

Licensing Committee Agenda

Date: Monday, 9th March, 2015
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous Meeting** (Pages 1 - 2)

To approve the minutes of the meeting held on 19 January 2015.

5. **Minutes of Licensing Sub-Committees** (Pages 3 - 16)

To receive the minutes of the following meetings:

Licensing Act Sub-Committee

27 January 2015

30 January 2015

General Licensing Sub-Committee

4 February 2015

17 February 2015

6. **Implementation of the Mobile Homes Act 2013 (Fees and Charges Policy)**
(Pages 17 - 34)

To consider the proposed Mobile Homes Act 2013 Fees and Charges Policy 2015-16.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 19th January, 2015 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)
Councillor W S Davies (Vice-Chairman)

Councillors C Andrew, Rhoda Bailey, D Bebbington, I Faseyi, A Harewood,
L Jeuda, S Jones, D Mahon, M Parsons, L Smetham and J Wray

OFFICERS PRESENT

Sheela Dutton, Lawyer
Kim Evans, Licensing Team Leader
Julie Zientek, Democratic Services Officer

8 APOLOGIES FOR ABSENCE

Apologies were received from Councillors M Hardy and G Wait.

9 DECLARATIONS OF INTEREST

There were no declarations of interest.

10 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

11 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 8 September 2014
be approved as a correct record and signed by the Chairman.

12 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED – That the minutes of the Licensing Act Sub-Committee
meetings held on 18 September 2014, 15 October 2014 and 24 October
2014, and the General Licensing Sub-Committee meetings held on 19
September 2014, 10 October 2014, 4 November 2014 and 19 December
2014 be received, subject to the following amendments:

That in minutes 33, 47, 48 and 49 of the General Licensing Sub-
Committee meetings held on 19 September and 4 November 2014 'made
representatives' be amended to read 'made representations'.

13 REVIEW OF LICENSING FEES AND CHARGES FOR THE FINANCIAL YEAR 2015/2016

The Committee considered a report regarding the proposed licensing fees and charges for the issuing and renewal of licenses, consents and permits issued by the Licensing Team for 2015/2016.

It was proposed to introduce a retest fee in respect of Hackney Carriage and Private Hire vehicles, as an increase in the number of vehicles being licensed and a failure rate of approximately 50% had resulted in a budgetary pressure which the licensing service was unable to absorb.

RESOLVED

- (a) That the Scale of Fees and Charges for 2015/2016, as set out in Appendix A to the report, be approved.
- (b) That the Licensing Team Leader be requested to review the requirements for the retesting of hackney carriage and private hire vehicles.

The meeting commenced at 2.00 pm and concluded at 2.35 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Tuesday, 27th January, 2015 at The Tatton Room - Town Hall,
Macclesfield SK10 1EA

PRESENT

Councillor P Whiteley (Chairman)

Councillors C Andrew and L Smetham

OFFICERS IN ATTENDANCE

Sarah Baxter, Democratic Services
Nicola Cadman, Licensing Officer
Peter Jones, Lawyer

21 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

22 DECLARATIONS OF INTEREST

There were no declarations of interest.

23 APPLICATION FOR A PREMISES LICENCE - 23 QUEENS AVENUE, MACCLESFIELD SK10 2BH

The Sub-Committee considered a report regarding an application for a Premises Licence for 23 Queens Avenue, Macclesfield, SK10 2BH.

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

- the applicant
- a solicitor representing the applicant
- a number of local residents

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

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

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

RESOLVED

(a) That the application for a premises licence be granted as applied for, subject to the hours the premises are open to the public being amended from 07.30 to 23.00 to 07.30 to 22.30 and subject to conditions arising from the Operating Schedule.

(b) That the following agreed conditions, be attached to the premises licence:

A comprehensive CCTV system will to be installed in agreement with the Police.

That a Challenge 25 policy be adopted.

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

The meeting commenced at 10.00 am and concluded at 11.50 am

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Friday, 30th January, 2015 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor P Whiteley (Chairman)

Councillors D Bebbington and J Wray

Officers

Nikki Cadman, Licensing Officer

Sheela Dutton, Lawyer

Rachel Graves, Democratic Services Officer

24 APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor P Whiteley be appointed as Chairman.

25 DECLARATIONS OF INTEREST

In the interests of openness Cllr Bebbington declared that a member of the public had asked him about the application being considered and that he had declined to comment on it.

