

# Environment and Communities Committee

## Agenda

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**Date:** Thursday, 4th August, 2022  
**Time:** 10.30 am  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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

It should be noted that Part 1 items of Cheshire East Council decision making 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 note any apologies for absence from Members.

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. **Minutes of Previous Meeting** (Pages 3 - 14)

To approve as a correct record the minutes of the previous meeting held on 01 July 2022.

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For requests for further information

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4. **Public Speaking/Open Session**

In accordance with paragraph 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking, set out in the [Constitution](#), a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **Single Use Plastics Update** (Pages 15 - 18)

To consider the Committee resolution to provide an update on the current use of single plastics across the Council.

6. **Household Waste Recycling Centre User Guide/Policy** (Pages 19 - 36)

To consider the user guide/policy and customer charter for adoption.

7. **Developer Contributions SPD** (Pages 37 - 148)

To consider a minimum of six weeks of public consultation on the draft Developer Contributions Supplementary Planning Document ("SPD").

8. **Hackney Carriage and Private Hire Licensing Policy** (Pages 149 - 340)

To consider the representations received to the consultation undertaken on the draft policy, and the Cheshire East Council Hackney Carriage and Private Hire Licensing Policy.

9. **Standing Item: Member Advisory Panel: Cheshire East Planning Process Review**

To receive an oral update from the Chair of the Member Advisory Panel.

10. **Standing Item: Members Advisory Panel: Cheshire East Cemeteries Strategy Review**

To receive an oral update from the Chair of the Member Advisory Panel.

11. **Work Programme** (Pages 341 - 344)

To consider the Work Programme and determine any required amendments.

**Membership:** Councillors Q Abel, M Benson, J Bratherton, J Buckley, L Crane, T Dean, A Farrall, L Gilbert, P Groves, C Leach, J Parry, S Pochin (Vice-Chair) and M Warren (Chair)

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Environment and Communities Committee** held on Friday, 1st July, 2022 in the Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor M Warren (Chair)  
Councillor S Pochin (Vice-Chair)

Councillors Q Abel, M Benson, L Braithwaite, J Bratherton, J Buckley, L Crane, T Dean, P Groves, C Leach, J Parry and J Clowes

**OFFICERS IN ATTENDANCE**

Chris Allman, Head of Neighbourhood Services  
Paul Bayley- Director of Environment and Neighbourhood Services  
Helen Davies- Democratic Services  
Tom Evans, Neighbourhood Planning Manager and Interim Environmental Planning Manager  
Paul Goodwin, Head of Financial Services and Deputy Chief Finance Officer  
Peter Hooley, Planning and Enforcement Manager  
Ralph Kemp, Head of Environmental Services  
Stuart Penny, Planning Policy and Community Infrastructure Levy (CIL) Manager  
Jeremy Owens, Development Planning Manager  
Laura Woodrow-Hirst, ASB and Community Enforcement Team Leader,

**1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Ashley Farrall (Councillor Liz Braithwaite was substituting) and Councillor Les Gilbert (Councillor Janet Clowes was substituting).

**2 DECLARATIONS OF INTEREST**

In the interests of openness, Councillor Liz Braithwaite declared that in respect of agenda item 6, Implementation of Public Spaces Protection Order (PSPO) for Macclesfield, they were part of the stake holder group and consulted with in their capacity as Ward Councillor.

In the interests of openness, Councillor Charlotte Leach declared that in respect of agenda item 9, Local Plan Strategy Review, their employer had promoted a site within Cheshire East through the Local Plan process.

**3 MINUTES OF PREVIOUS MEETING**

RESOLVED: That the minutes of the 07 March 2022 meeting be received and noted as a correct and accurate record.

#### 4 PUBLIC SPEAKING/OPEN SESSION

Mr. Jonathan Smith attended the Committee to give a brief statement and ask a question in respect of agenda item 9, Local Plan Strategy Review. Mr. Smith advised the Committee that he had been supporting the local community group, Save Longridge Greenbelt since 2019 with their effort in preventing the development of 225 houses on rewilded land that was a valued local amenity. Mr. Smith was in favour of the officer recommendation contained within the report to commence an update of the Local Plan Strategy and noted a key driver for the recommendation was the climate emergency, the council should reduce any environmental impact, with climate change and environmental concerns being at heart of any update. Mr. Smith requested that the Council saved the land east of Longridge and did not allocate for housing to conserve this space as a green asset for generations to come.

Mr. Smith asked for details of the arrangements for members of the public and local groups to participate in, and influence, the proposed Update of the Local Plan Strategy.

The Chair responded to the question and advised that there would be the opportunity for the public, residents and Members to feedback their views through the preparation of any Local Plan update. Consultation was a statutory requirement to the Local Plan and these views would be published on the Council's website.

The Chair highlighted that Central Government was taking forward reforms to planning system including the way the Local Plan was prepared. Changes to the Local plan update would be brought forward under revised legal and national policy requirements, notably two rounds of community engagement would be required before plans were submitted for independent examination.

In addition, new national guidance on community engagement in planning was promised and described the different way in which communities could get involved and highlighted best practice.

Mr. John Finnan attended the Committee and spoke in respect of agenda item 9, Local Plan Strategy Review, specifically a site within the current Local Plan.

Mr. Finnan advised the Committee that no provisions were in place to remove LPS 38, Longridge, Knutsford out of the greenbelt. The Government Planning inspector did not know about a covenant that barred direct access to the site. Mr. Finnan explained that the council plan was to sell part of the adjoining land which would then create site access. The fields and woods at Longridge had been used for the last three

generations of the local community in an area where there was deprivation. Usage of this space increased during the pandemic. Should any development go ahead, 500 trees and 50 years of rewilding would be lost impacting on 92 species of birds. Biodiversity offsetting would have to happen offsite. Knutsford Town Council did not constitute this area to be sustainable development, and a Landscape Officer at Cheshire East Council had said the development could not be supported. Cheshire Wildlife Trust confirmed the site met the standards for local wildlife across eight different criteria. Longridge was an area of high habitat and distinctiveness. Three years ago the Leader of Cheshire East Council was asked to remove Longridge from the Local Plan, during this time, Esther McVey MP confirmed the Council could remove it if and when a decision was made to review the Local Plan.

Mr. Finnan asked the Committee:

- 1) if the Local Plan would be reviewed;
- 2) if so, could provision be included to examine a wildlife site like Longridge;
- 3) would any planning applications for Longridge be paused until the Local Plan review was completed; and
- 4) upon consideration could Longridge be removed from the Local Plan and returned to the greenbelt.

The Chair confirmed the consideration to review the Local Plan was before the Committee today, and changes to policy and scope would be matters for future determination through a Local Plan update process. The Longridge site was a Housing Allocation in the adopted Local Plan strategy and was the subject of a live planning application. Decisions on planning permission would be determined by the Strategic Planning Board (SPB) in due course. Any pauses to planning applications would be neither possible or appropriate, this Committee had no jurisdiction over the planning application and had no remit to interfere with any determination. The detailed scope and content of future proposals were matters to be determined when any updates to the Local Plan were prepared.

