

Licensing Committee Agenda

Date: Monday, 7th March, 2016
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 11 January 2016.

5. **Minutes of Licensing Sub-Committees** (Pages 3 - 8)

To receive the minutes of the following meetings:

Licensing Act Sub-Committee

18 January 2016

General Licensing Sub-Committee

25 January 2016

6. **Annual Review of the Mobile Homes Act 2013 (Fees and Charges Policy)**
(Pages 9 - 22)

To consider the proposed Mobile Homes Act 2013 Fees and Charges Policy for 2016-17.

7. **Review of the Scrap Metal Dealers Act 2013 Fees and Charges** (Pages 23 - 26)

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

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 11th January, 2016 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor W S Davies (Chairman)
Councillor D Bebbington (Vice-Chairman)

Councillors E Brooks, B Dooley, I Faseyi, A Harewood, M Parsons,
L Smetham, G Wait, M Warren and J Wray

OFFICERS PRESENT

Kim Evans, Licensing Team Leader
Peter Jones, Lawyer
Julie Zientek, Democratic Services Officer

17 APOLOGIES FOR ABSENCE

Apologies were received from Councillors M Deakin and M Hardy.

18 DECLARATIONS OF INTEREST

There were no declarations of interest.

19 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

20 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 16 November 2015
be approved as a correct record and signed by the Chairman.

21 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED – That the minutes of the Licensing Act Sub-Committee
meetings held on 12 November 2015 and 8 December 2015, and the
General Licensing Sub-Committee meetings held on 4 November 2015, 9
November 2015 and 30 November 2015, be received.

**22 CHANGES TO THE JOINT HACKNEY CARRIAGE AND PRIVATE HIRE
DRIVER KNOWLEDGE TEST**

The Committee considered a report regarding proposed changes to the
testing requirements for applicants for joint Hackney Carriage and Private
Hire Driver licences.

At the Licensing Committee meeting on 16 November 2015, the Licensing Team Leader had been granted delegated authority to consult on the proposed changes to the test. During the four week consultation, one response had been received. This response, objecting to the changes, was circulated at the meeting for the consideration of Committee Members.

RESOLVED – That the Joint Hackney Carriage and Private Hire Driver knowledge test be changed as follows:

- (a) 15 multiple choice questions on the Highway Code to be included, with the pass mark at 11 correct answers
- (b) the fee for knowledge tests to be set at £40.00
- (c) the changes to apply to all applications received on or after 1 February 2016.

23 REVIEW OF LICENSING FEES AND CHARGES FOR THE FINANCIAL YEAR 2016/2017

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

A number of fees were set by Statute, while others could be set by Local Authorities in order to cover the cost of administration, compliance and some elements of enforcement. The Licensing team was in the process of undertaking a comprehensive assessment of the costs of issuing licences where it had discretion to set a fee, and consequently no changes in the Locally Set Fees were proposed.

RESOLVED – That the fees payable as set out in appendix A to the report be approved.

The meeting commenced at 2.00 pm and concluded at 2.12 pm

Councillor W S Davies (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 18th January, 2016 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1EA

PRESENT

Councillor W S Davies (Chairman)

Councillors E Brooks and B Dooley

OFFICERS IN ATTENDANCE

Tracey Billington, Licensing Officer
Kim Evans, Licensing Team Leader
Peter Jones, Lawyer
Martin Kilduff, Licensing Officer
Julie Zientek, Democratic Services Officer

18 APPOINTMENT OF CHAIRMAN

RESOLVED –That Councillor S Davies be appointed Chairman.

19 DECLARATIONS OF INTEREST

Councillor E Brooks declared that Wilmslow Guild was in her Ward but that she had not been involved with the application and had kept an open mind.

20 APPLICATION TO VARY A PREMISES LICENCE - WILMSLOW GUILD, 1 BOURNE STREET, WILMSLOW, CHESHIRE SK9 5HD

The Sub-Committee considered a report regarding an application to vary a Premises Licence for Wilmslow Guild, 1 Bourne Street, Wilmslow.

