

Licensing Committee Agenda

Date: Monday, 6th March, 2017
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.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

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

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

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

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

In accordance with 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 3 - 6)

To approve the minutes of the meeting held on 7 November 2016.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 26)

To receive the minutes of the following meetings:

Licensing Act Sub-Committee

14 December 2016

9 January 2017

General Licensing Sub-Committee

28 October 2016

1 December 2016

16 December 2016

27 January 2017

6. **Adoption of the Procedure for Hearings in accordance with the Scrap Metal Dealers Act 2013** (Pages 27 - 32)

To consider a proposed procedure for undertaking appeal hearings in accordance with the Scrap Metal Dealers Act 2013.

7. **Annual Review of the Mobile Homes Act 2013 (Fees and Charges Policy)**
(Pages 33 - 44)

To consider the proposed Mobile Homes Act 2013 Fees and Charges Policy for 2017-18.

8. **Review of Taxi Licensing Fees and Charges for the Financial Year 2017/2018**
(Pages 45 - 50)

To consider any objections following the publication of the Council's Taxi Licensing Fees.

9. **Designation of Streets within the Borough for the purposes of Street Trading**
(Pages 51 - 56)

To consider proposed amendments to the current designation of streets for the purposes of regulating street trading.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 7th November, 2016 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor D Bebbington (Vice-Chairman, in the Chair)

Councillors Rhoda Bailey, E Brooks, C Chapman, T Dean, B Dooley, I Faseyi,
A Harewood, M Parsons, G Wait, M Warren and J Wray

OFFICERS PRESENT

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

1 APOLOGIES FOR ABSENCE

Apologies were received from Councillors S Davies and L Smetham.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

4 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 7 March 2016 be approved as a correct record and signed by the Chairman.

5 MINUTES OF LICENSING SUB-COMMITTEES

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

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

6 April 2016
18 April 2016
12 May 2016
2 June 2016
7 June 2016
1 August 2016
5 August 2016
15 August 2016

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

10 March 2016
6 April 2016
13 May 2016
1 July 2016
25 August 2016
21 September 2016

6 REVIEW OF LICENSING FEES AND CHARGES FOR THE FINANCIAL YEAR 2017/2018

The Committee considered a report regarding a review of the 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. Where the Council had the discretion to set fees, they were subject to review. The current Locally Set Fees had remained at current levels for several years due to efficiency savings that had alleviated most budgetary pressures. Following a comprehensive evaluation, three increases were proposed which would enable the service to recover operating costs.

RESOLVED

- (a) That the fees payable as set out in appendix A to the report be approved.
- (b) That, in respect of Hackney Carriage and Private Hire Licensing, the Licensing Team Leader be authorised to publish the fees in accordance with the relevant legislative provisions.

7 CONSIDERATION OF THE LATE NIGHT LEVY BY THE LICENSING WORKING GROUP

The Committee considered a report outlining the findings of the Licensing Committee Working Group, which had been formed to consider whether the Council should consider imposing a Late Night Levy as a means of reducing the harmful effects of alcohol consumption within the Cheshire East area.

The Working Group had met with, and considered information provided by, a number of key stakeholders, including Cheshire Police, the Council's Public Health Team, licence holders and trade representatives.

The Working Group had identified a number of possible options in addition to the Late Night Levy, including Early Morning Restriction Orders, Designated Public Place Orders, voluntary and best practice schemes, and the review of licensed premises.

The Licensing Team Leader reported that, as recommended by the Working Group, prior to the adoption of the Council's next Statement of Licensing Policy, any policy review would consider areas that may benefit from designation as a 'Cumulative Impact Area'. Licensing officers would also continue to support the police in promoting and extending their Arc Angel project. In addition, the team would contribute to the work being undertaken across Cheshire and Merseyside with respect to the introduction of Minimum Unit Pricing.

RESOLVED –That the implementation of the Late Night Levy or an Early Morning Restriction Order is not appropriate at this time.

