time the first applications under it were made to the Council.

The Constitution Committee had resolved that, subject to the detail being worked up and approved by the Licensing Committee at its meeting on 30<sup>th</sup> September, Council be recommended that, in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function and that procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of a number of detailed principles.

The Committee had also resolved that Council be recommended to authorise the Interim Head of Legal Services and Monitoring Officer to make appropriate changes to the Constitution following the meeting of the Licensing Committee.

The Licensing Committee at its meeting on 30 September 2013 had also considered a report in respect of this matter and resolved that Council be recommended to approve the scheme of implementation and delegations, the details of the Suitable Person Test to be employed by Cheshire East Council and the fees and charges in relation to Scrap Metal Dealers licensing activities, as set out in the report.

## **RESOLVED**

1. That, in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function and that procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of the following principles:-
  - policy is delegated to the Licensing Committee
  - the ability to set fees and charges is delegated to the Licensing Committee
  - a Member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
  - a Member decision making body only may initiate a revocation of a licence.
  - a Member decision making body only may impose conditions on a licence.
  - An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.
2. That the Interim Head of Legal Services and Monitoring Officer be authorised to make the appropriate changes to the Constitution.

3. That the scheme of implementation and delegations, as set out in Appendix 2 of the Licensing Committee report, be approved. That the details of the Suitable Person Test to be employed by Cheshire East Council, as set out in Appendix 1 of the Licensing Committee report, be approved.
4. That the following fees and charges in relation to Scrap Metal Dealers licensing activities be approved:-

Site Licence: £160.00

Collectors Licence: £160.00

#### **44 DESIGNATION OF MONITORING OFFICER**

Consideration was given to a report outlining the process used for the recruitment of the Head of Legal and Monitoring Officer and requesting that Council agree that the appointee be designated as Monitoring Officer.

#### **RESOLVED**

That the appointment of Mrs Anita Bradley as the Head of Legal and Monitoring Officer of Cheshire East Council be approved, with effect from a date to be agreed.

#### **45 ENGINE OF THE NORTH - ENABLING VALUE FOR MONEY**

(Cllrs D Newton, P Groves and A Thwaite declared a non pecuniary interest in this item, by virtue of being members of the Board of Cheshire East Engine of the North Ltd).

Consideration was given to a report updating Council on the development programme for housing and economic growth, to be delivered by East Cheshire Engine of the North Limited. It was reported that a development programme had been prepared in respect of an initial portfolio of sites, to deliver the desired outcomes for the community (including over 4,000 new homes and 3,000 jobs) and generate significant economic growth and prosperity for local residents. It was also anticipated to generate major capital receipts for the authority – some £40m in the next 3 years, potentially in excess of £80m over a 10-year period, net of development costs.

The full programme would be considered in February 2014, for inclusion in the Capital Programme, as part of the Budget Setting process for 2014/15-2016/17. The purpose of the report was to seek approval for potential development spending in the current year, to March 2014.

#### **RESOLVED**



1. That the potential to generate significant economic growth and capital receipts (i.e. £40m in the next 3 years; £80m+ over a 10-year period, net of development costs) be noted and incorporated in future strategic Capital and Revenue budget planning, at Council in February 2014
2. That, in order to enable Engine of the North to fully deliver £40m of capital receipts over the next 3 years and given that enabling funds may be needed before budget setting in February 2014; a supplementary capital estimate of £5.5m be approved, funded initially by virement from within the current Capital Programme, pending financing through the capital receipts generated from disposals of the sites during 2014.
3. That acknowledgement be made that the Engine of the North is enhancing the assets of Cheshire East, as directed by Council, from £13m to a potential £80m of net value.
4. That the Shareholder's Committee and its role, as set out in paragraph 9.3 of the report, be noted.

#### 46 NOTICES OF MOTION

Consideration was given to the following Notices of Motion:-

##### **Auditor's Value for Money Conclusion**

**Proposed by Councillor Sam Corcoran and Seconded by Councillor Peter Nurse**

##### **Background**

For the second year running an independent body has found poor practice that is wasting public money. In September Grant Thornton presented their report to the Audit & Governance Committee which found weaknesses in

- Arrangements to procure goods and services
- Understanding of costs and performance
- Arrangements to develop business proposals and manage significant prospects

The report went on to say that the Council was unable to demonstrate that it was prioritising resources within budgets in a planned way and achieving sustainable cost reductions alongside greater efficiencies and improved productivity.

A list of 14 recommendations with 7 'High Priority' items included the following points

- Ensure that budgets are realistic and therefore less reliant on remedial savings during the year
- Ensure that the capital budget is set at a realistic level and therefore avoid in year slippage

- Ensure that robust governance and risk management arrangements are embedded in the Council and in the emerging arms length companies being created by the Council
- Ensure that the Council's policies, procedures and decision making processes remain fit for purpose during the period of significant change to a commissioning authority
- Ensure that Council policies are followed and decision making is and is seen to be transparent to the public

### **Motion**

This Council welcomes the qualified value for money conclusion from the external auditors and:-

- accepts that 'more needs to be done to ensure that tough decisions are taken when setting the budget rather than relying on services to deliver savings in the year';
- commits to setting a realistic budget for 2014/15 so that the major overspends seen in recent years do not recur and that unplanned remedial actions are not necessary;
- agrees to ensure that its decision making is and is seen to be transparent to the public.

### **RESOLVED**

That the motion stand referred to Cabinet.

## **2     Reducing Carbon Emissions**

**Proposed by Councillor Steve Hogben and seconded by Councillor Sam Corcoran**

That this Council build on its previous work in reducing its own carbon emissions.

This Council will promote strenuous further efforts to cut not only its own carbon emissions but those of its many partners within the sub-region, including the private and business sectors.

The Council recognises that financial pressures face all sectors of the economy, but also recognises the vital importance for future generations of conserving resources of all kinds and cutting environmental pollution.

In view of the loss of Invest to Save funding, and in its role as a community leader, the Council commits to redouble its efforts to fund carbon reduction projects, and seek support in this work from all its partners.

That the motion stand referred to Cabinet.

## **3     Payday Lending**

**Proposed by Councillor Laura Jeuda and Seconded by Councillor David Newton**

Cheshire East must be applauded in the attempt to tackle the irresponsible lending of payday loan companies by banning access to the top 50 company websites in public buildings.

Debt Counselling Agencies report of the misery and desperation caused by payday lending companies who prey on the poor causing increased poverty and anxiety to those already struggling to cope. People are borrowing more to pay off their existing debt, often using more than one company to do so. Payday lenders offer loans of £50 - £1,250 without credit checks. The transaction can be completed in a matter of minutes.

While the newly formed Financial Conduct Authority, which comes into operation next spring, has proposed some restrictions on payday loan companies it will not ameliorate the risk for many families struggling to repay the vast amount of interest on what was a relatively small sum to start with. A realistic and ethical alternative to this type of borrowing is Credit Unions who provide realistic loans that can be repaid at 6.9% compared to a massive 5,853%. Credit Unions offer savings and loans which are prudent and that do not encourage irresponsible lending and borrowing.

**Motion**

Cheshire East will encourage the growth of Credit Unions and follow the example of Glasgow in using Trading Standard Officers to ensure that payday lenders are not breaching the Consumer Credit Act

To encourage young people to save responsibly by allocating Credit Union accounts to Secondary School pupils

To provide premises for Credit Unions to operate in communities across Cheshire East.

The mover and seconder agreed to a change to the wording of the motion to substitute the word “allocating” in the second paragraph with the word “offering” and to add the words “ where needed” at the end of the motion.

**RESOLVED**

That motion, as amended, be accepted.

**4. Designated Public Places Orders**

**Proposed by Councillor D Brickhill**

Designated Public Places Orders (DPPO's), made under Section 13 of the Criminal Justice and Police Act 2001, have overtaken the use of byelaws for regulating the use of alcohol in public places.

A DPPO gives the Police and other persons accredited by the Police force e.g Police Community Support Officers, the power, in a DPPO area, to prevent the drinking of alcohol in that area, where an officer reasonably believes that the person has been drinking alcohol, or intends to do so. In addition an officer has the power to ask a person to surrender the alcohol and any opened or sealed containers in their possession.

### **Motion**

That this Council will consider making DPPs for areas of Cheshire East.

### **RESOLVED**

Than the motion stand referred to the Licensing Committee.

## **47 LEADER'S ANNOUNCEMENTS**

The Leader of the Council:-

1. Reported a Key Decision to Council, which had been taken as an urgent decision, by the Corporate Policy Cabinet Member, in accordance with rule 54.7 of the Cabinet Procedure Rules, to approve the re-engagement of V4 Services to support the Council to instil a more robust approach to procurement, in anticipation of significant savings (between £1.85m and £4.5m being achieved on a fixed cost basis (£447k), the reason for the urgency being that any delay in entering into a contract with V4 Services as the Council's improvement partner would risk the Council not achieving the financial savings envisaged in the report.
2. Reported that he had attended at least 60 public meetings, including some relating to the Local Plan and that the Council was delivering on its vision.
3. Stated that every Member of the Council should have the power to attend public Council meetings.
4. Referred to the Council's Value for Money report, providing guidance and data on the financial resilience of the Council, which had been published on the Council's website and urged all Members to read it.
5. Referred to a recent report in the Congleton Chronicle relating to the Council and stated that the Council's position was growing stronger every day and was moving forward aggressively. He gave

an number of examples of areas where the Council was performing well.