26 APPLICATION FOR A PREMISES LICENCE - OFFBEAT BREWERY, THOMAS STREET, CREWE CW1 2BD

The Sub-Committee considered an application for a Premises Licence for Offbeat Brewery, Thomas Street, Crewe CW1 2BD.

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

- the applicant
- a representative of the applicant

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

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

- The four licensing objectives (namely the prevention of crime and disorder; public safety; the prevention of public nuisance, and the protection of children from harm
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties, the following course of action had been agreed:

RESOLVED:

- 1 That the application for a premises licence be granted as applied for
- 2 That the following condition, proposed by the Police, be attached to the premises licence:
 - i. Proof of age scheme 'Challenge 21' be operated for all sales of alcohol
- 3 That the following condition, proposed by Environmental Health, be attached to the premises licence:
 - i. In order to protect the interest of local residents and ensure that the licensing objective of public nuisance prevention is upheld: all necessary steps shall be taken to ensure that any noise from the premises shall not be at a level which could cause a noise nuisance at the boundary of the nearest residential premises, therefore: Noise emanating from the premises as a result of regulated entertainment shall not be clearly audible at the boundary of any adjacent residential premises

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

The meeting commenced at 1.30 pm and concluded at 1.47 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Wednesday, 4th February, 2015 at Committee Suite 1, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors Rhoda Bailey, W S Davies, M Parsons and J Wray

OFFICERS IN ATTENDANCE

Nikki Cadman, Licensing Officer
Sheela Dutton, Lawyer
Julie Zientek, Democratic Services Officer

58 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

59 APOLOGIES FOR ABSENCE

There were no apologies for absence.

60 DECLARATIONS OF INTEREST

There were no declarations of interest.

61 EXCLUSION OF THE PUBLIC AND PRESS

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

62 14-15/27 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED

- (a) That a formal warning be issued with respect to the licence holder's non-compliance with the Council's Hackney Carriage/Private Hire Driver Licence Conditions and the relevant legislation.
- (b) That the licence holder remains at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and that the licence therefore be renewed, on condition that the licence holder returns to the Council within 7 days of the hearing a signed declaration that they have read and understood the conditions and policies attached to the licence.

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

63 14-15/28 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED - That the licence holder remains a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and that no further action be taken.

64 14-15/30 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED

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

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

65 14-15/29 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

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

The meeting commenced at 9.30 am and concluded at 2.28 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Tuesday, 17th February, 2015 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors C Andrew, D Bebbington, A Harewood and L Jeuda

OFFICERS IN ATTENDANCE

Jim Hopper, Licensing Officer

Aoife Ryan, Lawyer

Julie Zientek, Democratic Services Officer

66 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

67 APOLOGIES FOR ABSENCE

There were no apologies for absence.

68 DECLARATIONS OF INTEREST

In the interests of openness, Councillor A Harewood declared that she knew the complainant in respect of agenda item 7 (14-15/33).

69 EXCLUSION OF THE PUBLIC AND PRESS

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

70 14-15/32 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

Note: Councillor D Bebbington declared that he knew the witness's supporter.

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

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

The licence holder, a witness and a supporter of the witness attended the hearing and made representations.

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

RESOLVED

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

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

71 14-15/33 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

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

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

72 14-15/31 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

The licence holder was not in attendance at the hearing.

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

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

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

73 14-15/34 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED - That the licence holder remains a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and that no further action be taken.

74 14-15/35 APPLICATION FOR THE GRANT OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

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

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

75 URGENT ITEM - 14-15/36 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

In accordance with Section 100B (4)(b) of the Local Government Act 1972, the Chairman announced that he had agreed to allow consideration of this item as an additional urgent item of business.

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

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

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

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

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

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

The meeting commenced at 9.30 am and concluded at 3.10 pm

Councillor P Whiteley (Chairman)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting: 9 March 2015
Report of: Principal Manager - Regulatory Services and Health
Subject/Title: Implementation of the Mobile Homes Act 2013 (Fees and Charges Policy)

1.0 Report Summary

- 1.1 In accordance with the recently enacted Mobile Homes Act 2013 (MHA13) the Council is now able charge a fee for administering the statutory licensing function of residential caravan sites. Before the Council can implement any fees it must first adopt a Fees and Charges Policy for mobile homes and the purpose of this report is to request that the Licensing Committee approve the proposed fees and charges policy as set out in Appendix 1.