The meeting commenced at 2.00 pm and concluded at 2.17 pm

Councillor D Bebbington (Vice-Chairman, in the Chair)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Wednesday, 14th December, 2016 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor W S Davies (Chairman)

Councillors T Dean and I Faseyi

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader

Peter Jones, Lawyer

Jennifer Knight, Senior Licensing Officer

Julie Zientek, Democratic Services Officer

19 APPOINTMENT OF CHAIRMAN

RESOLVED –That Councillor S Davies be appointed Chairman.

20 DECLARATIONS OF INTEREST

There were no declarations of interest.

**21 APPLICATION TO VARY A PREMISES LICENCE - RUMBA, 27
PICKFORD STREET, MACCLESFIELD SK11 6JD**

The Sub-Committee considered a report regarding an application to vary a Premises Licence for Rumba, 27 Pickford Street, Macclesfield SK11 6JD.

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

- four representatives of the applicant
- two local residents
- two representatives of Cheshire East Borough Council's Regulatory Services and Health Department

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 part of the application requiring a variation of the operating schedule for the provision of regulated entertainment in the external areas be refused.
- (b) That the conditions of the licence be modified by the insertion into Annex 3 of the current licence ['Conditions attached after a hearing by the Licensing Authority'] of the following conditions:
 - i. All licensable activities will cease in the external area at 01:00 hours
 - ii. At least one member of staff will monitor the external area whilst licensable activities are taking place.
 - iii. Licensable activities will cease outside at 01:00 hours
 - iv. The volume of music and voice levels arising from the external area will be monitored and controlled so as to ensure that it is unlikely to cause nuisance to residents/businesses in the immediate vicinity.
 - v. A phone number will be provided to any residents/businesses in the vicinity to contact should they experience any nuisance from the premises.
 - vi. When the external bar is open, it will be supervised at all times.
- (c) That, subject to the above, the application be granted so as to:
 - Amend the plan to licence external seating and a bar area for the sale of alcohol and the provision of late night refreshment
 - Vary the premises licence to permit an extension of licensable activities indoors from 02:00 to 02:30 hours on Friday and Saturday.
 - Amend the fourth condition of Annex Two of the current licence ['Conditions transferred from Public Entertainment Licence] to increase the last entry to the premises from the current terminal hour of 01:00 to 02:00 hours

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 1.00 pm and concluded at 3.23 pm

Councillor W S Davies (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 9th January, 2017 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey and M Warren

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader
Jennifer Knight, Senior Licensing Officer
Aoife Ryan, Lawyer
Julie Zientek, Democratic Services Officer

Also in attendance: Nathan Bates, Observer

22 APPOINTMENT OF CHAIRMAN

RESOLVED –That Councillor S Davies be appointed Chairman.

23 DECLARATIONS OF INTEREST

The following declarations were made in the interests of openness:

Councillor R Bailey declared that she had attended a number of charity fundraising lunches at The Stanneylands Hotel at least 6 years ago.

Aoife Ryan declared that she had held her wedding reception at The Stanneylands Hotel 10 years ago.

24 APPLICATION TO VARY A PREMISES LICENCE - THE STANNEYLANDS HOTEL, STANNEYLANDS ROAD, WILMSLOW, CHESHIRE, SK9 4EY

The Sub-Committee considered a report regarding an application to vary a Premises Licence for The Stanneylands Hotel, Stanneylands Road, Wilmslow, Cheshire SK9 4EY.

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

- three representatives of the applicant
- a local resident

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

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

the following course of action had been agreed:

RESOLVED - That the application to vary a premises licence be granted, subject to:

- (a) the nine conditions as detailed within Annex A of the Application dated 10 November 2016
- (b) the following amendments proposed by the applicant prior to the hearing:

Hours

Between Sunday to Thursday the hours for Regulated Entertainment will be reduced to 01.00 – (NB this does not include alcohol hours which will remain 02.00 Monday to Sunday)

New Conditions

1. Whenever functions are taking place, the doors to the function room balcony will be closed at 23.00 and guests instructed that alcohol will not be permitted in this area after this time.
2. All other external drinking areas (e.g. patios and gardens as shown on the plans) will also have the restriction of not allowing alcohol to be taken outside after 23.00.
3. The premises will also have in place the following written customer dispersal policy for all functions, which will be lodged with the Licensing Authority prior to Regulated Entertainment taking place.
 - Regular patrols of the external area of the hotel will take place throughout the evening till closing and exit of guests.
 - "Please Respect our Neighbours" signage will be prominently displayed outside the hotel on exit routes within the hotel boundaries.
 - Pick up and Drop Off guidelines will be distributed to all local Taxi Companies ensuring they are fully aware of pick up/drop off of fares must be from the hotel main entrance only and not on Stanneylands Road.