6. Expressed Best Wishes for a Happy Birthday to the Deputy Leader of the Council, Cllr David Brown.

## 50 QUESTIONS

The following Members asked questions at the meeting:-

Cllr Groves - In respect of the Waste Collection Centre spend in the North of the Borough – The Leader of the Council, Cllr M Jones responded.

Cllr Wait - In respect of the report on Finance strengths – Cllr Raynes responded.

Cllr Corcoran – In respect of the procurement contract – The Leader of the Council, Cllr M Jones responded.

Cllr Gardiner – In respect of the aging population and the stress on the health and public care budget – Cllr Clowes responded.

Cllr Kolker – In respect of the LAP review – Cllr Gilbert responded.

Cllr Neilson – In respect of a recent planning application relating to Mottram Hall – The Leader of the Council, Cllr M Jones responded.

Cllr Rhoda Bailey – In respect of youth offending Cllr Rachel Bailey responded.

Cllr Hogben – In respect of air quality management areas- Cllr Topping undertook to provide a written response.

Cllr Menlove – In respect of promotion of development on brownfield sites – Cllr Stockton responded.

Cllr A Moran – In respect of informing Town and Parish Councils before dimming or switching off street lights – Cllr Topping responded.

Cllr Baxendale – In respect of the Auditors Value for Money report – Cllr Raynes responded.

Cllr Silvester – In respect of the justification for reducing in the green waste collections without consultation – Cllr Topping responded

Cllr Wilkinson – In respect of High Speed 2. (Cllr Wilkinson declared an interest in this issue, by virtue of the proposed route potentially affecting his property) – The Leader of the Council, Cllr M Jones responded.

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**COUNCIL – 12 DECEMBER 2013****NOTICES OF MOTION****Submitted to Council in Accordance with Procedure Rule 12****1      Good Governance: Openness and Transparency****Proposed by Councillor Michael Jones**

This Council resolves that it will move swiftly to update its open-data policies in order to ensure that Cheshire East Council becomes a leading local authority for openness and transparency. It tasks the Chief Executive, working with and taking direction from Members, to review our governance arrangements to ensure that the objectives of openness and transparency are central to the way in which Cheshire East Council works, and that the use of Part II reports is minimised.

**2      Local Plan****Proposed by Councillor David Brickhill**

This Council deplores the fact that an adopted Local Plan is not yet in place.

**3      Garden Waste****Proposed by Councillor David Brickhill**

This Council is critical of the recent decisions made concerning the collection of recyclable garden waste.

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## CHESHIRE EAST COUNCIL

### Cabinet

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**Date of Meeting:** 10<sup>th</sup> December 2013  
**Report of:** Chief Operating Officer  
**Subject/Title:** Council Tax Base 2014/2015  
**Portfolio Holder:** Cllr P Raynes, Finance

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#### **1.0 Report Summary**

- 1.1 This report notifies Cabinet of the Council Tax Base for Cheshire East and identifies important changes to the calculation of the tax base for 2014/2015.

#### **2.0 Recommendation**

- 2.1 That Cabinet, in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, recommends to Council, the amount to be calculated by Cheshire East Council as its Council Tax Base for the year 2014/2015 as 137,548.53 for the whole area.

#### **3.0 Reason for Recommendation**

- 3.1 In accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992 Cheshire East Council is required to agree its tax base before 31 January 2014.

#### **4.0 Wards Affected**

- 4.1 All

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

- 5.1 All

#### **6.0 Policy Implications**

- 6.1 N/a

#### **7.0 Financial Implications**

- 7.1 The calculation of the taxbase contributes to the calculation of overall funding for Cheshire East Council in each financial year.

- 7.2 The continued replacement of Council Tax Benefit with Council Tax Support has the effect of reducing the taxbase, as reductions under this scheme are provided as a discount to Council Tax liability as opposed to a rebate (which was subsequently repaid to the Council via Central Government subsidy).

## **8.0 Legal Implications**

- 8.1 In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended and Chapter 4 of the Council's Constitution, the calculation of the Council Tax Base is a matter for full Council following a recommendation by Cabinet.

## **9.0 Risk Management**

- 9.1 Confirmation of the Council Tax base for 2014/2015 ensures that the statutory requirement to set the Tax Base is met.
- 9.2 Estimates contained within the Council Tax Base calculation, such as the loss on collection and caseload for Council Tax Support, will be monitored throughout the year. Any significant variation will be reflected in a surplus or deficit being declared in the Collection Fund which is then shared amongst the major precepting authorities.

## **10.0 Background**

- 10.1 Cheshire East Council is required to approve its Tax Base before 31 January 2014 so that the information can be provided to the Police and Crime Commissioner and Cheshire Fire Authority for their budget processes. Details for each parish area are set out in **Appendix A**.
- 10.2 The Tax Base for the area is the estimated number of chargeable dwellings expressed as a number of Band D equivalents adjusted for an estimated number of discounts, exemptions, disabled relief and appeals plus an allowance for non-collection. A reduction of 1.25% is included in the Tax Base calculation to allow for anticipated levels of non-collection. Recently collection rates of 99% have been achieved over two years, but changes to Council Tax discounts, specifically the introduction of Council Tax Support, are having an impact on this indicator. Nationally Council's are seeing small reductions in collection rates, so the anticipated level of non-collection at Cheshire East has been increased from 1% to 1.25%. Processes to collect Council Tax in this area continue to be effective and will be reviewed throughout the year.
- 10.3 The Tax Base has been calculated in accordance with the Council's policy to offer no reduction for empty properties. However discretionary reductions will continue to be allowed, for landlords, under Section 13A of the Local Government Finance Act 1992 for periods of up to 8 weeks between tenancies. This is no change from 2013/2014.

- 10.4 The Tax Base includes an estimate for c.750 new homes to be built or brought back into use for 2014/2015.
- 10.5 The Council Tax Support Scheme is not set to change for 2014/2015 other than the usual CPI inflationary increases. A predicted increase in claimant numbers is likely to result in the requirement for additional support therefore an additional 1% allowance has been made available within the tax base to cover this increased demand.

**11.0 Access to Information**

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

Name:	Peter Bates
Designation:	Chief Operating Officer
Tel No:	01270 686013
Email:	<a href="mailto:peter.bates@cheshireeast.gov.uk">peter.bates@cheshireeast.gov.uk</a>

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## APPENDIX A

## COUNCIL TAX-TAX BASE 2014/2015

CHESHIRE EAST	BAND D EQUIVALENTS	TAX BASE 98.75%
Acton	118.30	116.82
Adlington	603.36	595.82
Agden	69.76	68.89
Alderley Edge	2,626.13	2,593.30
Alpraham	179.48	177.23
Alsager	4,267.16	4,213.82
Arclid	127.39	125.80
Ashley	154.01	152.08
Aston by Budworth	183.37	181.08
Aston-juxta-Mondrum	91.18	90.04
Audlem	892.27	881.12
Austerson	44.52	43.97
Baddiley	123.92	122.38
Baddington	57.26	56.55
Barthomley	95.86	94.66
Basford	87.66	86.57
Batherton	23.60	23.30
Betchton	252.41	249.25
Bickerton	116.44	114.98
Blakenhall	71.21	70.32
Bollington	2,974.92	2,937.73
Bosley	196.93	194.47
Bradwall	82.27	81.24
Brereton	561.29	554.27
Bridgemere	65.49	64.67
Brindley	67.34	66.50
Broomhall	88.50	87.39
Buerton	213.03	210.36
Bulkeley	122.77	121.23
Bunbury	617.02	609.31
Burland	279.17	275.68
Calveley	134.08	132.40
Checkley-cum-Wrinehill	44.04	43.49
Chelford	608.93	601.31
Cholmondeley	75.08	74.14
Cholmondeston	74.37	73.44
Chorley	258.92	255.68
Chorley (Crewe)	57.84	57.12
Chorlton	512.40	506.00
Church Lawton	859.16	848.42
Church Minshull	200.88	198.37
Congleton	9,486.87	9,368.28
Coole Pilate	26.18	25.86
Cranage	622.33	614.55
Crewe	12,713.03	12,554.12
Crewe Green	97.38	96.16
Disley	1,884.44	1,860.88
Dodcott-cum-Wilkesley	199.17	196.68
Doddington	18.06	17.84
Eaton	215.31	212.62
Edleston	36.97	36.51
Egerton	35.51	35.07
Faddiley	74.49	73.56
Gawsworth	811.67	801.52
Goostrey	1,064.94	1,051.62
Great Warford	451.68	446.04
Handforth	2,217.53	2,189.81
Hankelow	128.11	126.51
Haslington	2,353.54	2,324.12
Hassall	109.61	108.24
Hatherton	176.59	174.39
Haughton	100.11	98.85
Henbury	336.76	332.55
Henhull	26.43	26.10
High Legh	885.32	874.25
Higher Hurdsfield	325.20	321.13
Holmes Chapel	2,426.90	2,396.56
Hough	341.88	337.60
Hulme Walfield & Somerford Booths	157.85	155.88
Hunston	81.15	80.13
Hurleston	31.36	30.97