RESOLVED:

That the public speakers be thanked for their attendance and contribution to the Committee meeting.

## **5 2021-22 ANNUAL PERFORMANCE REVIEW**

Paul Bayley, Director of Environment and Neighbourhood Services, introduced the item. The purpose of the report was to provide a review on performance across the department for 2021-22.

The Committee was advised that:

- The Covid pandemic had impacted services on the first half of 2021, until restrictions lifted on the 19<sup>th</sup> July;
- The Strain on waste services continued, all bins had been emptied at all times but some delays had occurred;
- Recycling rates remained high and nationally Cheshire East was in the top 10 Unitary Authorities for recycling performance;
- During the period, there had been consultation on six Supplementary Planning Documents (SPDs);
- Seven Neighbourhood plans had been made;
- Platinum Jubilee street parties were able to be held in some alleyways in central Crewe this followed work completed by Cleaner Crewe project; and
- The Planning service continued to be under significant pressure, with a significant backlog of planning applications and most non-major applications had taken 4-6 months to determine. The Executive Director of Place had undertaken a Deep-dive review of the Planning service.

The Director of Environment and Neighbourhood Services noted the efforts of the planning team and advised that 100 applications had been determined every week and the five-year housing supply remained at a robust level.

Thanks were given to all council officers across the department including colleagues from Ansa, Orbitas and Everybody Health and Leisure (ESAR) for ongoing commitments to delivering services for residents and businesses across the borough.

The Committee was given the opportunity to ask questions, there was some discussion and it was noted that:

- With respect to flytipping, CCTV cameras had been deployed across borough. There was ambition to procure additional cameras under Cleaner Crewe project to be deployed within alleyways to support the Cleaner Crewe project;
- Thanks were given to Councillor Charlotte Leach in respect of the work she had been part of in Mobberley that brought about dismissal of an appeal for the unlawful change of use of land for residential caravans within the Greenbelt, resulting in a positive outcome for the community; and
- There was a need to get ahead on planning policy making to ensure more in terms of biodiversity gain than less.

There was discussion about charges to those using tips to dispose of rubble. Ralph Kemp, Head of Environmental Services gave the Committee an overview on the current position. The Government had three pieces of legislation that would affect the waste collection service:

1) the way in which waste is collected would be informed on the outcome of consultations, of which there was no clear deadline at present;

2) Extended Producer Responsibility encouraged producers to fund local authorities for any changes that would be needed to collect waste;

3) A consultation related to removal of the charge for depositing do-it-yourself (DIY) waste at household waste and recycling centres. Cheshire East would explore the feasibility of that.

There was discussion about the six vacancies within the Planning department and the context of those. Peter Hooley, Planning and Enforcement Manager advised the Committee the vacancies were significant across a team of 30 full time equivalent positions.

The Committee congratulated officers on the hard work despite a trying period, and positive results across the department.

RESOLVED:

That the performance of the department be received and noted.

## **6 IMPLEMENTATION OF PUBLIC SPACES PROTECTION ORDER (PSPO) FOR MACCLESFIELD**

Chris Allman, Head of Neighbourhood Services introduced the report to the Committee and invited any questions.

The Committee queried:

- if any Public Space Protection Orders (PSPO) had been successful elsewhere in the borough and were advised that there had been one in Congleton that resulted in no reported instances; and
- how drugs were taken into account in relation to PSPOs. Laura Woodrow-Hirst, ASB and Community Enforcement Team Leader, advised the powers were only for alcohol removal, drugs would fall under the jurisdiction of the Police who could deal with drugs, offences under their powers.

Councillor Liz Braithwaite thanked everyone involved with the PSPOs in her capacity as Ward Member for Macclesfield Central.

RESOLVED (Unanimously):

That the proposed PSPO, be approved with a commencement date of 18th July 2022 and a duration of 3 years.

## **7 HOUSING SUPPLEMENTARY PLANNING DOCUMENT (SPD)**

Tom Evans, Neighbourhood Planning Manager and Interim Environmental Planning Manager presented the report to the Committee. The Supplementary Planning Document (SPD) provided guidance on adopted policies and material considerations but could not introduce new considerations. There was detail on the environmental impacts and the approach by the council to those.

Consultation had taken place in April 2021 for 6 weeks and generated 119 comments with further comments between Nov- Dec 2021.

The key topics during the consultation included the relationship with the Site Allocations and Development Policies Document (SADPD) and the provision of additional information on vacant building credit.

The Neighbourhood Planning Manager and Interim Environmental Planning Manager gave some clarity to the rounding up calculations at 6.7 and 6.12 of the SPD. The approach was to round up to the nearest whole number.

The Committee had some discussion about modular housing, housing for first time buyers, and the encouraging and support of sustainable homes.

RESOLVED (Unanimously) That:

- a) the key issues raised in representations received to the public consultation that took place between November and December 2021 and the corresponding modifications to the Housing Supplementary Planning Document as set out in the Report of Consultation be received and noted; and
- b) the Housing Supplementary Planning Document be adopted.

## 8 THE MINERALS AND WASTE DEVELOPMENT PLAN

Stuart Penny, Planning Policy and Community Infrastructure Levy (CIL) Manager introduced the item to the Committee, the Minerals and Waste Plan contained strategic and non-strategic policies, that focussed on issues specific to minerals and waste matters.

The Committee was given the opportunity to ask questions, there was some discussion on:

- Of the two identified sites for Silica sand, had any consultation taken place with neighbours, the Committee were advised that this was the first stage of the plan and consultation will follow when the proposals were released;
- Concern in relation to the predicted shortfall in capacity to manage residual waste (black bin) and inert waste over the period to 2030 and that this was eight years away. The Committee were advised that there were two elements to the landfill element, the Crewe site did not accept waste anymore and the council would need to call for sites for a potential operator to come forward;
- The position in relation to mineral extraction restoration and the trend in the past to make lakes from exhausted quarries which did have some Biodiversity merit but was often not part of the original topography. The Committee were advised that in-line with the after-

care management plan, restoration must be appropriate to location and sympathetic to environment. The Committee were reassured by this;

- The Council position on fracking, the Committee were advised that the planning guidance states councils must plan positively with the need for resource but to balance against impacts; and
- The importance of consultation from public on fracking proposals. The Committee was advised that there was a set of requirements set out in the plan policy that applicants would need to evaluate impacts, including water, environment, pollution, etc.

RESOLVED (Unanimously) That:

a) the draft version of the Minerals and Waste Plan be approved for public consultation together with its associated documents, call for sites exercise and mapping (via the Council's website). This includes the Sustainability Assessment, Habitats Regulation Assessment and the current supporting evidence base for the MWP;

b) the Head of Planning be authorised to finalise the Sustainability Appraisal and Habitats Regulation Assessment and to make any necessary changes required to the draft Minerals and Waste Plan as a result of their findings; and

c) the Head of Planning be authorised to make any other non-material changes to the consultation documents or supporting information ahead of the consultation and prepare any additional explanatory information to support the consultation.