- The hotel will continue to maintain a FREE direct taxi phone line to a local major company to discourage exiting guests to attempt to flag down a taxi on the main road.
- (c) the following additional condition offered by the applicant at the hearing:

The doors and windows of the first floor function room will be kept closed after 22.00 while regulated entertainment is taking place, save for the purposes of access and egress.

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 1.00 pm and concluded at 2.05 pm

Councillor W S Davies (Chairman)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Friday, 28th October, 2016 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillor W S Davies (Chairman)

Councillors Rhoda Bailey, D Bebbington, B Dooley and I Faseyi

OFFICERS IN ATTENDANCE

Tracey Billington, Licensing Officer
Kim Evans, Licensing Team Leader
Jim Hopper, Licensing Officer
Martin Kilduff, Licensing Officer
Aoife Ryan, Lawyer
Julie Zientek, Democratic Services Officer

31 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor S Davies be appointed Chairman.

32 APOLOGIES FOR ABSENCE

There were no apologies for absence.

33 DECLARATIONS OF INTEREST

There were no declarations of interest.

34 EXCLUSION OF THE PUBLIC AND PRESS

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

35 16-17/13 APPLICATION TO CONSIDER THE FUTURE OF A PRIVATE HIRE VEHICLE LICENCE AND THE REMOVAL OF A PRIVATE HIRE VEHICLE CONDITION

The Sub-Committee considered a report regarding an application to fit a hydrogen on demand system to the engine of a Private Hire Vehicle.

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 the future of the Private Hire Vehicle 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 application to waive Conditions 2.1 and Condition 2.4 of the Council's Private Hire Vehicle Licence Conditions be granted, subject to the following conditions:

1. The installation of the "Hydrogen on Demand" system is to be undertaken by an independent approved and authorised dealership to be identified to and approved by the Licensing Team Leader in consultation with the Sub-Committee Chairman, prior to the work being undertaken;
2. The Licensing Section is to be provided with a certificate from the garage as to the modification carried out to the mechanical specification of the vehicle engine, within 14 days of the work being undertaken;
3. The Licensing Section is to be provided with confirmation, by way of the production of a V5 Certificate, that the vehicle's modification and conversion to a dual fuel role, has been notified to the DVLA;
4. The Licensing Section is to be provided with confirmation that an appropriate policy of insurance is in place in respect of the modified vehicle.

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

36 16-17/11 CONSIDERATION OF DRIVING RECORD AND THE ACCUMULATION OF PENALTY POINTS

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

- (a) That a formal warning be issued with respect to the licence holder's future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that no further action be taken.

37 16-17/12 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 future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that no further action be taken.

38 16-17/14 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 attended the hearing and made representations in respect of the case.

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

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

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

39 16-17/15 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 attended the hearing and made representations in respect of the case.

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

RESOLVED

- (a) That the 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.
- (b) That a formal warning be issued with respect to the applicant's future conduct.

The meeting commenced at 10.00 am and concluded at 2.45 pm

Councillor W S Davies (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Thursday, 1st December, 2016 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor W S Davies (Chairman)

Councillors D Bebbington, E Brooks, L Smetham and M Warren

OFFICERS IN ATTENDANCE

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

40 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor S Davies be appointed Chairman.

41 APOLOGIES FOR ABSENCE

There were no apologies for absence.

42 DECLARATIONS OF INTEREST

There were no declarations of interest.

43 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.

44 16-17/16 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

- (a) That a formal warning be issued with respect to the licence holder's future conduct.
- (b) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that no further action be taken.