## COUNCIL TAX-TAX BASE 2014/2015

CHESHIRE EAST	BAND D EQUIVALENTS	TAX BASE 98.75%
Kettleshulme	165.92	163.85
Knutsford	5,693.77	5,622.60
Lea	24.26	23.96
Leighton	1,489.11	1,470.50
Little Bollington	82.28	81.25
Little Warford	38.42	37.94
Lower Peover	73.03	72.11
Lower Withington	302.31	298.53
Lyme Handley	71.04	70.15
Macclesfield	17,650.03	17,429.40
Macclesfield Forest/Wildboardclough	107.36	106.02
Marbury-cum-Quoisley	119.40	117.91
Marton	107.51	106.16
Mere	437.50	432.04
Middlewich	4,471.25	4,415.35
Millington	103.93	102.63
Minshull Vernon	125.74	124.17
Mobberley	1,432.82	1,414.90
Moston	178.14	175.92
Mottram St Andrew	394.21	389.29
Nantwich	5,018.59	4,955.85
Nether Alderley	377.53	372.81
Newbold Astbury-cum-Moreton	345.13	340.81
Newhall	355.14	350.70
Norbury	94.59	93.41
North Rode	122.62	121.08
Odd Rode	1,928.35	1,904.25
Ollerton with Marthall	312.41	308.50
Over Alderley	210.80	208.17
Peckforton	70.18	69.30
Peover Superior	399.81	394.81
Pickmere	364.49	359.94
Plumley with Toft and Bexton	391.10	386.21
Poole	66.39	65.56
Pott Shrigley	150.69	148.81
Poynton with Worth	5,785.25	5,712.94
Prestbury	2,150.94	2,124.06
Rainow	588.42	581.06
Ridley	73.51	72.59
Rope	809.14	799.03
Rostherne	78.87	77.88
Sandbach	6,539.19	6,457.45
Shavington-cum-Gresty	1,599.68	1,579.68
Siddington	181.99	179.71
Smallwood	295.92	292.22
Snelson	79.91	78.92
Somerford	190.62	188.24
Sound	102.27	100.99
Spurstow	188.58	186.22
Stapeley	1,375.59	1,358.40
Stoke	109.02	107.66
Styal	369.68	365.06
Sutton	1,131.91	1,117.76
Swettenham	166.65	164.56
Tabley	207.46	204.87
Tatton	10.69	10.56
Twemlow	104.44	103.14
Walgherton	59.50	58.75
Wardle	51.57	50.93
Warmingham	118.35	116.87
Weston	901.14	889.88
Wettenhall	118.92	117.43
Willaston	1,267.51	1,251.66
Wilmslow	11,131.48	10,992.34
Windle	95.53	94.34
Wirswall	41.18	40.66
Wistaston	2,977.83	2,940.61
Woolstanwood	245.83	242.76
Worleston	109.78	108.41
Wrenbury	441.98	436.45
Wybunbury	597.42	589.96
	<b>139,289.65</b>	<b>137,548.53</b>

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**Extract from the minutes of the meeting of Cabinet – 12 November 2013****86 REVISED STATEMENT OF LICENSING POLICY**

Cabinet considered the final draft of the Revised Statement of Licensing Policy which was being recommended to Council by the Licensing Committee.

The Council was required to review its existing statement of principles and publish a revised version by 31<sup>st</sup> January 2014, having consulted those stakeholders identified by the legislation.

**RESOLVED**

That Cabinet support the recommendation of the Licensing Committee that the Council resolves to adopt the revised Statement of Licensing Policy (Appendix 1 to the report) to take effect on 1<sup>st</sup> February 2014.

**Note for information**

Before Cabinet considered the Revised Statement of Licensing Policy, the Licensing Committee received reports on the Policy on two occasions. The minutes of these meetings appear at pages 29-32.

The recommendations of the Licensing Committee have been incorporated in the revised Statement of Licensing Policy, which is reproduced at pages 33-72.

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# CHESHIRE EAST COUNCIL

## Cabinet

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<b>Date of Meeting:</b>	12 <sup>th</sup> November 2013
<b>Report of:</b>	Miss Kim Evans – Licensing Team Leader
<b>Subject/Title:</b>	Revised Statement of Licensing Policy
<b>Portfolio Holder:</b>	Cllr Les Gilbert, Communities and Regulatory Services

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### 1.0 Report Summary

- 1.1 The Licensing Act 2003 requires that Licensing Authorities prepare and publish a statement of policy that they propose to apply when exercising their functions under the Act during the five year period to which the Statement applies.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31<sup>st</sup> January 2014. In preparing a revised statement the Council must undertake a consultation exercise with those stakeholders identified by the legislation.

### 2.0 Recommendations

- 2.1 That Cabinet support the recommendation of the Licensing Committee that the Council resolves to adopt the revised Statement of Licensing Policy (Appendix 1) to take effect on 1<sup>st</sup> February 2014.

### 3.0 Reasons for Recommendations

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

### 4.0 Wards Affected

- 4.1 All

### 5.0 Local Ward Members

- 5.1 All

### 6.0 Policy Implications

- 6.1 None identified

## **7.0 Financial Implications**

7.1 None identified

## **8.0 Legal Implications**

8.1 In accordance with Section 4 of the Licensing Act 2003 (the Act) the Licensing Authority must discharge its functions with a view to promoting the four Licensing Objectives:

- § The prevention of crime and disorder
- § Public Safety
- § The prevention of public nuisance
- § The protection of children from harm

8.2 Section 5 of the Act 2003 the Licensing Authority is required to determine and publish a Statement of Licensing Policy 'with respect to the exercise of its licensing functions'.

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

8.4 The case of *R (on the application of The British Beer and Pub Association) v Canterbury City Council [2005] EWHC 1318 (Admin)* is the only case that has specifically considered the role of the Statement of Licensing Policy and its content. This case confirms:

- § The Policy must set out how the Licensing Authority will approach the making of decisions under the Act
- § Applicants should be aware of the expectations of the Licensing Authority, but the content of an application is a matter for the applicant
- § A Policy must not mislead an applicant into believing that s/he must meet requirements that are not relevant and must not suggest requirements that cannot lawfully be imposed
- § The Policy must also be read as a whole and can be rendered wholly unlawful if parts are considered unlawful

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

- § Cheshire Constabulary
- § North West Fire and Rescue Service
- § Representatives of the local licensing trade
- § Representatives of local businesses and residents

- 8.6 Statutory Guidance has been issued by the Home Office under Section 182 of the Licensing Act 2003. This Guidance must be taken into account by Licensing Authorities when formulating policy and making decisions. This is updated regularly and was last updated in June 2013. The Home Office has also issued non-statutory guidance “for Health Bodies on exercising new functions under the Licensing Act 2003” in May 2012. This is aimed at Health Bodies as Responsible Authorities. Care must be taken by a Licensing Authority if considering this Guidance since the promotion of the four licensing objectives is the Licensing Authority’s key responsibility.

## **9.0 Risk Management**

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

## **10.0 Background and Options**

- 10.1 The first Statement of Licensing Policy approved by this Council came into effect in January 2009.
- 10.2 When exercising the functions of the Licensing Act 2003 the Licensing Authority must promote the statutory licensing objectives as stated in paragraph 8.1.
- 10.3 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.
- 10.4 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.
- 10.5 In accordance with the statutory timescales the revised policy must be in place to take effect from January 2014. When the Statement of Licensing Policy has been confirmed and published, subject to any further reviews and necessary consultation, it shall remain in force for a further period of five years (i.e. to January 2019).
- 10.6 The following timescales was applied to allow for the proper consideration of the draft statement of policy:

- § Draft revised Statement approved for 6 week consultation period by relevant Cabinet Member – 15<sup>th</sup> July 2013
- § Licensing Committee – 16<sup>th</sup> July 2013
- § Corporate Scrutiny – 10<sup>th</sup> September 2013
- § **End of Consultation – 16<sup>th</sup> September 2013**
- § Licensing Committee – 30<sup>th</sup> September 2013 & 11<sup>th</sup> October 2013 to consider the consultation responses
- § Confirmed by Cabinet – 12<sup>th</sup> November 2013
- § To be adopted by Council – 12<sup>th</sup> December 2013
- § Publication of Policy in January 2014
- § Policy effective from January 2014

10.7 Members should note that the consultation period commenced following a decision of the Communities and Regulatory Services Portfolio Holder on the 15<sup>th</sup> July 2013.

10.8 The content of the Policy was also considered by the Members of the Licensing Committee on the 16<sup>th</sup> July 2013 with no changes proposed.

10.9 The consultation took place between 5<sup>th</sup> August 2013 and 16<sup>th</sup> September 2013 took the following form:

1. Letters were sent to all Premises Licence Holders and Club Premises Certificate Holders.
2. Letters were sent to all Personal Licence Holders who are Designated Premises Supervisors in the Borough.
3. All Responsible Authorities were contacted by email.
4. All Town and Parish Councils were contacted through the Council's Partnership Team. The Policy was also made available on the Partnerships Team's Sharepoint site.
5. All Borough Members were contacted by email.
6. The draft revision was available on the Council's website for public comment during the consultation period.
7. The Local Safe Guarding Adults Board was also contacted.
8. The Chambers of Commerce were contacted together with various national trade organisations.

10.10 The draft Policy was also considered by the Council's Corporate Scrutiny Committee on the 10<sup>th</sup> September 2013 who confirmed their approval of the draft Policy.

10.11 On the 30<sup>th</sup> September 2013 and the 11<sup>th</sup> October 2013 the Licensing Committee considered the responses received during the consultation

process. The Committee fully considered all of the responses received and gave appropriate weight to the proposal or points made. Any matters that could not have been taken into consideration, due to the legal framework that needs to be applied, were disregarded.

- 10.12 The final draft of the Revised Statement of Licensing Policy attached at Appendix 1 represents the final recommendation by the Licensing Committee.

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

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

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

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**Extract from the minutes of the meeting of the Licensing Committee – 30 September 2013**

**15 STATEMENT OF LICENSING POLICY REVIEW**

The Committee considered a report regarding a draft revised Statement of Licensing Policy, which included responses received during the consultation period and Licensing Officer comments.