## 9 LOCAL PLAN STRATEGY REVIEW

Jeremy Owens, Development Planning Manager gave the Committee the background to the report and the findings of the Local Plan Strategy Review. The Council must review a Local Plan within 5-years of adoption. The 27<sup>th</sup> July 2022 was the deadline for Cheshire East Council.

The Committee was advised there were three areas that the Local Plan Strategy (LPS) must take into account:

1) Plan policies must remain consistent with National Policy Planning Framework (NPPF), and this had been revised 3-times during the lifespan of the current Cheshire East Local Plan;

2) Plans must remain effective, the review found that overall it did and could demonstrate a 5-year supply of housing land;

3) Any local change to circumstances could warrant change, the review found that HS2 required the need for full implications to be addressed along with the Councils new Corporate Plan and commitment to tackle Climate Change.

The Committee was given the opportunity to ask questions, there was some discussion about:

- If the entire Local Plan needed to be changed, it was expected that this would be an extensive update on the basis that most of plan needed to be updated.
- Reassurance that a proactive approach would be taken to support groups who had worked on previous plans, if they are to see significant change;
- Noting that the housing requirement within the LPS was significantly different to the Local Housing need for Cheshire East, the Development Planning Manager was clear that the Housing need figure was not a substitute, and the LPS housing requirement remained and would remain in place until an update was complete; and
- Whether a current review of the LPS would become a new plan for beyond 2030, the Committee were advised that the review is expected to be extensive but the scope was not yet defined and this was expected in the next report. Officers would be working through the detail with the Committee, it was expected the Local Plan would take a number of years to produce and circumstances would change. The Government would expect the new style Local Plan within 30-months which would be very challenging for the Council.

RESOLVED (Unanimously) That:

- a) the findings of the LPS review set out in this report be received and noted;
- b) an update to the LPS be carried out; and
- c) a further report be brought back to the Committee with a revised Local Development Scheme setting out the timetable for the update.

The Chair Councillor Mick Warren left the meeting and the Vice-Chair Councillor Sarah Pochin took the Chair for the remainder of the meeting.

## 10 ALIGNMENT OF 2022/23 BUDGETS

Paul Goodwin, Head of Financial Services and Deputy Chief Finance Officer introduced the item to the Committee and invited any questions.

The Committee noted that it was early in the financial cycle and the report before the Committee was a restatement from the Medium Term Financial Strategy (MTFS) with some virements and supplementary estimates since the MTFS was approved.

The Committee noted that several Members found the Cheshire East figures difficult and requested the need for plain English and additional training sessions during the financial year.

RESOLVED (Unanimously) That:

- a) the decision of the Finance Sub-Committee to allocate the approved capital and revenue budgets, related policy proposals and earmarked reserves to the Economy and Growth Committee be noted;
- b) the supplementary revenue estimates be approved;
- c) the supplementary capital estimates be approved;
- d) the capital budget virements be approved;
- e) the financial reporting timetable be received and noted.

**11 STANDING ITEM: MEMBER ADVISORY PANEL: CHESHIRE EAST PLANNING PROCESS REVIEW**

Councillor Tony Dean, the Chair of the Member Advisory Panel for Planning (MAPP), gave the Committee an update on the work to date.

Following serious concerns from Councillors and the public with respect to the Cheshire East Planning dept and the notably large backlog of applications and lack of planning enforcement, Jayne Traverse, Executive Director of Place, had undertaken a deep-dive review of the department and the MAPP had been meeting with her regularly to scrutinise progress.

Councillor Dean advised that the review had been a fair, open and inclusive process, generating over 300 comments and correspondence, 25 sessions with Planning teams and listening to staff, Brighter Futures workshops, gathering and analysing, complaints, FOIs, in-depth reviews, peer reviews, and considered the life of a planning application and new proposed ICT system. Councillor Dean noted that Cheshire East was the busiest local authority in Northwest, and in the top five within the country and top ten in terms of volume. It was noted that there was a national difficulty in recruiting experienced planners.

Progressed had been made in terms of the 2022 budget and the council having set aside £0.5million to the planning department and the staffing resource was being met temporarily via an agency to help with back log whilst the Council worked towards driving a recruitment campaign.

The Committee was given the opportunity to ask questions and discussed the possibility of encouraging/fast tracking planning applications that had benefit to carbon goals and the UK 100 Pledge.

Peter Hooley, Planning and Enforcement Manager advised the Committee that applications were prioritised into large and small scale. Major schemes were not in a queue and were allocated immediately to officers, but the nature of the scheme will take longer. The planning backlog would not affect those schemes to the same extent. Some schemes had an environmental or public service angle, such as hospitals and for these

officers would take a pragmatic approach to prioritisation. All applications had social, economic or environmental angles.

RESOLVED:

That Councillor Tony Dean and the Planning and Enforcement Manager be thanked for their attendance and update to the Committee.

**12 STANDING ITEM: MEMBERS ADVISORY PANEL: CHESHIRE EAST CEMETERIES STRATEGY REVIEW**

Councillor Joy Bratherton, the Chair of the Member Advisory Panel for the Cheshire East Cemeteries Strategy Review (MAPCSR), gave the Committee an update on the work to date.

The Committee was advised that the MAP working group of Members had visited a variety of cemeteries across the borough that included the two main ones in Crewe and Macclesfield and some smaller ones. The main remit for the group was to consider space for the future and perceived need for sites and new methods of burial and internment of ashes. Along with future development and update of sites not within council ownership particularly instances where some had been closing down and sent to the council to maintain.

Paul Bayley, Director of Environment and Neighbourhood Services, advised the Committee that the meetings with the MAP had been concluded and a number of high level objectives to revise strategy had been agreed and work was ongoing to digitise records. The next steps engagement and consultation with the community in September, and then feed development of that back to this Committee early in the new year with a revised strategy for consideration.

A key difficult area would be the management of collapsed memorials and regulations about how they are managed and unauthorised memorials.

The Committee was given the opportunity to ask questions, and it was noted that any consultation process should contain detail for those to be consulted on, with plain English that explained how things will change, with specific points rather than being general.

The Director of Environment and Neighbourhood Services advised the Committee that there would be a need to develop a management plan for each cemetery.

There was further discussion about:

- closed graveyards and the emotive and financial implications of the Council taking these on; and
- low-energy forms of cremation

RESOLVED:

That Councillor Joy Bratherton and the Director of Environment and Neighbourhood Services be thanked for their updates.

**13 WORK PROGRAMME**

Paul Bayley, Director of Environment and Neighbourhood Services advised the Committee further items will be added to the Work Programme in due course, it was noted that the Household Waste Recycling Centre Contract was now deferred until September meeting.

Councillor Laura Crane requested a review of Cleaner Crewe Project, Councillor Pochin requested this request be noted within the minutes.