45 16-17/17 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 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 to enable the applicant to demonstrate that they continue to be a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver Licence.

46 16-17/18 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 case.

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

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

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

47 16-17/19 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 supporter 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 not a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, and that the application for a Joint Hackney Carriage/Private Hire Driver Licence be refused.

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

The meeting commenced at 10.00 am and concluded at 12.18 pm

Councillor W S Davies (Chairman)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Friday, 16th December, 2016 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillors D Bebbington, S Davies, T Dean, A Harewood and J Wray

Officer

Kim Evans, Licensing Team Leader
Jim Hopper, Licensing Officer
Aoife Ryan, Lawyer
Rachel Graves, Democratic Services Officer

48 APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor S Davies be appointed as Chairman.

49 APOLOGIES FOR ABSENCE

There were no apologies for absence.

50 DECLARATIONS OF INTEREST

No declarations were made.

51 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED:

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

52 16-17/20 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

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

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

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

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

RESOLVED:

That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence, subject to the submission of a satisfactory Driver Medical Report and a further Driver Licence check. In relation to the failure to notify the Licensing Section of their convictions, the Joint Hackney Carriage/Private Hire Driver's Licence be suspended for a period of six months.

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

The meeting commenced at 10.00 am and concluded at 11.00 am

Councillor S Davies

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Friday, 27th January, 2017 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillor W S Davies (Chairman)

Councillors D Bebbington, C Chapman, T Dean and L Smetham

OFFICERS IN ATTENDANCE

Tracey Billington, Licensing Officer
Jim Hopper, Licensing Officer
Aoife Ryan, Lawyer
Julie Zientek, Democratic Services Officer

53 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor S Davies be appointed Chairman.

54 APOLOGIES FOR ABSENCE

There were no apologies for absence.

55 DECLARATIONS OF INTEREST

There were no declarations of interest.

56 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.

57 16-17/21 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

- (a) That the licence holder is at this time a fit and proper person to hold a Joint Hackney Carriage/Private Hire Driver's Licence
- (b) That the Joint Hackney Carriage/Private Hire Driver Licence be subject to a period of suspension for five months as a punitive sanction.

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

58 16-17/22 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 case.

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

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

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

59 **16-17/23 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.

60 **16-17/24 CONSIDERATION OF FITNESS TO HOLD A JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE**

The Chairman reported that, following a request from the licence holder, this item had been withdrawn from the agenda and would be considered at the next meeting of the General Licensing Sub-Committee.

The meeting commenced at 10.00 am and concluded at 12.05 pm

Councillor W S Davies (Chairman)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	6 th March 2017
Report of:	Environmental Protection Team Leader – Regulatory Services and Health
Subject/Title:	Adoption of the procedure for hearings in accordance with the Scrap Metal Dealers Act 2013

1.0 Report Summary

- 1.1 In accordance with the provisions of the Scrap Metal Dealers Act 2013, if the Council is minded to refuse an application for a Scrap Metal Dealers Licence, the applicant has a right of appeal to the Licensing Sub-Committee. In order for the hearing to be heard in a fair manner, the Council must agree the procedure for such hearings.

2.0 Recommendation

- 2.1 To approve the attached procedure in Appendix 1 for undertaking appeal hearings in accordance with the Scrap Metal Dealers Act 2013.

3.0 Reasons for Recommendations

- 3.1 In accordance with the Scrap Metal Dealers Act 2013, the Council must approve a procedure for appeal hearings.

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 None

8.0 Legal Implications

- 8.1 Schedule 1 (7) of the Scrap Metal Dealers Act 2013, provides that where a local authority proposes to refuse an application for a licence, the applicant can request a hearing. When a hearing is requested the applicant must state

whether they wish to make representation to the Council either in writing or in person. Therefore, it is a requirement that the council adopts a formal procedure setting out how these hearings will be heard.

9.0 Risk Management

- 9.1 If there is no formal procedure in place setting out how the scrap metal dealer appeal hearings will be structured, there is the risk that a relevant parties may claim that they have not had a fair hearing.
- 9.2 The Scrap Metal Dealers Act 2013 permits an unsuccessful applicant to appeal to the Magistrates' Court against the refusal of an application following a hearing.