2.0 Recommendation

- 2.1 That Members note the changes introduced by the Mobile Homes Act 2013.
- 2.2 That the Principal Manager, Regulatory Services and Health be given delegated authority to exercise the council's powers under the Mobile Homes Act 2013, apart from setting fees, until such time as the matter is further considered by the Constitution Committee.
- 2.3 The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy 2015-16.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council has sufficient funds, processes, policies and procedures to meet its statutory obligations under the legislation relating to caravan and camp sites to licence them subject to appropriate conditions.
- 3.2 To provide a transparent and consistent approach to the setting of fees and charges for relevant protected caravan sites in line with government guidance to local authorities.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Contained within the report.

7.0 Financial Implications

- 7.1 With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities.
- 7.2 In addition to the licensing function, the guidance also proposes other fees and charges which can be set by local authorities, such as the depositing of site rules and the issuing, transferring or amending of site licences i.e. the more administrative functions of the regime.

8.0 Legal Implications

- 8.1 The MHA13 amends the Caravan Sites and Control of Development Act 1960 and introduces a number of new requirements relating to the buying, selling or gifting of residential caravans; the process of reviewing pitch fees for sites and the introduction of fees for various functions delivered by the local authority which it could not previously charge for.
- 8.2 Section 1 of the MHA13 provides local authorities with the power to charge a fee for administering licences for “relevant protected sites.” In addition, section 1(3) sets out that where ‘a local authority sets a fee it must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question’. Guidance from the Secretary of State recommends that this should be undertaken by adopting a policy for fees and charges; the proposed policy is attached as Appendix 1.
- 8.3 The MHA13 also provides residents and site owners with a safeguarding appeal process via a third party residential property tribunal. This allows applicants to make written or oral representations at a hearing. This appeals process is not a council function, thus does not place a burden on either the Council or the Licensing Committee.
- 8.4 There are currently 38 residential caravan sites, of various sizes, within the Borough which will be included in the new fees and charges regime. It is useful to note that sites cannot be licensed without first being granted planning and other relevant permissions.

9.0 Risk Management

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

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

10.0 Background

- 10.1 The MHA13 amends the Caravan Sites and Control of Development Act 1960 to provide greater protection for occupiers of residential caravans. The changes introduced by the MHA13 only apply to 'relevant protected sites', which is defined as any licensable caravan site, unless either of the following exemptions apply;
- Planning permission or a site licence is granted for exclusive holiday use only or;
 - There is a restriction on its use as permanent residential site.
- 10.2 The MHA13 introduces important changes relating to buying, selling and gifting of residential caravans and the setting of pitch fees. In addition, it allows the Council to recover costs for their licensing role with respect to residential caravan sites through the setting of local fees and charges.
- 10.3 Whilst the majority of residential caravan sites are managed in a professional and fair manner, there are situations where this is not always the case. On those sites which are not managed appropriately and where conditions are allowed to deteriorate this can impact upon the health, safety and amenity of residents. To provide a level of protection a local authority can inspect and enforce licence conditions to ensure all the relevant standards are met.
- 10.4 It is intended that the MHA13 will raise standards in the industry across the country. In particular it will help to prevent site owners from blocking the sale of caravans and enable effective enforcement action to be taken against those operators who fail to comply with their licence obligations; both of which have been historic issues under the existing legislative regime.

11.0 Definitions under the Act

- 11.1 A mobile home residential caravan site is a classed as a relevant protected site when designated by planning permission (or by historic caravan site licenses) for residential use only.

N.B. Purely holiday/recreational parks (even if staff live there full time) and local authority owned parks are excluded from this new enforcement and charging regime. However, holiday parks will still need to be licensed in accordance with existing legislation.

12.0 Applications & Licences

- 12.1 Section 1 of the MHA13 provides the powers for local authorities to set fees and charges for a range of functions undertaken within the licensing regime.
- 12.2 Due to the timing of the legislation coming in to force it is envisaged that the annual fee will be applicable from the 1st April 2015 and all existing sites will be notified of the new fees and charges once they have been approved. Other fees and charges will be levied upon application or through the administration of relevant functions.

13.0 Attaching Conditions to Licences

- 13.1 The council has the statutory power to impose conditions on a site licence subject to the right of a site operator to appeal against any conditions that they disagree with to a Property Tribunal. Officers always endeavour to negotiate or agree changes with the operator and in any event are guided by model conditions. Only in those situations where agreement is not possible will conditions be imposed.
- 13.2 Whilst fees and charges are not payable specifically for conditions imposed by the council they are payable for amendments requested by the site owner/licensee.