**RESOLVED:**

That the Work Programme be received and noted.

The meeting commenced at 10.30 am and concluded at 1.09 pm

Councillor M Warren (Chair)

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## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	4 <sup>th</sup> August 2022
<b>Report Title:</b>	Single Use Plastics in the Council
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Report Reference No:</b>	EC/12/22-23
<b>Ward(s) Affected:</b>	All wards

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### **1. Purpose of Report**

- 1.1. The Environment and Communities Committee resolved on 7<sup>th</sup> March 2022 that *the original motion from 2018, to ban single use plastics proceed and that officers produce a report on the current use of single use plastics across the council for this Committee.* This report fulfils this requirement.

### **2. Executive Summary**

- 2.1. The Council has been actively involved in reducing single use plastics throughout its estate and operations, this report gives an update. .

### **3. Recommendations**

- 3.1. That members consider the information provided in the report.

### **4. Reasons for Recommendations**

- 4.1. This report is responding to the committee resolution to provide an update on the current use of single plastics across the Council.

### **5. Other Options Considered**

- 5.1. Not applicable.

### **6. Background**

- 6.1. The Council are seeking to reduce the use of single use plastics and have been active in this for a number of years. Some of the actions taken include:

- 6.1.1. Procurement – this continues to include [The Social Value Policy](#) and [Social Value Framework](#) that apply to the Council's commissioning and procurement activities. This is an important aspect of our drive to remove

single use plastics from our supply chain and highlights to bidders that we take this matter seriously and that it will impact their scoring. The requirements are:

- Plastic recycling rate on the contract (e.g., to reduce microplastics)
  - Single-use plastic packaging eliminated through reusable packaging solutions or schemes on the contract.
- 6.1.2.** Facilities Management – prior to 2018 some single use items were available as part of the catering service and at the drinks stations but most of these have now been removed. The only items are milk sachets because this reduces the amount of milk that would be thrown away each day.
- 6.1.3.** School catering – Do not accept unnecessary packaging for fruit and veg; significantly reduced use of items such as yogurt pots; frozen yoghurt ice-cream tubs now changed from a plastic container to a paper based one that is fully compostable.
- 6.1.4.** The Adults and Health Commissioning Team specifies that providers complete a sustainable development plan prior to commencing delivery. This document is reviewed at least annually. The relevance of single use plastics to this plan very much depends on the type of service being provided and is especially pertinent for areas such as Community Equipment.
- 6.1.5.** Leisure Centres – the majority of single use plastic materials have been removed. The items that remain serve important purposes such as items in the first aid kits, chemical bottles and overshoes for going onto poolside.
- 6.1.6.** A campaign and community toolkit was developed to provide information on how to reduce plastic use in everyday life. The Council’s website gives examples of what has been done [Life with less plastic \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk) and has the downloadable toolkit readily available [A Life with less plastic - Toolkit](#).
- 6.1.7.** It is important to note that there are instances where plastic is the best material to use and that it is often the disposal of the plastic, rather than the material itself, that causes the issue. Food that is plastic wrapped is preserved for longer and therefore care needs to be taken when replacing this, since it could lead to greater food waste. Detailed information on plastics is readily available from a link on the Council’s website to the national charity WRAP, who have produced an extensive range of information on all things plastic. The [What waste goes where \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk) page has been updated with a link to [Clear on Plastics – Cutting through the confusion on plastics](#).
- 6.1.8.** One of the means of capturing single use plastics has been the provision of recycling bins. The trial of the ‘on the go’ recycling bins in West Park (Macclesfield) and Queens Park (Crewe) has provided valuable information on the best locations and processes involved. The introduction of any new

processes requires both users and staff to change behaviours. Important lessons include there being a limited amount of plastic used over the winter period, but this is set to increase in the warmer months, that pairing the recycling bins with a normal litter bin is important to reduce contamination. As anticipated, there has been some contamination of the recycling, a common item being dog waste. To resolve this, we have been working with the bin manufacturer so that the new 'on the go' recycling bins will have flaps fitted that should dissuade dog owners from using them. Work continues on improving signage on the bins and using clear bags for the recycling.

- 6.2. In the wider national context, the Plastic Packaging Tax has come into force from 1 April 2022 with a £200/tonne levy on plastic packaging that has less than 30% recycled content. The Extended Producer Responsibility scheme is beginning to take shape and will be driving producers of packaging to design materials that are easier to recycling. Producers will be paying for the full cost of disposal of their materials to a central scheme administrator who will then be passing on these payments to the council (planned introduction 2023-24).
- 6.3. Historically councils have been the ones to bear the financial burden of managing packaging materials, but these changes mean producers will have to pay for this. The changes will contribute to a changing landscape of waste management where plastics will be seen as a valuable resource that can be reused and recycled.

## **7. Implications**

### **7.1. Legal**

- 7.1.1. There are no legal implications

### **7.2. Finance**

- 7.2.1. There are no financial implications arising from this report.

### **7.3. Policy**

- 7.3.1. This report supports the vision within the Corporate Plan for an open, fairer, greener Cheshire East and the goal to reduce the Council's carbon footprint.

### **7.4. Equality**

- 7.4.1. There are no equality implications.

### **7.5. Human Resources**

- 7.5.1. There are no human resources implications.

### **7.6. Risk Management**

- 7.6.1. There are no risk management implications.

### **7.7. Rural Communities**

- 7.7.1. There are no rural communities' implications.

**7.8. Children and Young People/Cared for Children**

7.8.1. There are no implications for children and young people/cared for children.

**7.9. Public Health**

7.9.1. There are no public health implications.

**7.10. Climate Change**

7.10.1. The removal of single use plastics helps to move the Council away from using disposal items to those that are far more sustainable. The removal of single use plastics from the supply chain should result in there being less chance of plastics escaping into the environment and breaking down.

<b>Access to Information</b>	
Contact Officer:	Ralph Kemp, Head of Environmental Services <a href="mailto:Ralph.kemp@cheshireeast.gov.uk">Ralph.kemp@cheshireeast.gov.uk</a>
Appendices:	N/A
Background Papers:	<a href="#">Agenda for Environment and Communities Committee on Monday, 7th March, 2022, 10.30 am   Cheshire East Council</a>



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## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	4 <sup>th</sup> August 2022
<b>Report Title:</b>	Household Waste Recycling Centre User guide/policy
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Report Reference No:</b>	EC/11/22-23
<b>Ward(s) Affected:</b>	All wards

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### **1. Purpose of Report**

- 1.1. This report seeks approval to adopt the household waste recycling centre user guide/policy and the customer charter.

### **2. Executive Summary**

- 2.1. The Council's household waste recycling centres are visited over 750,000 times each year. This user guide/policy sets out in one place the expectations placed upon site staff and site users to ensure a safe and compliant visit.

### **3. Recommendations**

- 3.1. That the user guide/policy and customer charter are approved for adoption.