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

- the applicant
- a number of local residents

The meeting was adjourned from 11.30am to 12.10pm to enable Members of the Sub-Committee to seek advice with regard to whether the provision of recorded music accompanied by ballroom dancing was incidental and, if so, whether it had been deregulated or whether a licence was still required.

When the meeting was reconvened, Mr P Jones clarified for the benefit of all present that there were exemptions from the need for a licence for

music entertainment in defined circumstances, including music that was incidental to other activities that were not classed as regulated entertainment. The applicant had been informed that a licence was not required for the proposed ballroom dancing activity but he had requested that his application be determined by the Sub-Committee.

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

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties

the following course of action had been agreed:

RESOLVED - That the application for a variation to the Premises Licence be granted as applied for.

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 10.30 am and concluded at 12.30 pm

Councillor W S Davies (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Monday, 25th January, 2016 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor W S Davies (Chairman)

Councillors I Faseyi, A Harewood and M Parsons

OFFICERS IN ATTENDANCE

Tracey Billington, Licensing Officer
Richard Hellon, Licensing Officer
Jim Hopper, Licensing Officer
Peter Jones, Lawyer
Aoife Ryan, Lawyer
Julie Zientek, Democratic Services Officer

52 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor S Davies be appointed Chairman.

53 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D Bebbington.

54 DECLARATIONS OF INTEREST

There were no declarations of interest.

55 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.

56 15-16/28 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE AND CONSIDERATION OF FITNESS TO HOLD A PRIVATE HIRE OPERATOR'S LICENCE

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

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

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

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

RESOLVED

- (a) That a formal warning be issued with respect to the applicant's future conduct.
- (b) That the applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence and a Private Hire Operator's Licence.
- (c) That the application for the renewal of a Joint Hackney Carriage/Private Hire Driver Licence be granted for a period of twelve months, following which it would be subject to review by the General Licensing Sub-Committee. The Joint Hackney Carriage/Private Hire Driver Licence to also be subject to a period of suspension for three months as a punitive sanction.

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

57 15-16/29 APPLICATION FOR THE RENEWAL OF A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED - That the applicant is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence, and that the application for the renewal of a licence be granted for a period of twelve months.

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

58 15-16/30 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE AND THE REMOVAL OF A HACKNEY CARRIAGE VEHICLE CONDITION

The Sub-Committee considered a report regarding an application for a Hackney Carriage Vehicle 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 application for a Hackney Carriage Vehicle 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, 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 Council's Hackney Carriage Vehicle Licence Conditions Crewe Zone and Conditions 3.1 to 3.11 be waived and that the Hackney Carriage Vehicle Licence be granted.

59 15-16/31 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, a representative of the licence holder and two supporters 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 with immediate effect in the interests of public safety.

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 W S Davies (Chairman)

CHESHIRE EAST COUNCIL**Licensing Committee**

Date of Meeting:	7 th March 2016
Report of:	Environmental Protection Team Leader - Regulatory Services and Health
Subject/Title:	Annual Review of the Mobile Homes Act 2013 (Fees and Charges Policy)

1.0 Report Summary

- 1.1 In accordance with the Mobile Homes Act 2013 (MHA13), the Council is permitted to charge a fee for administering the statutory licensing function for residential caravan sites. As part of setting the fees the Council is required to have a Fees and Charges Policy in place for mobile homes, which must be reviewed annually to reflect the cost of administering the licensing function. The purpose of this report is to request that the Licensing Committee approve the proposed fees and charges policy for 2016-17 as set out in Appendix 1.

2.0 Recommendation

- 2.1 The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Act 2013, Fees and Charges Policy 2016-17.

3.0 Reasons for Recommendations

- 3.1 In accordance with the Mobile Homes Act 2013, the Council must produce a Fees and Charges Policy for the licensing of residential caravan sites where it intends to recover the costs of the service that it provides. , These fees and charges should be reviewed annually to reflect the costs of administering the licences. A copy of the proposed Fees and Charges for 2016-17 is attached in Appendix 1.

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. The increase in the 2016-7 fees is due to increased staffing and other associated costs.
- 7.2 In addition to the licensing function, the guidance also proposes additional fees and charges which can be set by local authorities, such as the depositing of site rules and the issuing, transferring or amending of site licences i.e. the more administrative functions of the regime.