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 a dealer becomes 'unsuitable'.
- 10.2 The Act requires that the Council must be satisfied that applicant(s) are suitable to carry on a business as a scrap metal dealer. To help with determining if a person is suitable, the Council must have regard to the following:
 - (a) Whether the applicant or any site manager has been convicted of any relevant offence;
 - (b) whether the applicant or any site manager has been the subject of any relevant enforcement action;
 - (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
 - (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
 - (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
 - (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- 10.3 If the Council is satisfied that the applicant(s) is not suitable to carry on a business as a scrap metal dealer, the applicant has a right to a hearing where they can state their case either in writing or in person. If the outcome of the hearing is to grant the licence there are only two statutory conditions which can be applied to the licence, but if the licence is refused the applicant can appeal to the Magistrates' Court.

11.0 Definitions under the Act

11.1 *Scrap Metal Dealer*

11.1.1 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)).

11.1.2 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.

11.1.3 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>

Name: Nick Kelly

Designation: Environmental Protection Team Leader

Tel No: 01270 686720

Email: nick.kelly@cheshireeast.gov.uk

CHESHIRE EAST COUNCIL
GENERAL LICENSING SUB-COMMITTEE
Procedure for Hearings – Scrap Metal Dealers Act 2013

Note: If the Sub-Committee has not already elected a Chairman that will be the first item of business

Note: The Committee may request the Legal Adviser to advise on legal issues at any time throughout the process

Note: Where appropriate the Chairman has the right to vary the procedure

1	Chairman	The Chairman will: (a) Call the matter forward and confirm any declarations of interest (b) Request the parties to introduce themselves; and (c) Explain the procedure to be followed
2	Local Authority Officer	Will present the report introducing the case
3	Committee Members	Will be given the opportunity to ask questions of the Local Authority Officer
4	Applicant	Will be given the opportunity to ask questions of the Local Authority Officer
5	Applicant	The Applicant and/or representative will be given the opportunity to speak in support of the application and to produce evidence
6	The Local Authority Officer and Consultees who have made representations	Each in turn may ask <u>questions</u> of the applicant by way of clarification
7	Committee Members	Will be given the opportunity to ask the Applicant questions of <u>clarification</u> or to ascertain an applicant's suitability to hold the licence
8	Consultees who have made Representation	Will make representations
9	Applicant	The Applicant or representative may ask <u>questions</u> of Consultees who have made Representations and are represented at the meeting
10	Committee Members	May ask questions of clarification of the Consultees, who have made Representations and are represented at the meeting.
11	Chairman	To invite Consultees who have made Representations to make their closing address
12	Applicant	The Applicant or representative will be given the opportunity to summarise and add any further comments in support of the application
13	Committee	Will retire to consider the Application.
14	Committee	Will return to give its decision, with reasons, which will be announced by the Chairman and subsequently confirmed in writing. In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting: 6th March 2017
Report of: Environmental Protection Senior Enforcement Officer -
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 home sites, 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 2017-18 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 2017-18.

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 shall be reviewed annually to reflect the costs of administering the licences. A copy of the proposed Fees and Charges for 2017-18 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 changes in the 2017-18 fees (see table in para 10.3) is due to improved cost accounting and reflects the site size and resulting officer input it also reflects any changes to 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 provide local authorities with the power to charge a fee for administering licences for “relevant protected sites.” In addition, section 1(3) sets out that where ‘a local authority sets a fee it must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question.....’. Guidance from the Secretary of State recommends that this should be undertaken by adopting a policy for fees and charges; the proposed policy for 2017-18 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. Thus this number of sites is subject to change throughout the year, as and when applicable sites gain planning permission.

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 a time monitoring approach together with officer

knowledge of the times involved for carrying out the various functions to ensure that the setting of fees is as accurate as possible.