### **4. Reasons for Recommendations**

- 4.1. The Council has a range of information concerning use and management of the household waste recycling centres on its website and its app 'Waste Watchers'. The user guide/policy and customer charter bring the information together and clarify expectations of behaviour to both site staff and users, including enforcement implications.

### **5. Background**

- 5.1. The Council's household waste recycling centres are provided for the residents of Cheshire East to dispose of any waste materials that cannot be managed through the normal kerbside collection. Once deposited at the site these materials are then reused, recycled, composted or disposed of. Information about the sites can be found on the Council's website, through the Council's 'WasteWatchers' app and on site but it is not currently in one convenient place. The user guide/policy resolves this issue.

- 5.2. The sites receive around 30,000 tonnes of waste per year from the smallest items such as phones and watch batteries to mattresses and sofas. With over 750,000 visits per year (15,000 per week), the sites are a bustling environment in which cars, vans, site machinery and people mingle. The vast majority of visits occur without incident, however, there are times when there can be issues. This user guide/policy sets out in one place the expectations placed upon site staff and site users to ensure a safe and compliant visit.
- 5.3. A new contractor is being procured for the household waste recycling centre sites to start in April 2023. This guide/policy and customer charter will be important documents in setting out the Council's expectations to them.

## **6. Implications**

### **6.1. Legal**

- 6.1.1. The Council has a statutory requirement to provide household waste recycling centres (HWRC) for its residents to deposit their own household waste, as set out in the Environmental Protection Act 1990 (EPA 1990 part 2, 51b). Key aspects of the responsibilities of both site users and site staff are set out in the user guide/policy.

### **6.2. Finance**

- 6.2.1. There are no financial implications from the adoption of this user guide/policy

### **6.3. Policy**

- 6.3.1. Household Waste and Recycling Centres support the vision within the Corporate Plan for an open, fairer, greener Cheshire East and the goal to improve recycling and reuse rates within the borough.

### **6.4. Equality**

- 6.4.1. There are no equality implications arising from this report.

### **6.5. Human Resources**

- 6.5.1. There are no human resources implications arising from this report.

### **6.6. Risk Management**

- 6.6.1. The user guide/policy brings together, into one document, all the important information about household waste recycling centres to ensure that risks on site are reduced to a minimum.

### **6.7. Rural Communities**

- 6.7.1. There are no rural community implications

### **6.8. Children and Young People/Cared for Children**

- 6.8.1. There are no children and young people/cared for children implications arising from this report.

**6.9. Public Health**

**6.9.1.** The user guide/policy make the expectations on site staff and users clear so that all the household waste recycling centres are run safely and efficiently.

**6.10. Climate Change**

**6.10.1.** There are no climate change implications arising from this report.

<b>Access to Information</b>	
Contact Officer:	Ralph Kemp, Head of Environmental Service <a href="mailto:ralph.kemp@cheshireeast.gov.uk">ralph.kemp@cheshireeast.gov.uk</a>
Appendices:	Appendix 1. User guide/policy Appendix 2. Customer Charter
Background Papers:	

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1. Appendix 1

# Cheshire East Council

## Household Waste Recycling Centre Policy and User Guide

Updated 2022



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## 1. Introduction

- 1.1. We are committed to providing excellent and efficient local services and we have a duty to provide places for residents to dispose of their household waste. There are household waste recycling centres (HWRC) across the borough to do this.
- 1.2. We are committed to maintaining high standards at our sites and will ensure they remain safe, secure and clean places to use, work in, or live near to.
- 1.3. Household Waste Recycling Centres are provided for Cheshire East residents to bring their waste to so that we can reuse, recycle, compost or dispose of it safely. This guidance describes the following:
  - What is expected of customers using the sites
  - Who can use the HWRC
  - The types of waste you can dispose at the sites
  - The types of non-household wastes you can dispose and the costs payable
  - Enforcement on site (p9).

## 2. Resident Responsibilities – before the site visit

- 2.1. To reduce the amount of waste sent for disposal you should sort and separate different materials before your visit, ensuring materials are placed into the appropriate containers at the site.
- 2.2. Give yourself enough time. Do not arrive with less than 15 minutes to closing time because there may be other users on site and you may not have time to unload.
- 2.3. Wear appropriate clothing and footwear. We strongly recommend that appropriate footwear is worn and would discourage the wearing of items such as flip-flops or high heels. The use of safety or gardening gloves for off-loading your waste is also recommended.
- 2.4. Bring waste you can comfortably manage to carry. Staff may be available to assist but this must not be assumed.
- 2.5. Consider if bulky or oversized items could be collected by our charity partners, for a charge – see our website for more details [Bulky household waste collection \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/bulky-household-waste-collection).

## 3. Resident Responsibilities – on site

- 3.1. Please follow any instructions given by site staff and on signs, notices or markings and deliver your waste in an appropriate container that you can safely lift. Please do not shovel your waste into the containers. If you need help please ask the site staff for assistance but please be aware that you may have to wait at busy times.

- 3.2. The site staff make sure the HWRC is safe and used appropriately. You could be refused access to the centre if you do not follow their instructions or the site rules. We do not tolerate abusive behaviour. See the
- 3.3. Where younger children and pets are in the vehicle they are not allowed out of the vehicle on site. Our sites are busy with many moving vehicles and people carrying heavy items and therefore not safe for children and pets.
- 3.4. Ownership of waste passes to the council when you deposit your waste. Please be aware that once you have handed your waste to staff or placed it into a container it may be sorted further so that we can reduce what is sent to disposal (we do not operate a confidential waste service).
- 3.5. Our recycling centres are exclusively for the use of Cheshire East residents to deposit their household waste.
- 3.6. CCTV is in operation at all our sites and used for the safety of staff and site users.
- 3.7. Please note: the Council, at its discretion, may introduce Automatic number plate recognition (ANPR), or body worn camera monitoring (see 15.6).
- 3.8. Deposited goods may be sold or reused through a variety of outlets in order to reduce what is sent for disposal. The exchange or sale of goods on site between individual users is not permitted.
- 3.9. Your waste may be checked on arrival, site attendants reserve the right to publicly open any bags and/or boxes in order to check contents.
- 3.10. Climbing into a waste container is strictly forbidden.
- 3.11. Items that we do not accept should not be left on site.
- 3.12. Depositing waste either outside the gate or elsewhere on site, other than in the designated containers, is fly tipping and subject to enforcement action.

#### **4. Staff responsibilities**

- 4.1. Members of staff will be available to assist customers in operational areas. If requested, assistance will be provided where safe to do so.
- 4.2. Staff will assess customers' needs, provide guidance and offer assistance.
- 4.3. Staff will be helpful, polite, respectful and fair.
- 4.4. Staff members can easily be identified by their work wear, branded hi-vis waistcoat and unique ID badge. They will provide their first name when asked to do so.
- 4.5. Customer queries will be dealt with in a polite, honest and courteous manner.
- 4.6. Staff will be able to provide contact details for our customer services team if needed.