The Council was required to review its existing statement of Licensing Policy and publish a revised version by no later than 31 January 2014. A consultation exercise had been undertaken and the draft revised Policy had been considered by the Licensing Committee on 16 July 2013 and the Corporate Scrutiny Committee on 10 September 2013.

**RESOLVED**

1. That the draft revised Statement of Licensing Policy, as set out in Appendix 1 to the report, be amended as follows:
  - (a) That references to Local Authority be replaced with 'the Council'.
  - (b) That the bullet points in paragraph 1.3 be replaced with the following:
    - § Cheshire East has a strong and resilient economy
    - § People live well and for longer
  - (c) That the following paragraphs be inserted following paragraph 1.3:

'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.'

'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.'
  - (d) That the date of the latest guidance in paragraph 1.4 be amended to June 2013.
  - (e) That the first sentence of paragraph 2.9 be amended to read:

'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.'
  - (f) That the first sentence of paragraph 2.11 be amended to read: '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.'

- (g) That the numbering of paragraph 3.6 be amended to 3.3.
  - (h) That the first sentence of paragraph 5.2 be amended to read: 'The Council recognises that Licensed Premises are an important contributor to the local economy.'
  - (i) That the first sentence of paragraph 7.7 be amended to read: '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.'
  - (j) That the following sentence be added to paragraph 9.4: '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.'
  - (k) That in paragraph 9.4 the reference to noise ventilation systems be removed.
  - (l) That in paragraph 9.5 references to 'noise' be replaced with 'any noise'.
  - (m) That the typing error in paragraph 10.4 be corrected.
  - (n) That the first sentence of paragraph 11.12 be amended to read: 'Applications for variations to existing premises licenses in stress areas will not be granted WHERE those modifications directly affect the issue of cumulative impact in the stress area or otherwise undermine licensing objectives.'
  - (o) That the last sentence of paragraph 15.2 be amended to read: '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.'
  - (p) That 'of' be replaced with 'or' in the final line of paragraph 21.4.
  - (q) That 'The Cheshire East Health and Wellbeing Board' be added as an additional bullet point in paragraph 23.1.
  - (r) That the reference to police objections to Temporary Event Notices in Appendix 1 be replaced with 'relevant objections'
2. That the meeting be adjourned to a date to be agreed, to give further consideration to the draft revised Statement of Licensing Policy.



**Extract from the minutes of the meeting of the Licensing Committee -  
11 October 2013**

**23 STATEMENT OF LICENSING POLICY REVIEW**

The Licensing Committee meeting held on 30 September 2013 had been adjourned to enable Committee Members to give further consideration to the draft revised Statement of Licensing Policy.

Councillor L Brown attended the meeting and, with the agreement of the Chairman, addressed the Committee on this matter.

The Committee considered the consultation responses received from Councillor L Brown, Licensing Officer comments with respect to Councillor Brown's statements, and further written comments from Councillor Brown.

**RESOLVED**

1. That, in addition to the amendments agreed at the Licensing Committee meeting on 30 September 2013, the draft revised Statement of Licensing Policy be further amended as follows:
  - (a) That a heading 'Policy Considerations' be inserted in Section 2, before the paragraphs setting out the requirement to consider each case on its own merit and the right to make a representation.
  - (b) That the following paragraph be included in Section 8:

'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.'
  - (c) That the following paragraph be included in Section 1:

'The Licensing Authority has noted that the vicinity test in respect of relevant representations has been removed and consequently any person can now make a representation.'
  - (d) That the paragraph numbering error in Section 2 be corrected.
  - (e) That 'significant' be replaced with 'detrimental' in paragraph 7.2.
  - (f) That paragraphs 8.3 and 8.4 of the existing policy be included after paragraph 9.7.
  - (g) That paragraph 22.4 be moved to Section 2.

- (h) That the mandatory conditions be included as an appendix to the Policy.
  - (i) That, in addition to the four statutory licensing objectives, the other key aims and purposes supported by the Statutory Guidance, issued by the Home Office, be detailed in Section 2.
  - (j) That the wording of paragraph 2.5 be amended to reflect the Statutory Guidance issued by the Home Office.
  - (k) That paragraph 21.4 be amended by the Licensing Team Leader in consultation with the Chairman.
  - (l) That a paragraph be added at the end of the Policy by the Licensing Team Leader in consultation with the Chairman to explain how a review of the Statement of Licensing Policy would be undertaken if a review were necessary during the 5 year period for which the Policy was adopted.
- 2. That the draft revised Statement of Licensing Policy, as amended, be referred to Cabinet for consideration.
  - 3. That Council be recommended to adopt the revised Statement of Licensing Policy, as amended.



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

## **Contents**

1. Introduction
2. The aim of the Policy and Statutory Licensing Objectives
3. Matters within the control of the Licence Holder
4. Planning and need for Licensed Premises
5. Integrating Strategies
6. Anti-Social Behaviour
7. Prevention of Crime and Disorder
8. Public Safety
9. Prevention of Public Nuisance
10. Protection of Children from Harm
11. Cumulative Impact
12. Applications for New Grants and Variation of Existing Terms and Conditions
13. Temporary Events
14. Operating Schedule
15. Hours of Operation
16. Conditions
17. Enforcement and Review
18. Early Morning Alcohol Restriction Orders (EMRO's)
19. Late Night Levy
20. The Licensing Process
21. Delegation and Decision Making
22. Exclusions
23. Consultation
24. Changes to Legislation

*Appendix 1 – Table of Delegations of Licensing Functions*

*Appendix 2 – Procedure at Hearings*

*Appendix 3 – Mandatory Conditions*

## 1. Introduction

- 1.1 Cheshire East Council (**the Council**) is the Licensing Authority for the area of Cheshire East under the provisions of the Licensing Act 2003 (**the Act**).
- 1.2 The Local Authority's current Statement of Licensing Policy was published on 24<sup>th</sup> February 2009. A review of that policy is due by January 2014. This Statement of Licensing Policy (**the Policy**) is the result of the review and is published by the Council in accordance with section 5 of the Act. The Policy provides information and guidance to applicants and persons who are likely to be affected by an application (e.g residents and businesses) and Responsible Authorities or anyone interested in these matters. It will clarify the manner in which the Council will approach matters relating to licensing. Whilst the policy provides framework guidance regarding the considerations it will take into account when determining any licence application, the Council, as the Licensing Authority, will ultimately determine each individual application on its own merits.
- 1.3 Cheshire East's mission is for 'Cheshire East to be a great place to live, work, visit and enjoy'. The mission statement complements the aims of this Policy. There are a number of Corporate Objectives some of which link with this Policy. They include:
  - § Cheshire East has a strong and resilient economy
  - § People live well and for longer
- 1.4 The context of the Policy includes the Local Authority'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 Local Authority'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 June 2013. 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.**

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

- 1.8 The Licensing Authority has noted that the vicinity test in respect of relevant representations has been removed and consequently any person can now make a representation.
- 1.9 In formulating the Policy, the Licensing Authority has consulted all Responsible Authorities, holders of licences under the Act and the public within Cheshire East.
- 1.10 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 Local Authority 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 Local Authority 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 Local Authority 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
- 2.3 The Local Authority has a duty to protect the amenity of its residents. This extends to the business community, who can expect the Local Authority to ensure that the environment is attractive and sustainable for the conduct of their business.
- 2.4 It is the Local Authority'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**
- 2.5 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.
- 2.6 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

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

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

### **Policy Considerations**

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

2.9 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.

2.10 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.

2.11 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.

- 2.12 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.
- 2.13 To achieve its aims the Local Authority 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 Local Authority 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 Local Authority's approved strategies and policies where they are relevant to the exercise of its function as the Licensing Authority.
- 5.2 The Local Authority 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 Local Authority do all that it reasonably can to prevent crime and disorder in its locality
  - § The European Convention on Human Rights (which is given effect by the Human Rights Act 1998), which places a duty on public authorities to protect the rights of individuals in a variety of circumstances
  - § Any other relevant legislation drawn to its attention

- 5.4 The Licensing Authority will seek to discharge its responsibilities identified by other Government Strategies, insofar as they impact on the objectives of the Licensing Act. Examples of these strategies are:

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

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

- 6.1 The Licensing Authority recognises that in addition to the requirements for it to promote the Licensing Objectives, the Local Authority has a duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder within its area.
- 6.2 The objective of the licensing process is to allow the retail sale of alcohol and the provision of other Licensable Activities in a manner that ensures the public's safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's aim to facilitate well run and managed premises with premises licence holders displaying sensitivity to the impact of their premises on local residents.
- 6.3 In accordance with 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 of 21 or 25 to ensure alcohol is not sold to those under 18 and that those under 16 are accompanied in alcohol-led premises
- § Appropriate 'early warning' communication systems with the Police and with other licensed premises
- § The installation of CCTV
- § Clear policies and measures to prevent illegal drugs being brought onto and used on the premises
- § Searching of customers and staff

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

### **Safer Clubbing**

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

### **Drugs**

7.7 Following Relevant Representations, conditions may need to be imposed for certain types of venues to 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 Local Authority'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 dense 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.
- 9.8 The Licensing Authority further recognises the Government's view that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists. Whilst providing consumers with greater choice and flexibility is an important consideration, the Licensing authority takes the view this should always be carefully balanced against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 9.9 The Licensing Authority will not seek to impose uniform closure times in relation to alcohol licensed premises and will consider each application on its merits. However, where premises are situated in sensitive areas, in circumstances where the Licensing Authority's discretion has been engaged through the receipt of relevant representations, consideration will be given to the imposition of conditions aimed at limiting the impact of noise and

disturbance on residents. Such conditions may, for example, include the use of door supervisors, or measures to prevent the escape of sound from within the premises. Licensees and certificate holders are reminded that they should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance in outside areas such as beer gardens or smoking shelters and in areas such as pavements immediately outside their premises, where and to the extent that , these matters are within their control.