- 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 2017-18. The fees have been calculated for caravan sites as both an initial application fee and an annual fee together with last years fees and charges for reference;

Number of Pitches	2016-17 Application fee	2016-17 Annual fee	2017-18 Application Fee	2017-18 Annual Fee
< 10	£226.00	£226.00	£154.00	£154.00
< 20	£267.00	£267.00	£207.00	£207.00
< 30	£308.00	£308.00	£261.00	£261.00
< 40	£349.00	£349.00	£315.00	£315.00
< 50	£390.00	£390.00	£369.00	£369.00
> 50	£430.00	£430.00	£494.00	£494.00

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

- 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

- 10.4 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 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 fees/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>

Name: Hamish Roscoe
Designation: Senior Enforcement Officer
Tel No: 01625 383809
Email: hamish.roscoe@cheshireeast.gov.uk



Regulatory Services and Health

Mobile Homes Act 2013 Fees and Charges Policy

2017-2018

Contents

- 1 Executive Summary
- 2 Introduction
- 3 Setting of Fees and Charges
- 4 Establishing number of units (Caravans) per site
- 5 Licensing Fees
 - 5.1 Considerations
 - 5.2 Annual Fee
 - 5.3 New Licence Fee
 - 5.4 Transfer Fee
 - 5.5 Licence Amendments Fee
 - 5.6 Fee Combination
 - 5.7 Fees and Charges Payment Time-frames
- 6 Fees for Depositing Site Rules
- 7 Exemptions
- 8 Charges for Enforcement Notices
- 9 Review

1. Executive Summary

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

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

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

In order to be able to implement any fees and charges, Cheshire East Council must publish a fees and charges policy setting out all the relevant charges and how they have been calculated. This policy document is designed to fulfil the requirements of the legislation and enable Cheshire East Council to levy a charge for undertaking the licensing of residential caravan sites. In accordance with guidance, the Policy will be reviewed annually to ensure all the fees and charges are updated to cover costs of administering the licensing regime to the relevant sites. The Policy will be published and be available 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 residential sites;
- Amendments to site licences;

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

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

3. Setting of Fees and Charges

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

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

Less than	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 one or 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, deemed permission for those sites in existence with the enactment of the Caravan Sites and Control of Development Act 1960 or a Certificate of Lawful Use, which sets out the maximum number of permissible units, this will be the determining factor for calculating the number of units for each site. However, there may be occasions due to historic use where this information is not available with in the planning permission, in these instances calculations will be based on the number of units set out in the existing site licence.

5. Licensing Fees

5.1 Considerations

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

- Administration of licence fees;
- Pre and post inspection preparation and administration;
- Site inspection and where required re-inspection (including travelling time and mileage allowances at current rates);
- General administration and Licensing activities outside of the inspection related role (site liaison/advice, complaints and enquiries regarding caravan sites, maintaining files, electronic records and cost accounting);
- Training and research;
- Maintenance and development of ICT systems;
- Support and shared services on-costs e.g. HR and Legal
- Officer grade – Officers involved with caravan site licensing functions span Grades 5 (billing admin). However, officer grades 7 to 9 (licensing and inspection activities) is typical if the day to day activities . Therefore a midpoint grade 8 has been used to establish officer costs.

5.2 Annual Fee

The current fees (rounded to the nearest £) set for 2017/18 are;

Number of pitches	cost
<=10	£154.00
<=20	£207.00
<=30	£261.00
<=40	£315.00
<=50	£369.00
>50	£494.00

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	£154.00
<=20	£207.00
<=30	£261.00
<=40	£315.00
<=50	£369.00
>50	£494.00

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 appropriate parties 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 £261.
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 which ever is the greatest.

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 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 the amendments imposed by the MHA13, the council is entitled to recover costs associated with the service of a notice. This includes the costs incurred with inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the 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. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government (fit and proper person), which may impact on the processes and time involved resulting in a revision to the proposed charges.

This policy will be revised no later than 31st March 2018 in line with the Council's fee setting process.

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	6 th March 2017
Report of:	Miss Jennifer Knight – Senior Licensing Officer
Subject/Title:	Review of Taxi Licensing fees and charges for the financial year 2017/2018
Portfolio Holder:	Cllr Paul Bates – Communities and Health

1.0 Report Summary

- 1.1 To ask Members to consider any objections following the publication of the Council's Taxi Licensing Fares.