- 4.7. Staff members demonstrate competence by operating in accordance with company policies and procedures to ensure all sites are operated in a safe and compliant manner.
- 4.8. Complaints will be investigated and corrected with all lessons learned.
- 4.9. Staff will report non-compliance issues impacting on the site and other customers to relevant supervision and partner agencies.

## 5. What you can recycle at the HWRC

- 5.1. Cheshire East HWRC are exclusively for the use of Cheshire East Council residents to dispose of their household waste. We can accept:
  - asbestos - at the sites in Crewe and Macclesfield only
  - batteries - both car and household batteries
  - beds, mattresses and soft furnishings
  - bric-a-brac (general reusable items)
  - cans - steel and aluminium
  - carpet
  - domestic appliances - large and small
  - fridges and freezers
  - fluorescent tubes and energy saving bulbs
  - glass
  - green garden waste
  - oil - engine oil and vegetable / cooking oil
  - paint
  - fibres – paper, card
  - Plasterboard – for small DIY projects only and only accepted at Macclesfield and Crewe. There is a charge for plasterboard. You must remove anything attached to the plasterboard for example tiles and insulation.
  - plastic bottles
  - rubble - please note this is for small DIY projects only and there is a charge for rubble, hard core, ceramics and plaster. See website for details - [Rubble charges \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)
  - scrap metal
  - televisions and computer monitors
  - textiles/clothing/shoes (these should be bagged) - duvets, pillows and cushion pads should **NOT** be put in the textile banks.
  - Wood



## 6. Bonded Asbestos

- 6.1. Residents can dispose of cement bonded asbestos at Crewe and Macclesfield HWRC only.
- 6.2. You should telephone the site before you visit to check that they have capacity. You should report to the attendant when you get there.

- 6.3. You must double-bag or double-wrap and seal in heavy duty polythene all bonded asbestos as required by our waste management licence.
- 6.4. When handling, transporting and disposing of bonded asbestos waste, we advise you to:
- keep the material damp
  - avoid breaking up large pieces
  - ideally transport in an enclosed vehicle or covered trailer
  - wear a face mask and gloves.
- 6.5. No more than six sheets of asbestos can be accepted per property. We recommend that you hire a specialist skip and consult asbestos removal contractors for larger scale work.

## 7. What you cannot recycle at the HWRC

- 7.1. We cannot accept:
- trade, commercial or business waste (except for small amounts of rubble waste which is chargeable). This includes landlords disposing of waste from rental properties, who must make business waste arrangements. Please note: whilst commercial/trade waste is currently not accepted, the Council reserve the right to expand this service.
  - gas cylinders – they are the property of the gas company and you should return them to the supplier
  - tyres
  - household waste that you have been paid to dispose
  - household waste that isn't from where you live.

## 8. Taking waste on behalf of family, friends or neighbours

- 8.1. You are allowed to use HWRC to dispose of waste belonging to a family member, friend or neighbour providing that they are a resident of Cheshire East and you do not advertise the service or receive payment in connection with the collection and/or disposal of the waste.

## 9. Charge for Non-household waste

- 9.1. Waste created from home improvements, repairs and alterations to your home, such as hardcore, rubble and plasterboard is defined by the Environment Agency as non-household waste and we have no legal duty to accept it. For further details please visit our website - [Rubble charges \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)
- 9.2. Whilst the council has always provided a discretionary service at its HWRC to ensure residents have a disposal option for these materials, they are expensive to dispose of. We have therefore introduced a charge to ensure that the sites can continue offering this service.
- 9.3. On arrival to the site you will need to agree with the site manager the amount of hardcore, rubble and plasterboard you have and have paid the

correct amount before emptying your vehicle. All payments must be made by debit/credit card or other electronic means such as applepay. No cash or cheques will be accepted. Receipts will be provided.

**What if I don't want to pay?**

- 9.4. If you do not want to pay you will be asked to leave the site with your waste and will have to source an alternative disposal option.

**What if I can't pay?**

- 9.5. If you are unable to pay you will be asked to leave the site with your waste and return later with a means of payment. You will be allowed to dispose of any household waste free of charge.

**10. Restricted Vehicles and Waste Permits**

- 10.1. Restrictions on the use of certain types of vehicles have been introduced at the HWRC to prevent the illegal deposit of commercial or trade waste at the sites. Therefore, you may need to register and apply for a permit before being allowed to deposit your household waste at our sites depending on the type of vehicle it is. Registering can be done here [Household waste permit scheme \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)
- 10.2. We cannot accept trade, commercial or business waste, this includes landlords disposing of waste from rental properties. We cannot accept waste if you have been paid to take it. The Council has the discretion to change this in the future.
- 10.3. You will need a household waste permit to dispose of your household waste if you drive a van, pickup, commercial type 4x4 or use a trailer between 1.5 and 3.5 metres in length. The length of trailers refers to the total internal length of the trailer box (excluding the tow bar).
- 10.4. We consider a van to be:
  - any vehicle without side rear windows and / or rear seats
  - any flat back vehicle
  - any pick-up vehicle



- 10.5. We cannot allow any trailers over 3.5 metres or any vehicles over 3.5 tonnes gross vehicle weight (GVW) to use any Cheshire East Household Waste Recycling Centre.
- 10.6. Only Crewe and Macclesfield can accommodate trailers over 2.5 metres in length.

### 11. Household Waste Permits

- 11.1. We issue an online permit free of charge. Permits are only valid for the deposit of household waste.
- 11.2. The permit holder must live at the address the household waste is from. You can add another name to your permit if someone is taking the household waste on your behalf, for example your partner, spouse or relative. A permit is valid for 6 months and can be used for up to 6 visits. You can apply for another permit 30 days before your permit expires.
- 11.3. If you need assistance to apply for a permit you can call our waste permits team on 0300 123 5011 between 8.30am and 5pm Monday to Friday.
- 11.4. Each time you visit a Council Household Waste Recycling Centre with any sort of van, pickup, commercial type 4x4 or a trailer between 1.5 metres and 3.5 metres (internal length) you must show to attendants:
- your permit - you can show this on your mobile phone
  - proof of address of the permit holder - this must be where the household waste is from. You can use a driving licence, current council tax bill or a utility bill no more than 3 months old as your proof of address
- 11.5. You will be refused entry to the centre if you arrive in one of these vehicles without a permit.
- 11.6. You can see how often your permit has been used, how many visits remain on your permit and when your permit expires on our website.

### 12. Charity permits

- 12.1. Cheshire East Council recognise that charities provide a valuable service to the community and to enable careful waste management have a charity permit scheme. If you are interested in this scheme, please email [CheshireEastCouncilCustomerServices@cheshireeast.gov.uk](mailto:CheshireEastCouncilCustomerServices@cheshireeast.gov.uk) or call 0300 123 5011 for further details.

### 13. Trade waste policy

- 13.1. The Council is developing its approach to trade waste and exploring the options available. These will be clarified in the future.