### **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 Licenses in Stress Areas**

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

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

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

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

- 12.1 In the absence of any Relevant Representations in respect of any application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any Mandatory Conditions prescribed in the Act. This will also apply to any applications made in respect of premises within an identified Stress Area.
- 12.2 The EU Services Directive (Directive 2006/123/EC) and the Provision of Services Regulations 2009 require the Authority to enable an electronic application facility. This is available through [www.GOV.uk](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 Local Authority'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 applicants indicate within the operating schedule that consideration has been given to the extent the licensing hours applied for will impact on local residents and the surrounding area.
- 15.4 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting the hours. Consideration may be given to restricting the licensing hours of individual shops in circumstances where representations received indicate that the premises is a focus of disorder and disturbance.

#### **16. Conditions**

- 16.1 The Licensing Authority may, when considering the content of the Operating Schedule, select appropriate conditions from the Home Office Guidance, pool of Conditions, where it is deemed appropriate to ensure that the Operating Schedule reflects the four Licensing Objectives.
- 16.2 Where appropriate, following receipt of Relevant Representations, the Licensing Authority, may attach conditions to the grant of a licence which seeks to regulate the behaviour of persons as they leave licensed premises.

- 16.3 Where existing law already places statutory obligations on applicants the Licensing Authority will not usually impose the same or similar duties by way of condition.

## **17. Enforcement and Review**

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

### **Door Supervisors**

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

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

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

§ Prosecution for the offence of selling (or allowing such a sale of) alcohol to a person who is drunk

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

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

## **19. Late Night Levy**

19.1 Under Section 125 of the Police Reform and Social Responsibility Act 2011 the Local Authority can adopt a Late Night Levy, following a consultation process, outlined by the Home Office. It allows the Local Authority 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 Local Authority 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 Local Authority's 30% must be used to fund services which make the late night economy a more welcoming place.

19.3 The Local Authority will consider implementing a Late Night Levy if appropriate.

## **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 agreement is possible to conditions which would overcome the 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.

### **Children**

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

### **Standardised conditions**

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

## **23. Consultation**

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

- § Cheshire Constabulary
- § Cheshire Fire and Rescue Service
- § Cheshire East Health and Wellbeing Board
- § Current licence holders
- § Representatives of the local licensing trade



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

## **24. Changes to Legislation**

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

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

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

## **25. Review of the Statement of Licensing Policy**

25.1 The adoption of a revised Statement of Licensing Policy is reserved to Full Council. However if a review were necessary during the 5 year period for which the Policy is adopted this can be undertaken by the relevant Cabinet member and the Council's Licensing Committee which would make a recommendation to Council.

### 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 complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when Local Authority is a consultee and		All cases	

<b>Matter to be Dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
not a lead authority			
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.

## **Appendix 3**

### **Mandatory Conditions**

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

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

1. No supply of alcohol may be made under the 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 the premises licence must be made or authorised by a person who holds a personal licence

**Mandatory condition: exhibition of films**

1. Where a premises licence or club premises certificate authorises the exhibition of films, the licence/certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence/certificate, unless condition (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where
  - (a) the film classification body is not specified in the licence, or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

Admission of children must be restricted in accordance with any recommendation made by that licensing authority

**Mandatory condition: door supervision**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must:
  - (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 that Act

**Prohibited conditions: plays**

1. In relation to a premises licence or club premises certificate 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.

**Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010**

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:

- (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act)
  - (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 of 24 hours or less
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring
  - (e) 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
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
  3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
  4. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible 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 a holographic mark.

5. The responsible person shall 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: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

Conditions 1- 3 and 5 do not apply where the Premises Licence authorises the sale and supply of alcohol only for consumption off the premises.

**EXTRACT FROM THE MINUTES OF THE AUDIT AND GOVERNANCE COMMITTEE - 28 NOVEMBER 2013****14 ANNUAL REPORT 2012/13**

Consideration was given to the draft Annual Report of the Committee for 2012/13 prior to its submission to full Council on 12 December. There is a requirement in the Council's Constitution for the Audit and Governance Committee to submit an annual report to Council to demonstrate how they have fulfilled their terms of reference and to account for their performance. CIPFA guidance states that certain key aspects be included such as the Committee's membership; a summary of activity including key topics, decisions and recommendations; and a review of the committee's effectiveness including any external assessment results and development activity undertaken such as training and networking. The CIPFA guidance also stated that annual reports should be publicly available, readable and accessible.

**RESOLVED**

That the Annual Report 2012/13 be approved for submission to Council.

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# CHESHIRE EAST COUNCIL

## REPORT TO: Audit and Governance Committee

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**Date of meeting:** 28 November 2013  
**Report of:** Chair of the Audit and Governance Committee 2012/13  
**Title:** Audit and Governance Committee Annual Report 2012/13  
**Portfolio Holder:** Councillor Peter Raynes

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### **1.0 Report Summary**

- 1.1 The purpose of the report is for the Committee to consider the draft 2012/13 Annual Report of the Audit and Governance Committee and agree the final version of the report that will go to Council in December 2013.

### **2.0 Recommendation**

- 2.1 That the Committee considers the draft Annual Report 2012/13, as attached (Appendix A) and agree the final version that will go to Council in December 2013.

### **3.0 Reasons for Recommendation**

- 3.1 In accordance with the Council's Constitution, the Audit and Governance Committee shall submit an annual report to Council.

### **4.0 Wards Affected**

- 4.1 All wards.

### **5.0 Local Wards Affected**

- 5.1 Not applicable.

### **6.0 Policy Implications**

- 6.1 Not applicable.

### **7.0 Financial Implications**

- 7.1 None.

### **8.0 Legal Implications**

- 8.1 There is a legal requirement on the council to conduct a review at least once a year of the effectiveness of its systems of internal control.

- 8.2 The Council's constitution gives responsibility to the Audit and Governance Committee for overseeing the Council's roles and responsibilities in respect of Corporate Governance and Audit and specifically for submitting an annual report to Council.

## **9.0 Risk Assessment**

- 9.1 There is a requirement within the Council's Constitution for the Audit and Governance Committee to submit an annual report to Council. Failure to submit the record would be a breach of the Constitution.

## **10.0 Background and Options**

- 10.1 Many Audit Committees prepare an annual report to demonstrate how they have fulfilled their terms of reference and to account for their performance. CIPFA guidance states key aspects to consider including in such a report are:

- § Committee membership
- § Summary of activity, including key topics, decisions and recommendations.
- § Review of the committee's effectiveness, including any external assessment results.
- § Development activity undertaken. For example training, networking with other audit committees or peer reviews.

It also states that annual reports should be publically available and care should be taken to make them readable and accessible.

- 10.2 The requirement to submit an annual report is included within Cheshire East Council's Constitution and the 2012/13 report is the second annual report of this Committee.

## **11.0 Access to information**

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

Name: Councillor John Hammond

Designation: Chair of the Audit and Governance Committee 2012/13

Tel No: 01270 753205

Email: [john.hammond@cheshireeast.gov.uk](mailto:john.hammond@cheshireeast.gov.uk)



**Cheshire East Council**  
**Audit and Governance Committee**  
**Annual Report 2012/13**

## Contents

	Page
<b>Introduction by the Chair of the Audit and Governance Committee</b>	<b>1</b>
<b>Audit and Governance Committee - Background and Review of 2012/13</b>	<b>2</b>

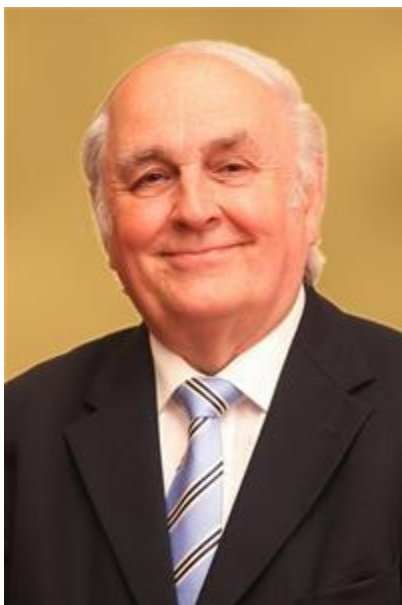
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## Appendices

<b>A</b>	<b>Audit and Governance Committee Members 2012/13</b>	<b>6</b>
<b>B</b>	<b>Audit and Governance Committee Activity 2012/13</b>	<b>8</b>
<b>C</b>	<b>Audit and Governance Committee Functions and Relevant Activity 2012/13</b>	<b>10</b>
<b>D</b>	<b>Audit and Governance Committee Self Assessment</b>	<b>13</b>
<b>E</b>	<b>Audit and Governance Committee Work Plan 2013/14</b>	<b>17</b>



## Introduction by the Chair of the Audit and Governance Committee



I am pleased to present the second Annual Report of the Audit and Governance Committee which describes the Committee's activity over the municipal year to May 2013.

I hope that this Annual Report helps to demonstrate both to the Council and the wider community in general, the important role that is performed by the Audit and Governance Committee and the particular contribution that it makes to the Council's overall governance and control arrangements.