14.0 Scheme of Delegation

- 14.1 This function is specified as a non-executive function in accordance with Regulation 2(6) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 14.2 It is therefore appropriate for the Licensing Committee to approve the Regulatory Services and Health, Mobile Homes Act 2013 Fees and Charges Policy 2015-16 (see Appendix 1) and any subsequent annual fee updates. This provides a consistent approach to fee setting in line with other licensing regimes.
- 14.3 As the MHA 2013 is an extension to existing controls for mobile homes which are currently managed by the Principal Manager: Regulatory Services and Health, it is envisaged that she will carry out the new functions under that Act.

15.0 Fees and Charges

- 15.1 The Act provides that an application for a licence may be accompanied by a fee set locally by the local authority on a cost recovery basis. Local authorities have a duty to have regard to any guidance issued by the Secretary of State in relation to the setting of fees and charges.
- 15.2 When setting fees the authority must not take into account any costs associated with formal enforcement activity against residential mobile home sites.

- 15.3 The following is a summary of the proposed fees and charges as set out in the Regulatory Services and Health, Fees and Charges Policy 2015-16. The fees have been calculated for caravan sites as both an initial application fee and an annual fee;

Number of Pitches	Application Fee	Annual Fee
1 to 10	£218.00	£218.00
11 to 20	£258.00	£258.00
21 to 30	£297.00	£297.00
31 to 40	£336.00	£336.00
41 to 50	£375.00	£375.00
51 or more	£414.00	£414.00

N.B. When a licence is granted for a caravan site it is proposed that the annual fee becomes payable and the costs can be passed on to site residents.

Other fees that can be levied on sites are proposed as follows;

- Site Licence Transfer Fee - £70.00;
 - Licence amendment (simple) - £70.00 (there is no fee if the change is imposed by the local authority);
 - Application by the licensee to amendment of conditions - £250; and
 - The deposit of site rules - £20.00
- 15.4 It is proposed that the fees and charges above will not be refundable in the event of any licence being withdrawn, refused or transferred. Existing sites (i.e. those currently licensed) are exempted from the initial application fee.
- 15.5 Fees and charges must be reviewed annually to ensure they accurately reflect the full costs associated with the provision of the service. The approval of the annual fees and charging policy will be the function of the Licensing Committee.
- 15.6 As this is a new charging regime an accurate estimate has been made of the amount of officer time and other resources required for each of the charges for the period 2015-2016 based on the information currently available. However, as the fees must be reviewed annually officers will continue to be required to undertake time recording, which will provide more accurate information for setting future fees and charges.

16.0 Public Register

- 16.1 The Mobile Homes (Site Rules)(England) Regulations 2014 state that new or amended site rules must be deposited with the local authority who must establish, keep up to date and publish an overall register of sites with rules.

- 16.2 This register will be made openly accessible to the public via the council's web site.

17.0 Access to Information

The background papers relating to this report are included.

The Mobile Homes Act 2013 is available here

<http://www.legislation.gov.uk/ukpga/2013/14/contents/enacted>

The Mobile Homes (Site Rules) (England) Regulation 2014 is available here

<http://www.legislation.gov.uk/cy/uksi/2014/5/made>

Name: Tracey Bettaney

Designation: Principal Manager Regulatory Services & Health

Tel No: 01270 686596

Email: tracey.bettaney@cheshireeast.gov.uk

Appendix 1

Fees and charges policy document

This page is intentionally left blank



Regulatory Services and Health

Mobile Homes Act 2013 Fees and Charges Policy

2015-2016

Contents

- 1 Executive Summary
- 2 Introduction
- 3 Setting of Fees and Charges
- 4 Establishing number of units (Caravans) per site
- 5 Charging Options
- 6 Licensing Fees
 - 6.1 Considerations
 - 6.2 Annual Fee
 - 6.3 New Licence Fee
 - 6.4 Transfer Fee
 - 6.5 Licence Amendments Fee
 - 6.6 Fee Combination
 - 6.7 Fees and Charges Payment Time-frames
- 7 Fees for Depositing Site Rules
- 8 Exemptions
- 9 Charges for Enforcement Notices
- 10 Fee for Depositing Sites Rules
- 11 Review

1. Executive Summary

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

The MHA13 allows for local authorities to charge for a range of licensing functions on a cost recovery basis and fees can be charged for the following areas of work;

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

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

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

The MHA13 introduces new fees and charges for the depositing of site rules and keeping a fit and proper person register. However, the requirements for maintaining a fit and proper person register have not yet been enacted and so a fee cannot be charged for this function at the present time.