8.0 Legal Implications

- 8.1 Sections 3(2A) and 5A of the Caravan Sites and Control of Development Act 1960 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 for 2016-17 is attached as Appendix 1.
- 8.3 There are currently 33 residential caravan sites, of various sizes, within the Borough which are included in the 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 only 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 In accordance with the MHA13, the Council may charge a fee for issuing and administering licences for residential caravan sites. In addition, to the licensing of sites the Council may also set a fee for other functions such as maintaining a register of site rules and transferring and amending licences.
- 10.2 The Council is only able to set fees on a “cost recovery” only basis and the fees have been set using officer knowledge of the times involved for carrying out the various functions. Whilst time monitoring arrangements have been put in place to ensure that the setting of future fees is as accurate as possible,

enough data has not been collected to date. Therefore, officer experience has been used to establish the fees and charges for 2016-17.

- 10.3 The following is a summary of the proposed fees and charges as set out in the Regulatory Services and Health, Fees and Charges Policy 2016-17. 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	£226.00	£226.00
11 to 20	£267.00	£267.00
21 to 30	£308.00	£308.00
31 to 40	£349.00	£349.00
41 to 50	£390.00	£390.00
51 or more	£430.00	£430.00

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.

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

- Site Licence Transfer Fee - £72.00;
- Licence amendment (simple) - £72.00 (there is no fee if the change is imposed by the local authority);
- Application by the licensee to amendment of conditions - £264; 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.

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 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>

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Appendix 1

Fees and charges policy document

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Regulatory Services and Health

Mobile Homes Act 2013 Fees and Charges Policy

2016-2017

Contents

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1. Executive Summary

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

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

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

In order to be able to implement any fees and charges, Cheshire East Council must publish a fees and charges policy setting out all the relevant charges and how they have been calculated. This policy document is designed to fulfil the requirements of the legislation and enable Cheshire East Council to levy a charge for undertaking the licensing of residential caravan sites. In accordance with guidance, the Policy will be reviewed annually to ensure all the fees and charges are updated to cover costs of administering the licensing regime to the relevant sites. The Policy will be 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 fees and charges for the deposit of site rules and maintaining a fit and proper person register. However, the requirements in respect of the fit and proper person register have not yet been enacted and therefore there is no proposal to levy a charge at the present time.

2. Introduction

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

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

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

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

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

3. Setting of Fees and Charges

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

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

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

This approach is based on using the number of units set out in planning permission for the site or as historically numbered in the site licence where there is no specific number in planning terms. A cost accounting system has been put in place to track future regulatory input and inform future reviews of this 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, in these instances calculations will be based on the number of units set out in the existing site licence.

5. Licensing Fees

5.1 Considerations

The following fees per band have been set using officer experience 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.

5.2 Annual Fee

The current fees set for 2016/17 are;

Number of pitches	cost
<=10	£226.00
<=20	£267.00
<=30	£308.00
<=40	£349.00
<=50	£390.00
>50	£430.00

5.3 New Application Licence Fee

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

Number of pitches	cost
<=10	£226.00
<=20	£267.00
<=30	£308.00
<=40	£349.00
<=50	£390.00
>50	£430.00

5.4 Transfer Fee

A fee of £72.00 will be charged to cover this function, which is estimated to take 4 hours of officer time plus associated administration cost.

5.5 Licence Amendments Fee (application)

There is a statutory requirement to consult 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) £72.00.
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 £264.
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.

5.6 Fee Combination

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

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

5.7 Fees and Charges Payment Timeframe

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

6 Fees for Depositing Site Rules

Site rules are different to site licence conditions in that they are neither created nor enforced by the council. They are a set of rules created by the site owner with which residents have to comply and 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.

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.

7 Exemptions

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

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

- In accordance with the legislation Gypsy and Traveller sites owned by the Local Authority that do not require a site licence.

8 Charges for Enforcement Notices

From the 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.

In accordance with 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.

9 Review

This fees and charges policy will be published on the Cheshire East Council website. The fees detailed in this policy have been determined based on experience of dealing with mobile home site licensing and with consideration of the changes the MHA13 has introduced. 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 31st March 2017 in line with the Council's fee setting process.