The reduction in resources and the pace of change within local government makes the importance of effective governance and accountability greater than ever. The past year has seen the Committee exercise robust challenge across its entire remit through the questions raised and the requests made for additional information.

During the year the Committee has considered the key issues affecting the Council's governance framework. Apart

from the substantial work plan, the Committee has also shown that it can be proactive in seeking to understand and review emerging areas of risk and concern.

I welcome the fact that a review of the new procedures set out to deal with complaints relating to the Code of Conduct will be carried out as promised at outset. I hope that any changes recommended will, in the light of experience gained in the last year, improve the process.

This is my final report as Committee Chair as I have taken on a new role. I would like to thank both Members and Officers alike for all they have done to develop the work of the Committee since its inception in 2010. The Members of the Committee have been both supportive and provided constructive challenge to ensure our governance processes are effective and transparent. I would also like to thank Grant Thornton, the Council's External Auditors, for their support and regular attendance at meetings.

Finally, I would like to take this opportunity to wish the new Chair Cllr John Wray every success in continuing the development of the work of the Committee.

***Councillor John Hammond***

**Chair of the Audit and Governance Committee 2012/13**

**November 2013**

## Audit and Governance Committee Background and Review of 2012/13

### Background

#### ***Why do we have an Audit and Governance Committee?***

Audit Committees are an essential element of good governance. Good corporate governance requires independent, effective assurance about the adequacy of financial management and reporting. These functions are best delivered by an Audit Committee, independent from the executive and scrutiny functions.

Effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues within an organisation, as well as providing a forum for the discussion of issues raised by internal and external auditors. They enhance public trust and confidence in the financial governance of an authority.

#### ***When does it normally meet?***

It meets four times a year and works to a strategic work plan. Membership of the Committee is ten councillors in proportion to the Council's political composition, see **Appendix A** (page 6). All meetings are held in public. Details of future meetings are shown in **Appendix E** (page 17).

#### ***When did it start work?***

The current Committee began in May 2010 after it was decided to decommission the Governance and Constitution Committee and have a separate Audit Committee (named 'Audit and Governance' Committee) and a Constitution Committee. This strengthened the governance framework

by allowing each Committee to focus on its own particular areas.

### Review of 2012/13

#### ***When did it meet in 2012/13?***

There were four scheduled meetings in the year:

- 28<sup>th</sup> June 2012
- 27<sup>th</sup> September 2012
- 31<sup>st</sup> January 2013
- 28<sup>th</sup> March 2013

In addition, there was a special meeting of the Committee, to consider the review of Lyme Green, on:

- 14<sup>th</sup> June 2012

The agenda items covered are shown in **Appendix B** (page 8). Reports and supporting documents are publically available at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

#### ***What work did it carry out in 2012/13?***

A work plan was agreed at the beginning of the year and all planned work was completed, including the following:

- Statement of Accounts
- Annual Governance Statement
- Internal Audit Plan
- Internal Audit Annual & Interim Reports
- External Audit Reports to the Council
- Risk Management Reports
- Anti-Fraud and Corruption Arrangements
- Whistleblowing Policy

Details of work carried out are shown in **Appendix B** (page 8).

## Audit and Governance Committee Background and Review of 2012/13

### Review of 2012/13 (continued)

#### ***What key decisions did the Committee take in 2012/13?***

During 2012/13, the Committee made a number of key decisions, including the following:

- Agreed and monitored progress against the Lyme Green Action Plan
- Approved the 2011/12 Statement of Accounts
- Approved the 2011/12 AGS
- Endorsed the updated Risk Management Policy

#### ***Did the Committee cover the right areas?***

To ensure that the Committee met its remit for the year, its activities have been matched to the designated functions of the Committee as set out in the Council's [Constitution](#). The results are set out in **Appendix C** (page 10).

#### ***What is the role of Internal Audit?***

The Internal Audit service carries out reviews throughout the year on the whole of the Council's control environment, comprising risk management, key control and governance processes. This work includes a mix of risk based auditing, regularity, ICT audit, investigations and the provision of advice to officers.

Internal Audit activity is regularly reported to the Committee by the two Audit Managers, Jon Robinson and Neil Taylor, including the annual opinion on the adequacy and effectiveness of the Council's internal control environment.

#### ***Who are the Council's External Auditors?***

The Council's External Auditors from 1<sup>st</sup> June to 31<sup>st</sup> August 2012 were the Audit Commission's in-house Audit Practice.

Following the externalisation of the Audit Commission's work to private sector firms, the Council's new External Auditors became Grant Thornton, with effect from 1<sup>st</sup> September 2012.

Their representatives, led by Engagement Lead, Judith Tench, attend every Audit Committee meeting and report progress on the annual cycle of external audit work.

#### ***Does it meet best practice standards?***

The functions of the Audit and Governance Committee are based on best practice, as featured in the CIPFA (Chartered Institute of Public Finance and Accountancy) publication, *Audit Committees – Practical Guidance for Local Authorities*.

To ensure its ongoing effectiveness in 2012/13, the Committee has been assessed against the detailed checklist included within the CIPFA guidance. The results are shown as **Appendix D** (page 13)) and show that the Committee fully complies with best practice, with the exception of two aspects with which it partially complies.

## Audit and Governance Committee Background and Review of 2012/13

### Review of 2012/13 (continued)

#### ***What training and development is carried out for Members?***

- Induction for new Members of the Committee
- Statement of Accounts
- Annual Governance Statement
- Localism Act 2011: Code of Conduct

The Member/Officer Groups set up in September 2011, continued to meet through 2012/13. The groups enable individual Members to become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise, and cover the following areas:

- Audit
- Corporate Governance & Annual Governance Statement
- Financial Statements
- Fraud Management
- Risk Management

#### ***What is the Code of Conduct for Members' Complaints procedure?***

In accordance with the Council's Code of Conduct for Members' Complaints procedure, decisions relating to complaints shall be reported to the Audit and Governance Committee.

Cheshire East Council adopted a new Code of Conduct and associated complaints procedure in July 2012. Between July 2012 and April 2013, six complaints (two against Members of Cheshire East Council and four against Members of Parish Councils) were received by the Monitoring Officer which were submitted for

consideration to an Initial Assessment Panel.

#### Decisions of Initial Assessment Panels:

No further action	1
Referred to a Group Leader for informal action	1
Referred for local resolution	4
Referred for formal investigation	-
Referral to a regulatory agency or police	-

Of the four complaints referred for local resolution, one was withdrawn prior to a meeting being convened; in respect of another the Panel concluded there was insufficient information for it to reach a conclusive decision that a breach of the Code had or had not occurred.

In respect of the other two complaints, the Subject Members concerned were found to have been in breach of their respective Codes of Conduct; the Panel applying/recommending the following sanctions:

#### Decisions of the Local Resolution Panels:

Formal censure e.g. through a motion	-
Send a formal letter to the Subject Member	1
Recommend a course of action to the Subject Member's Group Leader/Town/Parish Council	1
Report findings to Council/Town or Parish Council for information	-
Issue a press release of its findings in respect of the Subject Member's conduct	-

## Audit and Governance Committee Background and Review of 2012/13

### Review of 2012/13 (continued)

#### ***What is planned for 2013/14?***

The Committee's work plan for 2013/14 is shown as **Appendix E** (page 17). These are the items required to ensure the Committee covers its remit. The work plan is brought to each Committee meeting for update, where necessary, and approval. Members consider the contents of the Work Plan and establish any additional agenda items/training/briefing sessions that will enable it to meet its responsibilities.

**Audit and Governance Committee Members 2012/13****Councillor John Hammond**

Councillor Hammond has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and became the Chair in May 2011. Councillor Hammond stepped down from the Audit and Governance Committee following the Council meeting on 18<sup>th</sup> July 2013 and was replaced as Chair by Councillor John Wray.

**Councillor Louise Brown**

Councillor Brown became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee as the Vice-Chair from the 2012/13 municipal year.

**Councillor Sam Corcoran**

Councillor Corcoran became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then.

**Councillor Rod Fletcher**

Councillor Fletcher has been an elected member of Cheshire East Council since its beginning in April 2009 and has served on the Audit and Governance Committee since May 2011.

**Councillor Martin Hardy**

Councillor Hardy has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and was Vice-Chair from May 2011 to January 2012.

**Audit and Governance Committee Members 2012/13****Councillor Steven Hogben**

Councillor Hogben became an elected member of Cheshire East Council in June 2011 and after attending as a substitute in June 2011, he has since served on the Audit and Governance Committee from September 2011 to date.

**Councillor Andrew Kolker**

Councillor Kolker has been an elected member of Cheshire East Council since its beginning in April 2009. He served as Vice-Chair of the Governance and Constitution Committee for a time and has been on the Audit and Governance Committee from June 2010 to date.

**Councillor David Marren**

Councillor Marren became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then, being Vice-Chair from January 2012 until the end of the 2011/12 municipal year.

**Councillor Lloyd Roberts**

Councillor Roberts became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee from the start of the 2012/13 municipal year.

**Councillor Margaret Simon**

Councillor Simon has been an elected member of Cheshire East Council since its beginning in April 2009. She has served on the Audit and Governance Committee since its inception in June 2010 and was Chair for the 2010/11 year.