2. Introduction

The MHA13 received royal assent on the 26th March 2013, and introduces important amendments to the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. The new legislation affects how councils license residential caravan sites only. These sites are termed as "relevant protected sites" under the MHA13.

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

- Determining and issuing new site licences;
- Annual fee for licensing existing sites;
- Amendments to site licences;

- Transferring existing licences to new site managers;
- Depositing of site rules with the Council; and
- Costs associated with issuing Enforcement Notices on site owners.

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

3. Setting of Fees and Charges

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

These being the first year of fees and charges, time estimates have been used based on historic licensing activities undertaken by the council to date. Cost accounting will be put in place to track future regulatory input and inform future reviews of the policy.

4. Establishing the units (caravans) per Site

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

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

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

5. Charging Options

There are a range of models which can be used to determine the fees for the various sites, such as:

- Option 1 - A basic fee plus an additional time/cost element per unit which is multiplied by the total number of units on the site;
- Option 2 - A blanket fee set across all sites regardless of size;
- Option 3 - A fee set relative to the risk rating taking into account the size of the site, confidence in management and compliance history;
- Option 4 - A fee set on the number of units in a banding arrangement;
- Option 5- The total cost of undertaking the licensing function divided by the total number of units in the borough and multiplied by the number of units per site.

All of these options are explored in more detail below.

Option 1 - A basic fee plus an additional element per unit which is multiplied by the total number of units on the site

This includes charging a basic fee with additional cost per caravan or pitch, as determined by planning permission, based on a time increment for the amount of time undertaking inspections and other associated work. There are however a number of issues with this approach,

- Qualifying sites within Cheshire East vary considerably in size from those with single units to 80+ chalets/caravan units and it was found that there was little cost equity between the sites given the regulatory input.
- Gypsy and Traveller sites tend to have a number of family pitches where a pitch is classed as up to 2 caravans, or have been stipulated as a chalet unit and a touring unit, and there could be an issue as to clear and open charging depending on pitch use and site type.
- Some sites can have a considerable seasonal variation as to caravan numbers which may lead to issues around cost accounting. It is acknowledged that the council does undertake a Gypsy and Traveller caravan count twice a year that could be used, however the numbers can still be seasonally affected.

Option 2 - A standard fee set across all sites regardless of size.

This involves setting a standard fee for all sites regardless of the size or time required to administer the licensing function. However, as the size of sites and the number of units per site varies considerably it would be inequitable, especially as this cost can be passed on to the residents of the sites.

Option 3 - A fee set relative to the risk rating taking into account the size of the site, confidence in management and compliance history.

Whilst this approach would have the benefit of using the licence fee to maintain high standards, devising and implementing such a scheme could result in additional costs to the site owners and ultimately the residents. In addition, residents of sites where there is poor or ineffective management would be left with additional costs, which would be outside of their control.

Option 4 – A price set per the number of units which are banded together

Consideration was given to the banding of sites based on unit numbers per site. Banding numbers could be set with regard to officer experience of the regulatory input in put required. Based on this the banding which could used is detailed below.

Less than	10 caravans
Less than	20 caravans
Less than	30 caravans
Less than	40 caravans
Less than	50 caravans
Greater than	50 caravans

Option 5 - The total cost of undertaking the licensing function divided by the total number of units in the borough and multiplied by the number of units per site

This option, when considered across all site sizes would unduly penalise the larger sites.

Preferred Option

It is proposed that option 4 is utilised as being a clear, transparent, equitable and cost efficient system of caravan site charging.

This approach would be based on using the number of units set out in planning permission to allocate a site banding category or as historically numbered in the site licence where there is no specific number in planning terms. The banding category will be set in multiple of ten with a final open category of >50 units.

6. Licensing Fees

6.1 Considerations

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

- Administration of licence fees;
- Pre inspection preparation;

- Site inspection (including travelling time and mileage allowances at current rates);
- Post inspection administration e.g. formal notification of compliance or non-compliance;
- Re-inspection due to non-compliance;
- General administration (maintaining files, electronic records and cost accounting);
- Training and research;
- Maintenance and development of ICT systems;
- Support and shared services on-costs e.g. HR and Legal
- Officer grade – Officers involved with caravan site licensing functions span Grades 7 to 9. Therefore a midpoint grade 8 has been used to establish officer costs.