2.0 Recommendation

- 2.1 That Members consider any objections and determine the matter as they see fit.

3.0 Reasons for Recommendations

- 3.1 A review of the fees payable in respect of various types of licence and permits administered and enforced by the Licensing Section has been made for the next financial period. For the fees to be lawful and levied correctly a review of all licensing fees and charges needs to be made followed by publication in a newspaper.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications

- 6.1 The fees proposed are compatible with our charging strategy.

7.0 Financial Implications

- 7.1 There are no direct financial implication linked to the consideration of this report.
- 7.2 Where possible, the licensing service aims to recover all reasonable costs to ensure that the process is provided on cost neutral basis.

- 7.3 The Licensing Team complies with all of the legislative and case law requirement concerned with fees setting. These requirement as set out in full within the legal implication section of the report.

8.0 Legal Implications

- 8.1 Regulation 2 (6) of the Local Authorities (Functions and Responsibilities) Regulations 2000 confirms that where the issuing of any licence, permit, or consent is a Council function, the fee must also be set by the Council. The Council has made provision in its Constitution for the setting of fees to be delegated to the Licensing Committee.
- 8.2 The Licensing Act 2003 (along with all licences except those relating to taxis and gambling) are also subject to the EU Service (2006). This directive, which has been incorporated in UK law by the Provision of Services Regulations 2009, confirms:
1. Fee charges must be proportionate to the cost of the process
 2. Fees cannot be used as either a deterrent or to raise funds
 3. Enforcement should not be included in the fees
- 8.3 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.
- 8.4 In respect of vehicle and operators' licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:
- The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
 - The reasonable cost of providing Hackney Carriage stands
 - Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles
 - The Act, which dates from 1976, also states that the fee for vehicle and operator licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs £25 is not seen as a realistic fee to impose. The fee has not been set at this rate for a significant number of years.
- 8.5 In respect of drivers' licences the Act states that the Council may charge, 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences'.

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

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

9.0 Risk Management

9.1 There is a right to object to most fees set following publication of the Statutory Notices. If valid objections are received the matter would be referred back to the Members of this Committee for determination. The Committee must thoroughly consider any objections received.

10.0 Background

10.1 The Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations but some fees can be set by Local Authorities to cover the cost of administration, compliance and some elements of enforcement; Locally Set Fees.

10.2 The service where possible aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, purchase costs etc.

10.3 On the 7th November 2016 the Licensing Committee determined to vary the Council's fees in relation to Taxi Licensing (appendix A). Accordingly, the Licensing Team placed the required Notices in several local papers. Notices were also placed at the Council's principal office and at the Customer Contact Centres.

10.4 Any objections received will need to be considered by the Licensing Committee and will be presented at the meeting.

10.5 In the event that there are no objections, the Committee will not be required to consider the matter and the fees will come into effect on the 1st April 2017.

11.0 Access to Information

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

Name: Miss Jennifer Knight

Designation: Senior Licensing Officer

Tel No: 0300 123 5015

Email: jknight@cheshireeast.gov.uk

Appendix A

SCALE OF FEES AND CHARGES 2017/18 - CEC and ASDV	2016/17 Current Charges £	2017/18 Proposed Charges £
Hackney Carriage and Private Hire Vehicles		
* Hackney Carriage - 1 year	301.00	301.00
* Private Hire Vehicle - 1 year	301.00	301.00
* Hackney Carriage / Private Hire Additional Test Fee	78.00	78.00
Joint Hackney Carriage / Private Hire Driver - 3 years	228.00	228.00
* Private Hire Operator - 5 years	347.00	350.00
* Vehicle Re-test Fee	37.00	37.00
Joint Hackney Carriage / Private Hire driver - Renewal	166.00	166.00
DVLA Licence Check	5.00	5.00
Local Knowledge Test	40.00	40.00
Replacement Driver Badge	10.00	10.00
Replacement Plates	10.00	10.00
Replacement window stickers	10.00	10.00
Transfer of licence	25.63	40.00
Disclosure and Barring Service (DBS) Applications	48.00	48.00