**14. HWRC opening hours and sites**

- 14.1. Our HWRC are open seven days a week throughout the year including Bank Holidays. They only close on Christmas Day.
- 14.2. Please allow sufficient time to unload all of your waste from your vehicle before the closing times. Sites will close to vehicles up to 15 minutes before time to enable the users on site to safely empty their vehicles.

**Table 1 – Opening times**

<b>Months</b>	<b>Times</b>	<b>Additional Information</b>
<b>October - March</b>	08:30 – 16:00	Closed on Christmas Day
<b>April - September</b>	08:30 – 17:00	Closed on Christmas Day

**Table 2 Locations of the Household Waste Recycling Centres**

<b>HWRC</b>	<b>Address</b>	<b>Telephone number</b>
Alsager	Off Hassall Road, Alsager, ST7 2SJ	01270 877691
Bollington	Off Albert Road, Bollington, SK10 5HW	01625 576458
Crewe	Pyms Lane, Crewe off the A530 Middlewich to Nantwich Rd, CW1 3PJ	01270 215818
Knutsford	Off Mobberley Rd (B5085), Shaw Heath, Knutsford, WA16 8HT	01565 650944
Macclesfield	Off the A536 Macclesfield to Congleton Rd, Gawsorth, Macclesfield, SK11 9QP	01625 421290
Middlewich	Croxton Lane, Middlewich, CW10 9EZ	01606 837128
Poynton	Off Anson Road, Poynton, SK12 1TD	01625 871441

## 15. Enforcement on Site

- 15.1. Cheshire East Council has a statutory requirement to provide HWRC for its residents to deposit their own household waste, as set out in the Environmental Protection Act 1990 (EPA 1990 part 2, 51b). The HWRC are currently run by external contractors for the day-to-day operation of the HWRC on behalf of CEC. The safe management of these sites, visited by over 15,000 residents per week, depends on trained staff and site users who adhere to the rules.
- 15.2. The Council takes a four step approach to enforcement issues with its principal concern to engage, educate and encourage site users to do the right thing. It is expected that the majority of site infringements will be dealt with via contracted site management. The Council does however recognise that on occasion other, more formal enforcement might have to be considered and site staff are committed to providing relevant information on those persistently or seriously breaking site rules which have an impact on the majority using the sites. This could lead to a person being banned from using any of the Council's sites for a given period of time.
- 15.3. Enforcement is any formal or informal action taken to prevent or rectify infringements of legislation or policy. This relates to the following issues which can occur at the sites:
- Trade waste abuse – where a person deposits, or attempts to deposit, trade or commercial waste (waste from a business) at a HWRC
  - Theft of materials – where a person or persons other than those contracted to do so, removes waste materials from the HWRC without permission
  - Fly-tipping – Waste is sometimes left at the entrance to the HWRC or not placed in the appropriate containers
  - Abuse of staff and other customers – where a member of staff or any other HWRC user/ customer is subjected to harassment, physical harm or verbal abuse by a site user.
  - Non-adherence to HWRC policy – where a person disregards site management policy e.g., limits and/or charging for specific material streams, type of vehicle used to access sites, and health and safety policies.
- 15.4. The enforcement options may differ where different areas of legislation are used, but the principles of application should remain consistent.
- 15.5. Enforcement includes visits, inspections, verbal and written advice, assistance with compliance, written warnings, the servicing of statutory notices, issuing of fixed penalty notices, formal cautions, prosecutions, and liaison and co-operation with other enforcement authorities and organisations where appropriate.

15.6. This section must be read in conjunction with the following:

- [Cheshire East Enforcement Policy](#) - This provides an overarching view on how Cheshire East Council and its officers undertake regulatory and enforcement action as part of day to day work and the informal and formal actions that are available
- [Community Enforcement Policy](#) – this provides advise and information to businesses and individuals with regards to the legislative powers available to the Community Enforcement Team for the effective enforcement of waste and abandoned and nuisance vehicle offences and the decision-making process when considering enforcement action
- [Anti-Social Behaviour Enforcement Policy](#) – this provides advise and information to businesses and individuals with regards to the legislative powers available to the Anti-Social Behaviour Team in relation to the effective enforcement of Anti-Social Behaviour incidents
- [Regulatory Enforcement and Sanctions Act 2008](#) as amended, which established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a Primary Authority relationship and, in those circumstances, will have regard to guidance issued by the secretary of State in relation to Primary Authority.
- It is the intention of the Council to give consideration to the deployment of overt surveillance at Council HWRCs, incorporating an automatic number plate recognition ("ANPR") system. Such surveillance will be introduced and operated in accordance with the Surveillance Camera Code of Practice as required by S.33, Protection of Freedoms Act 2012 and, in particular, the 12 guiding principles set out in the Code. If appropriate, advice will be sought from the Office of the Information Commissioner before the deployment of any such system.

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## 2. Appendix 2

# Household Waste Recycling Centre Customer Charter



We want our residents' visits to the household waste recycling centres to be a positive experience and this charter outlines what you can expect from us and what we expect from residents, based on our service policy.

### 1 Our commitment to you:

- We are committed to providing excellent and efficient local services and we have a duty to provide places for residents to dispose of their household waste. There are household waste recycling centres (HWRC) across the borough, where we aim to reuse, recycle, compost and treat all waste delivered to the sites
- We are committed to maintaining high standards at our HWRC and will ensure they remain safe, secure (using CCTV, ANPR and body cameras) and clean places to use, work in, or live near to.

The sites will be open at the following times:

April to September - 8.30am to 5pm

October to March - 8.30am to 4pm

- Sites are open every day for the sole use of residents of Cheshire East Borough. We may ask for confirmation of your address. We are closed on 25th December.

### 2 Staff

- Responsible for their own safety and will not do anything to endanger others' safety on site
- Polite, courteous, helpful and professional at all times
- Wearing uniform, high visibility clothing and an identity badge and can help you if you need assistance while using the site.

- Direct you to the correct recycling containers for your waste
- Mindful of minimising the impact of the service on the environment
- Will ensure that recycling centres are clean, tidy, safe and hazard-free.

### **3 What we expect from you:**

#### **Before your visit**

- Give yourself enough time. Do not arrive with less than 15 minutes to closing time because there may be other users on site and you may not have time to unload
- Wear appropriate clothing and footwear – no flip-flops or high heels etc. Bring safety or gardening gloves for off-loading your waste
- Bring waste you can comfortably manage to carry
- Consider if bulky or oversized items could be collected by our charity partners, for a charge
- Separate your wastes by material before arriving at the recycling centre.

#### **On-site parking**

- Only park in the marked parking areas or where instructed to do so by staff
- Be aware of other site users and moving vehicles - walk in the marked walkways and use the pedestrian crossings
- Children under the age of 16 and pets should always stay in your vehicle
- Please obey site speed limits and traffic signs. (5 mph signs on sites)
- Report to staff if you have any hazardous waste such as chemicals, batteries, paint etc. or if you spill anything on site e.g. paint, oil etc.