Please note with regard to all caravan site fees and charges this is the first year for setting fees and charges and time monitoring will be undertaken to help inform future annual reviews of the policy.

6.2 Annual Fee

The current fees set for 2015/16 are;

Number of pitches	cost
<=10	£218.00
<=20	£258.00
<=30	£297.00
<=40	£336.00
<=50	£375.00
>50	£414.00

6.3 New Application Licence Fee

It is estimated that processing a new licence would not be considerably different to the work proposed for the annual licence thus we propose to duplicate the annual licence fee in the case of the new licence fee in the first year of fee setting.

Number of pitches	cost
<=10	£218.00
<=20	£258.00
<=30	£297.00
<=40	£336.00
<=50	£375.00
>50	£414.00

6.4 Transfer Fee

A fee of £70.00 will be charged to cover this function, which is estimated to take 3 hours of officer time and associated administration cost.

6.5 Licence Amendments Fee (application)

There is a statutory requirement to consult residents and any resident associations with regards to changes to any site licence conditions; this in turn has an impact on officer costs. Thus a midpoint of the banding scale for sites as set out previously will be used to set the licence amendment fee. These are set out below.

1. Licence amendment (simple) £70.00.
Simple amendments are those requested by the site to change non condition related details e.g. site name change or changes to registered offices or mail addresses.
2. Licence (condition etc) amendments application fee £250.
Changes to the condition(s) require resident and resident association consultation this greatly increases regulatory effort in the overseeing or undertaking of this role.
3. Changes imposed by Local Authority – no charges payable.

6.6 Fee Combination

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

In cases where both simple and condition amendments are requested the fees will be combined.

6.7 Fees and Charges Payment Timeframe

Annual Fees and Charges are to be levied from the 1st April each year and all other fees are per application or required function.

7 Fees for Depositing Site Rules

Site rules are different to site licence conditions in that they are neither created nor enforced by the council. They are a set of rules created by the site owner with which residents have to comply and which may reflect the site licence conditions but will also cover matters unrelated to licensing. The MHA13 amends the Mobile Homes Act 1983 and requires existing site rules to be updated and deposited with the Local Authority within a specified timescale (likely to be 12 months).

Local Authorities will need to satisfy themselves that replacement or new rules deposited with them have been made in accordance with the statutory procedure. They will also be required to establish, keep up to date and publish a register of sites which have deposited their site rules. In doing so a Local Authority may levy a fee for the deposit, variation or deletion of site rules.

Once an administrative system is in place for holding and publishing site rules it is estimated that it will take approximately 1 hour of officer time per site, to undertake this function. It is therefore appropriate to set a fee of £20.00 (based on the appropriate hourly rate and associated administration) for the checking and depositing of site rules by site owners.

8 Exemptions

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

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

9 Charges for Enforcement Notices

From the 1st April 2014, Section 9A of the MHA13 allows Local Authorities to serve statutory notices on site owners for non-compliance with licence conditions and to make a charge for that notice. These notices will set out how the site owner needs to comply with the relevant licence condition and the timescales involved. In accordance with the legislation the site owner is not allowed to pass this charge on to the residents of the site.

Under section 9C of the MHA13, the council is entitled to recover costs associated with the service of a notice. This includes the costs incurred with inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the authority intends to charge. The demand for recovery is served with the notice and must provide a clear breakdown of the costs incurred. The right to recover costs is subject to appeal by the site owner in certain circumstances. These will therefore be calculated on a case by case basis.

This charge is only for the service of enforcement notices and costs associated with taking any action for non compliance with such a notice would be recoverable through the courts.

Where compliance with a notice is achieved through works in default then these costs would be passed on to the site owner.

10 Review

This fees and charges policy will be published on the Cheshire East Council website. The fees detailed in this policy have been determined based on experience of dealing with mobile home site licensing and with consideration of the changes the MHA13 has introduced. Some of the processes are new (for example the depositing of site rules) and therefore estimates have been made as to the cost of providing these services. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government, which may impact on the processes and time involved resulting in a revision to the proposed charges.

This policy will be revised no later than 31 March 2016 in line with the Council's fee setting process.