**Audit and Governance Committee Activity 2012/13**

<b>14<sup>th</sup> June 2012</b>
<b>Items covered:</b> Review of the proposed waste transfer station at Lyme Green.
<b>28<sup>th</sup> June 2012</b>
<b>Items covered:</b> External Audit: Audit Committee Update Draft Statement of Accounts 2011/12: Approval Process Draft Annual Governance Statement 2011/12 Internal Audit Annual Report 2011/12 Annual Report on Risk Management 2011/12
<b>27<sup>th</sup> September 2012</b>
<b>Items covered:</b> Action Plan arising from Internal Audit Report into Waste Transfer Station (Lyme Green) Compliance with Contract Procedure Rules External Audit: Annual Governance Report 2011-12 Final Statement of Accounts 2011-12 Annual Governance Statement (AGS) 2011/12 Code of Corporate Governance and the Governance Framework Update Internal Audit Interim Report 2012/13 Anti-Fraud and Corruption Arrangements Treasury Management Update Risk Management Update Standards Issues and Planning Protocol Audit and Governance Committee Annual Report 2011/12
<b>31<sup>st</sup> January 2013</b>
<b>Items covered:</b> Action Plan arising from Internal Audit Report into Waste Transfer Station (Lyme Green) Annual Governance Report Action Plan – Progress Report and Annual Audit Letter 2011/12 Risk Management Update External Audit: Update and Annual Fee Letter 2012/13 Statement of Accounts 2012/13 – Progress Report Annual Governance Statement (AGS) – 2012/13 Process and Update on 2011/12 Action Plan Treasury Management Strategy and MRP Statement 2013/14 Compliance with Data Protection Act (1998), Freedom of Information Act (2000) and Environmental Information Regulations (2004) Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review for year ended 31 <sup>st</sup> March 2012 Internal Audit Interim Report 2012/13
<b>28<sup>th</sup> March 2013</b>
<b>Items covered:</b> External Audit: Certification of Claims and Returns – Annual Report External Audit Plan 2012/13



**Audit and Governance Committee Activity 2012/13****28<sup>th</sup> March 2013 (continued)**

Internal Audit Plan 2013/14  
Audit and Governance Committee Self-Assessment  
Whistleblowing Policy  
Risk Management Update  
Update on Programme and Project Management and other Compliance Issues  
Compliance with Regulation of Investigatory Powers (2000) (RIPA)

**Audit and Governance Committee Functions and Relevant Activity 2012/13**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2012/13</b>
<b>Annual Report</b>	
Submitting an Annual Report to the Council.	The Committee approved its first annual report, covering the 2011/12 municipal year, at the September 2012 meeting and this report was submitted to Council in October 2012.
<b>Audit</b>	
Overseeing the Council's role and responsibilities in respect of Audit.	<p><i>Internal Audit:</i> The Committee approved the overall strategy and annual programme of audits (March 2013) and monitored progress against the plan (September 2012 &amp; January 2013).</p> <p><i>External Audit:</i> The Committee received and considered the work of the External Auditor (June 2012/September 2012/January 2013 &amp; March 2013).</p>
Supporting the Council's audit function, both internal and external.	See above.
Considering the Head of Internal Audit's Annual Report and opinion and a summary of internal audit activity and the level of assurance over corporate governance arrangements.	The Internal Audit Annual Report, including the annual audit opinion was presented to the Committee in June 2012.
Receiving the Internal Audit Plan and summary reports on performance against the plan.	Internal Audit interim reports against the 2011/12 plan were received in September 2012 and January 2013, with the 2012/13 Internal Audit Plan received in March 2013.
<b>Corporate Governance &amp; Annual Governance Statement</b>	
Overseeing the Council's role and responsibilities in respect of Corporate Governance.	The Committee received and approved the Annual Governance Statement (September 2012), agreed the AGS process (January 2013) and received an update on progress against the AGS Action Plan (January 2013).
Developing a Code of Corporate Governance and to undertake as appropriate an assessment of wider governance issues.	The Committee received and approved an update to the Code of Corporate Governance and also received an update on the Corporate Governance Group's ongoing work on the Governance Framework (both September

**Audit and Governance Committee Functions and Relevant Activity 2012/13**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2012/13</b>
	2012).
Reviewing and approving the Annual Governance Statement.	The Annual Governance Statement 2011/12 was approved at Committee in September 2012.
<b>Financial Statements</b>	
Supporting the Chief Financial Officer in relation to the performance of their duties.	Reports on the Statement of Accounts, including progress and audit thereof were presented at June 2012, September 2012 and January 2013 Committee meetings.
Approving any Council Statement of Accounts as may be required by the relevant Account and Audit Regulations.	The Statement of Accounts 2012/13 was approved at Committee in September 2013.
Considering External Audit and other external agencies reports to those charged with governance as a source of assurance.	The Annual Audit Letter was reported to Committee in January 2013 by the External Auditor. A progress report on implementation of the 2011/12 Statement of Accounts Action Plan was brought to Committee by Officers in January 2013. The 2011/12 Annual Governance report was reported to the Committee in September 2012.
<b>Fraud Management</b>	
Ensuring the Council has in place appropriate policies and mechanisms to safeguard the Council's resources.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in September 2012.
Reviewing and making recommendations upon the Whistleblowing arrangements process.	An update on the effectiveness of the Policy and the number of reports received during 2012/13 was received by the Committee in March 2013.
Ensuring that the Council maintains a robust counter fraud culture via the implementation of an Anti Fraud and Corruption Policy and Strategy.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in September 2012.
Seeking assurance that Customer Complaint arrangements are robust.	Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 2011/12 presented to Committee in January 2013.
<b>Risk Management</b>	
Ensuring any Council's Risk Management arrangements are operating effectively.	Risk Management Update Reports are received at each Committee.

**Audit and Governance Committee Functions and Relevant Activity 2012/13**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2012/13</b>
Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.	General updates on insurance are reported to the Corporate Risk Management Group as part of their remit to review and monitor risks in relation to specific area needs as and when required e.g. Climate Change, Health and Safety, Insurance and the National Fraud Initiative (NFI). A summary of the key points from the insurance updates are included in the Risk Management Update reports to the Committee and a similar arrangement will continue in 2013/14. Any specific issues relating to Members' indemnity will be reported where necessary.
<b>Standards</b>	
Promoting high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).	In accordance with Cheshire East Council's Code of Conduct for Members' Complaints procedure, decisions relating to complaints shall be reported to the Audit and Governance Committee. A new Code of Conduct and associated complaints procedure was adopted in July 2012. Audit & Governance Committee Members have attended Complaints Hearings through the year.
Ensuring that Members receive advice and training as appropriate on the Members Code of Conduct.	During the year there have been general training sessions for all Members (August and September 2012) on the Code of Conduct and also a specific targeted session for Members of the Audit & Governance Committee (August 2012).
Granting dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority.	There have been no requests for individual dispensations during 2012/13.

## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
<b>Terms of Reference</b>				
Have the committee's Terms of Reference been approved by full Council?	✓			Approved as part of Constitution. Terms of Reference updated in 2011/12 to include requirement to submit an annual report to full Council.
Do the Terms of Reference follow the CIPFA model?	✓			Based on <i>Audit Committees – Practical Guidance for Local Authorities</i> , CIPFA 2005.
<b>Internal Audit Process</b>				
Does the Committee approve the strategic audit approach and the annual programme?	✓			Internal Audit Strategy approved in Sept 2009, with update in Nov 2010. Updated version scheduled to be taken to Committee in June 2013 based on new Public Sector Internal Audit Standards (agreed at January 2013 Committee). Audit plans approved annually – 2012/13 Plan approved in March 2012.
Is the work of Internal Audit reviewed regularly?	✓			Annual Internal Audit Opinion report received in June 2012. Interim reports received in Sept 2012 and Jan 2013.
Are summaries of quality questionnaires from managers reviewed?	✓			Results of questionnaires reported in interim reports for 2012/13 and will be reported in annual report.
Is the Annual Report, from the Head of Audit, presented to the committee?	✓			Annually to support production of the Annual Governance Statement (AGS). Last reported in June 2012.
<b>External Audit Process</b>				
Are reports on the work of External Audit and other inspection agencies presented to the Committee?			✓	External Audit reports: June 2012 – Audit Committee Update Report, Sept 2012 – Annual Governance Report 11-12, Jan 2013 – External Audit Update & Audit Fee Letter 2012/13.  Reports of other inspection agencies e.g. OFSTED do not go to the Audit & Governance Committee but summaries of key issues are presented to the appropriate Scrutiny Committee.
Does the Committee input			✓	As is normal practice, the external audit

## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
into the External Audit programme?				2012/13 plan has been prepared following consultation with Council Officers and will be presented at the March 2013 Committee meeting for the Committee to receive and comment on. Although Members do not directly input into the 'core' audit programme, as this is set by the Audit Commission, there is the opportunity to influence work outside this. Update reports from external audit are regularly brought to the Committee.
Does the Committee ensure that Officers are acting on and monitoring action taken to implement recommendations?	✓			Officers are asked to provide an update report on progress of any actions arising from the previous Committee meeting e.g. Progress on implementing the Statement of Accounts Action Plan was reported to the Committee in Jan 2013, and is discussed at the appropriate specialist Member/Officer Group.
Does the Committee take a role in overseeing: <ul style="list-style-type: none"> <li>• Risk Management strategies</li> <li>• Annual Governance Statement</li> <li>• Anti Fraud arrangements</li> <li>• Whistleblowing strategies?</li> </ul>	✓ ✓ ✓ ✓			<p>Review of Policy in June 2012. Update reports at each meeting.</p> <p>Approved 11/12 AGS in Sept 2012, Process for 12/13 AGS and update on 11/12 AGS action plan in Jan 2013. Reviewed in September 2012.</p> <p>Review of Policy in June 2011. There are also Annual update reports (latest is March 2013).</p>
<b>Membership</b>				
Has the membership of the Committee been formally agreed and a quorum set?	✓			There are ten members on the Committee and the quorum has been set at three.
Is the Chair free of Executive or Scrutiny functions?	✓			
Are Members sufficiently independent of the other key Committees of the	✓			The Chair and Vice-Chair are free of Executive and Scrutiny responsibilities.

## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
Council?				
Have all Members' skills and experiences been assessed and training given for identified gaps?	✓			The Committee considered training requirements against the CIPFA Better Governance Forum (BGF) recommendations in Sept 2010 and training requirements are considered at each subsequent Committee as part of the Work Programme/Plan. Induction sessions have been delivered each year to new Committee Members and a series of training sessions have been delivered around the IFRS, AGS, Risk and Customer Complaints. In January 2012, five specialist Member/Officer Groups were set up; these meet regularly as a way of individual Members becoming more involved in specific areas of audit and governance work and developing in-depth knowledge and expertise. The Chair attended the BGF 'Influential Audit Committee' seminar in January 2013.
Can the Committee access other Committees as necessary?	✓			Best practice states that the Audit Committee should report direct to the governing body i.e. full Council. In October 2012, the first annual report of the Audit & Governance Committee was submitted to full Council.
<b>Meetings</b>				
Does the Committee meet regularly?	✓			The Committee meets at least 4 times a year. Other meetings are programmed, where necessary.
Are separate, private meetings held with the External Auditor and the Internal Auditor?	✓			External Audit: meetings are held where necessary. Internal Audit: There are a combination of Member/Officer Group meetings and pre-Committee briefings.
Are meetings free and open without political influences being displayed?	✓			
Are decisions reached	✓			

## Audit and Governance Committee Self Assessment

<b>Issue</b> <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	<b>Y</b>	<b>N</b>	<b>P</b>	<b>Comment</b>
promptly?				
Are agenda papers circulated in advance of meetings to allow adequate preparation by Members?	✓			There has been a continuing conscious effort to make Committee reports more concise to aid preparation. A review of the Work Programme is planned to ensure appropriate frequency of updates.
Does the Committee have the benefit of attendance of appropriate Officers at its meetings?	✓			Wide ranging number of officers regularly attend to address various matters on agenda. In addition, the Committee has also invited managers to attend to address specific issues e.g. Strategic Risk Owners.
<b>Training</b>				
Is induction training provided to Members?	✓			See response under 'Membership' regarding the assessment of members' skills and experiences.
Is more advanced training available as required?	✓			As above.
Does the Authority's S151 Officer or deputy attend all meetings?	✓			S151 Officer or deputy normally attends all meetings.
Are the key Officers available to support the Committee?	✓			Key officers i.e. Internal Audit, Finance, Legal, Democratic Services, External Audit attend all meetings. Other officers will attend as and when appropriate to present specific reports.

**Key:**

Y      **Met**  
P      **Partially met**  
N      **Not met**



## Audit and Governance Committee Work Plan 2013/14

Committee Date/Agenda Item	Description
<b>27 June 2013</b>	
External Audit – Progress Report 12/13	External Audit to report progress against their 12/13 Plan/emerging issues.
Draft Statement of Accounts 12/13	Overview of the key issues within the 12/13 Draft Statement of Accounts.
Draft Annual Governance Statement (AGS) 12/13	Draft AGS 12/13 for comment/agreement; final version to be approved at September meeting.
Internal Audit Annual Report 12/13	Opinion on the overall adequacy and effectiveness of the Council's control environment for 12/13.
Corporate Risk Management Group Annual Report 12/13 & Risk Management Policy Review <i>including Risk Owner Mitigation Plan</i>	Annual Report of the Corporate Risk Management Group, an update of the Risk Management Policy and attendance by a Corporate Risk Owner to explain their mitigation plan (Commissioning and Services Delivery Chains). A copy of the Risk Register from the Welfare Reform Working Group is made available to the Committee.
Compliance with International Auditing Standards	To comply with International Auditing Standards, each year the Council's External Auditors are required to refresh their understanding of how the Audit and Governance Committee gain assurance over management processes and arrangements.
Update on Public Sector Internal Audit Standards (PSIAS) and Audit Charter	To inform the Audit and Governance Committee of the new Public Sector Internal Audit Standards (PSIAS) which came into effect on 1 April 2013, note the implications and further actions necessary to meet compliance with the PSIAS, including the development of an Audit Charter.
Regulation of Investigatory Powers Act (RIPA)	Update following the inspection from the Office of the Surveillance Commissioner outlining the Inspector's findings and recommendations.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>26 September 2013</b>	
External Audit – Audit Findings Report 12/13	Summary of findings from the 12/13 audit and key issues identified by External Audit in issuing their opinion on the Council's financial statements and its arrangements for securing economy, efficiency & effectiveness in the use of resources.
Financial Resilience Report	A report from the Council's External Auditors.
Statement of Accounts 12/13 Audited	Approval of the final 12/13 Financial Statements.
Final AGS 12/13	Final AGS 12/13 for approval.

**Audit and Governance Committee Work Plan 2013/14**

<b>Committee Date/Agenda Item</b>	<b>Description</b>
Update on Public Sector Internal Audit Standards (PSIAS) and Audit Charter	The Internal Audit Charter defines the internal audit activity's purpose, authority and responsibility.
Treasury Management Update Report	Update report on Treasury Management.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management and attendance by a Corporate Risk Owner to explain their mitigation.
Compliance with Contract Procedure Rules	A report setting out the number of non-compliance instances in the previous period, broken down by Service, and a description of exceptional instances.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>28 November 2013</b>	
Annual Report 12/13	Annual Report of the Chair of the Audit & Governance Committee to Council.
External Audit – Annual Audit Letter 12/13	Summary of the External Audit findings from 12/13 audit. The letter will also confirm the level of audit fees.
2012/13 Audit Findings and Action Plan	This report sets out the management response to the 2012/13 Audit Findings Report presented by Grant Thornton to the Audit & Governance Committee on 28 <sup>th</sup> September.
External Audit update report	To consider an update report from Grant Thornton in delivering their responsibilities as external auditors.
Update on Governance Framework and Code of Corporate Governance, 12/13 Action Plan & 13/14 Process	Council's Governance Framework for discussion/ agreement and approval of updates to Code of Corporate Governance. Progress to date on the 12/13 AGS Action Plan and suggested approach for the 13/14 AGS for approval.
Internal Audit Interim Report	Progress report against the Internal Audit Plan 13/14.
Internal Audit Charter	The Internal Audit Charter defines the internal audit activity's purpose, authority and responsibility.
Anti Fraud and Corruption Update	Periodic review of Anti Fraud and Corruption Policy and arrangements against best practice.
Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 12/13	Summary of the complaints received by the Council and also those dealt with by the Local Government Ombudsman about the Council for 12/13.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the

**Audit and Governance Committee Work Plan 2013/14**

<b>Committee Date/Agenda Item</b>	<b>Description</b>
	Committee's responsibilities.
<b>30 January 2014</b>	
External Audit update report	To consider an update report from Grant Thornton in delivering their responsibilities as external auditors.
External Audit – Certification of Claims & Returns	Annual report on the issues, amendments and qualifications arising from certification work of grant claims and returns.
Internal Audit Interim Report	Progress against the Internal Audit Plan 13/14.
Treasury Management Strategy and MRP Statement 2014/15	The CIPFA Code of Practice on Treasury Management requires all local authorities to agree a Treasury Management Strategy Statement including an Investment Strategy annually in advance of the financial year. The strategy should incorporate the setting of the Council's prudential indicators for the three forthcoming financial years. The Treasury Management Strategy is also reported to Cabinet before being presented to Full Council for approval.
Data Protection and Freedom of Information Update	Update on Data Protection and Freedom of Information issues including volumes of requests and trends.
Compliance with International Auditing Standards 2013/14	To comply with International Auditing Standards, each year the Council's External Auditors are required to refresh their understanding of how the Audit and Governance Committee gain assurance over management processes and arrangements.
Review of the CIPFA publication Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition)	A report setting out CIPFA's view on the role and functions of an audit committee and how this may impact on Cheshire East arrangements.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management and attendance by a Corporate Risk Owner to explain their mitigation.
Standards Review	Review of Members Standards Procedures.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>27 March 2014</b>	
Compliance with Contract Procedure Rules	A report setting out the number of non-compliance instances in the previous period, broken down by Service, and a description of exceptional instances.
External Audit – Audit Plan 13/14	External Audit's planned work for the audit of financial statements and the value for money conclusion 13/14.

## Audit and Governance Committee Work Plan 2013/14

Committee Date/Agenda Item	Description
Internal Audit Plan 13/14	Approval of risk based Internal Audit Plan for following year.
Audit Committee Self Assessment	Self assessment of the effectiveness of the Committee, which feeds into the AGS process.
Whistleblowing Policy	To provide the Committee with an update on the effectiveness of the Council's Whistleblowing Policy and a breakdown of the number of reports received during 2013/14.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management and attendance by a Corporate Risk Owner to explain their mitigation.
Compliance with Regulation of Investigatory Powers Act (RIPA)	A report on the Council's compliance with the Regulation of Investigatory Powers Act.
Members Code of Conduct Complaints Update	Update on the number and outcome of complaints.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
	<b><i>The following items may, subject to requirement, be presented to the Committee.</i></b>
Insurance	Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.  To be included in a future Risk Management Update Report.
Anti Money Laundering	Consideration of any updates to the Anti Money Laundering Policy and assurance from management that measures are operating effectively.
Training for Standards Hearings	Hearings training for panel members.