CHESHIRE EAST COUNCIL**Licensing Committee**

Date of Meeting:	7 th March 2016
Report of:	Environmental Protection Team Leader – Regulatory Services and Health
Subject/Title:	Review of the Scrap Metal Dealers Act 2013 fees and charges

1.0 Report Summary

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

2.0 Recommendation

- 2.1 To approve fees in relation to applications for Scrap Metal Dealers licences. The proposed fees for three year period from 2016-17 are:
- Site Licence Application – £194.00
 - Collectors Licence Application - £148.00

3.0 Reasons for Recommendations

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

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 Fees must be set locally by Cheshire East Council on a cost recovery basis, in line with the guidance issued by the Secretary of State, which outlines what should be considered by the Council when setting the fee and what activities the fee can cover.
- 7.2 In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure that they accurately reflect the full costs associated with the provision of the service.
- 7.3 The proposed fee for site licences are £194.00, which is an increase of £34.00 to reflect the extra officer time required for inspecting sites. The proposed fee for collectors is £148.00, which is a reduction of £12.00 and reflects the reduced time required to administer a collector's licences.

8.0 Legal Implications

- 8.1 Schedule 1(6) of the Scrap Metal Dealers Act 2013 provides that an application for a licence must be accompanied by a fee set by the local authority. In setting the fee the authority must have regard to any guidance issued by the Secretary of State. Guidance issued by the Secretary of State recommends that all fees are set on a cost recovery basis and this may be different for the different types of licences.
- 8.2 Since the introduction of the legislation in 2013 the Council has issued 97 licences, which comprises of 72 collectors licences and 25 site licences.

9.0 Risk Management

- 9.1 The Scrap Metal Dealers Act 2013 specifically empowers local authorities to set a local scheme of fees on a cost recovery only basis.
- 9.2 As with all locally set fees 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 Scrap Metal Dealers Act 2013 created a licensing regime, which replaced the previous registration system for scrap metal dealers created by the Scrap Metal Dealers Act 1964. The Act maintained local authorities as the principal regulator but gave them the power to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 10.2 The Act provides that an application for a licence must be accompanied by a fee, which will be set locally by each local authority on a cost recovery basis. When setting the fee local authorities must have regard to guidance issued by the Secretary of State, which sets out the issues that can be considered when setting the fee and what activities the fee can cover. The fee is an essential

component of the licensing regime as it provides local authorities with the funding they need to administer the regime and ensure compliance.

- 10.3 In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure that they accurately reflect the full costs associated with the provision of the service. To support both this and future reviews of fees, more detailed time recording work will continue to be kept across a sample of licence applications to ensure the fees reflect the work involved in administering the licences.

11.0 Definitions under the Act

11.1 *Scrap Metal Dealer*

A dealer is defined under S21(2) of the Act as someone carrying on a business which consists wholly or in part of buying or selling scrap metal, whether or not the metal is sold in the form in which it is bought. However, where a manufacturing business that sells scrap metal as a by-product of the processes it uses, or because it has a surplus of materials is not captured by this definition (S21(3)).

Within this broad definition there is also a need to have consideration to further criteria to establish the applicability of the Act. Generally where the sale of the metal is incidental to the main type of work or business undertaken then a licence will not be needed.

A dealer also includes someone carrying on a business as a motor salvage operator. This is defined as a business that;

- Wholly or in part recovers salvageable parts from motor vehicles for reuse or resale and then sells the rest of the vehicle for scrap;
- Wholly or mainly involves buying written off vehicles and then repairing and selling them off;
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them or selling them off.

11.2 *Scrap Metal Collectors*

A collector is defined (S22(4)) as a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste materials and old, broken, worn out or defaced articles by means of door to door visits.

11.3 *Scrap Metal Site*

A site is defined in the Act (S22(9)) as 'any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept

there)'. Due to the wording of the definition this means that someone who trades in scrap metal and is thus defined as a dealer under S21(2) will need a site licence for their office even if they do not operate a scrap metal store or yard.

12.0 Access to Information

The background papers relating to this report are available from the following sources or by contacting the report writer.

The Scrap Metal Dealers Act 2013 is available here

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

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

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

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