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	6 th March 2017
Report of:	Miss Jennifer Knight – Senior Licensing Officer
Subject/Title:	Designation of Streets within the Borough for the purposes of Street Trading
Portfolio Holder:	Cllr Paul Bates – Communities and Health

1.0 Report Summary

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

2.0 Recommendation

- 2.1 That Members consider the content of the report, the responses received in respect of the consultation and resolve:

To pass a resolution confirming the Council's intention to designate the identified streets within in the 'Schedule of Streets' (appendix A) for the purposes of Street Trading and that authority be given to the Licensing Team Leader to follow any necessary statutory procedures including the publication of the required Notices.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council's Street Trading Designation are review and updated.

4.0 Wards Affected

- 4.1 All areas of the Borough will be affected

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications

- 6.1 The Licensing Committee adopted a Street Trading Policy on the 16th July 2013.

7.0 Financial Implications

- 7.1 There are a number of Notices that the Council is required to publish to ensure that the process for designating streets complies with the legislative requirements.
- 7.2 These Notices will incur a cost that is estimated to be £5,000. The income from the issuing of street trading consents is approximately £6,570 pa. The Licensing Team has made budgetary provision for this process to be undertaken.

8.0 Legal Implications

- 8.1 Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) grants a Local Authority the power to adopt legislation to control Street Trading within its area.

- 8.2 Schedule 4 of the 1982 Act sets out the powers available, including

- The designation of streets as prohibited, consent, or licence
- Exemptions
- Setting of fees
- Applying conditions
- Any offences

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

8.4 Statutory Process for Designation of Streets

- 8.4.1 The following statutory process would need to be followed:

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

9.0 Risk Management

- 9.1 Proper consideration of any consultation responses or objection responses will reduce the risk of legal challenge.
- 9.2 It is good practice to review and update (where necessary) street trading designations. Designations that have not been review for many years may be more susceptible to challenge or scrutiny if they are no longer relevant.

10.0 Background

- 10.1 A street for these purposes includes any road, footway, beach or other area to which the public has access without payment, including highway service areas. In brief terms, street trading is defined as anyone selling or exposing or offering for sale any article (including a living thing).
- 10.2 The purpose of designating streets for the purpose of street trading is to ensure appropriate controls are in place to regulate and ensure that:
- An area is not saturated with street traders to the detriment of permanent businesses
 - The highway is not obstructed
 - The presence of the trading unit does not present a danger to pedestrians and other road users or an annoyance is caused to residents
- 10.3 In relation to the designation of streets the Committee has the following options:
1. To leave a 'street' undesignated – This would have the effect of leaving any street trading unregulated in that street and a trader would not require any permission from the Council to conduct their business.
 2. A prohibited 'street' – Street Trading would be prohibited from taking place at all times. If Street Trading were to be conducted an offence contrary to the 1982 Act may be committed.
 3. A consent 'street' - Street Trading would be prohibited from taking place at all times unless the trader has been granted consent. If Street Trading were to be conducted without consent an offence contrary to the 1982 Act may be committed.
- 10.4 The Licensing Team consulted between 15th September 2016 and 27th October 2016 in the following ways:
- Public Consultation via the Council's web site
 - With other relevant Council departments and the Council's Event Safety Advisory Group
 - With the Town and Parish Councils
 - Cheshire Police

10.5 No relevant consultation responses were received.

10.6 Following publication of the Statutory Notices, the matter will be brought back before the Licensing Committee for further consideration. It would be necessary for the Committee to consider any objections received and to determine whether or not to pass a resolution changing the street trading designations.

11.0 Access to Information

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

Name: Miss Jennifer Knight
Designation: Senior Licensing Officer
Tel No: 0300 123 5015
Email: jknight@cheshireeast.gov.uk

Appendix A

Street Trading – Designated Streets Schedule



Schedule of Consent Streets

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

Schedule of Prohibited Streets

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

Appendix A

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