### **4 Behaviour and instructions**

- Please treat our staff and other site users with respect. Staff will not tolerate verbal or physical abuse, aggressive or bullying behaviour – see our full policy for more details
- Be responsible for personal items such as keys, handbags and mobile phones
- No smoking
- Recycle as much of your waste as possible in the appropriate containers.

### **5 Safety**

- It is your responsibility to ensure your safety and that you do not do anything to endanger others' safety on site
- Take care when depositing waste into the containers and do not lean over into them
- Take extra care in wet, icy and snowy weather, particularly on the steps to the containers
- Follow any staff instructions regarding health and safety and heed any fire alarms or other emergency warnings
- Entering a waste container is strictly forbidden.



*Working for a brighter future together*

## **Environment and Communities Committee Report**

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<b>Date of Meeting:</b>	04 August 2022
<b>Report Title:</b>	Draft Developer Contributions Supplementary Planning Document
<b>Report of:</b>	Jayne Traverse, Executive Director – Place
<b>Report Reference No:</b>	EC/15/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Purpose of Report**

- 1.1. This report seeks approval to carry out a minimum of six weeks of public consultation on the draft Developer Contributions Supplementary Planning Document (“SPD”).
- 1.2. For Supplementary Planning Documents, the Council is required to hold consultation for a period of a minimum of four weeks, However, recognising the timing of this decision comes within the school and summer holidays period, it is proposed that a six-week consultation period is carried out, beginning in mid-August (15<sup>th</sup> August) and extending to the end of September (26<sup>th</sup> September).

### **2. Executive Summary**

- 2.1. Cheshire East Council’s Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to improve the infrastructure that supports sustainable and inclusive growth across the borough. As such, this SPD sets out guidance on policies contained in the Local Plan Strategy but will also be relevant to applying policies of the emerging SADPD, and will support funding and delivery of a range of physical, social and green infrastructure across the borough.
- 2.2. Developer Contributions are secured through two mechanisms. The Community Infrastructure Levy (‘CIL’) is a financial contribution based on the square meterage of a development. Different rates are applied in different parts of the borough, and for different types of development. The CIL is spent on

infrastructure identified in the Council's Infrastructure Delivery Plan and set out in the Medium-Term Financial Strategy.

- 2.3. Section 106 agreements ('S106') are legal agreements entered into between the Council and developers to secure financial or other contributions to mitigate the impact of development and make such development acceptable in planning terms. Such agreements may include financial payments in lieu of direct provision, for example a financial contribution to education in order to fund additional school places necessitated by the delivery of new homes in an area.
- 2.4. The Developer Contributions SPD primarily provides additional guidance on S106 agreements, setting out the Council's approach to these agreements over a range of issues including contributions to affordable housing, highways, education, leisure and recreation, green space, public health, blue light services, ecology and other matters such as surface water management, heritage and design.
- 2.5. The Developer Contributions SPD does not provide further guidance on the application of CIL as these matters are covered by advice held in the [CIL Charging Schedule 2019](#).

### **3. Recommendations**

- 3.1. That the Environment and Communities Committee:
- 3.2. Approve the draft Developer Contributions Supplementary Planning Document (Appendix A) for six weeks of public consultation starting 15<sup>th</sup> August. This includes publication of the associated Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report ("SEA") (Appendix B); and the associated Equalities Impact Assessment Screening Report ("EQIA") (Appendix C).
- 3.3. Authorise the Head of Planning to make any other non-material changes to the consultation documents or supporting information ahead of the consultation and prepare any additional explanatory information to support the consultation.

### **4. Reasons for Recommendations**

- 4.1. An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 4.2. Providing clear guidance up front about policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.

### **5. Other Options Considered**

- 5.1. The Council could choose not to prepare an SPD on Developer Contributions. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide

additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers ensuring that expectations are clear from the outset and assisting developers to comply with relevant policies of the Development Plan.

## **6. Background**

- 6.1.** The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by a period where comments will be reviewed and the SPD will be updated accordingly, followed by publication of a final document and another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one, and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 6.2.** Once adopted, the SPD will provide additional planning policy guidance on the implementation of Local Plan Strategy (LPS) policies IN1 'Infrastructure', IN2 'Developer Contributions' and various other policies.
- 6.3.** The SPD also is also relevant to the application of policies held in the emerging Site Allocations and Development Policies Document (SADPD).
- 6.4.** Although the SADPD is not yet finalised and adopted, this does not prevent the Council from beginning to prepare additional policy guidance, in readiness for the eventuality that the SADPD is adopted. Should the Council choose not to adopt the SADPD, this SPD will be reviewed and updated accordingly.
- 6.5.** The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.
- 6.6.** One of the key objectives of the Cheshire East Local Plan Strategy (CELPS) is for the Plan to support and ensure the provision of sufficient appropriate physical, social and green infrastructure. The provision of such infrastructure is essential to support and enable the proposed growth set out in the Local Plan Strategy.
- 6.7.** Policy IN1 'Infrastructure', of the CELPS sets out the approach the Council will take to infrastructure delivery in the borough and IN2 'Developer Contributions' provides guidance on the mechanisms that will be used to secure funding contributions from development.
- 6.8.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to securing contributions toward a range of infrastructure and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.

- 6.9.** For examples, the SPD sets out the Council's approach to securing contributions toward recreation and green space. LPS Policy SE6 sets out the amount of space required per new home, but the SPD provides guidance on how this provision of space may be calculated as a financial contribution toward provision of offsite leisure and recreation facilities.
- 6.10.** The key LPS policies that the SPD provides guidance on are:
- 6.10.1.** Policy IN1 Infrastructure
  - 6.10.2.** Policy IN2 Developer Contributions
  - 6.10.3.** Policy SC1 Leisure and Recreation
  - 6.10.4.** Policy SC2 Indoor and Outdoor Sports Facilities
  - 6.10.5.** Policy SC3 Health and Wellbeing
  - 6.10.6.** Policy SC5 Affordable Homes
  - 6.10.7.** Policy SE6 Green Infrastructure
  - 6.10.8.** Policy CO1 Sustainable Travel and Transport
- 6.11.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a period of four weeks.
- 6.12.** The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
- 6.12.1.** Publish the initial draft SPD for four weeks public consultation;
  - 6.12.2.** Consider feedback received and make any changes necessary;
  - 6.12.3.** Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
  - 6.12.4.** Having considered representations, the SPD may then be adopted;
- 6.13.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 6.14.** Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

## **7. Consultation and Engagement**

- 7.1. It is proposed that the draft SPD will be subject to four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

## **8. Implications**

### **8.1. Legal**

- 8.1.1. The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.
- 8.1.2. Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 8.1.3. The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.
- 8.1.4. SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

#### **Strategic Environmental Assessment**

- 8.1.5. Strategic Environmental Assessment (SEA) involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the "Environmental Assessment of Plans or Programmes Regulations 2004".
- 8.1.6. The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal ("SA"), which is a requirement for development plan documents.
- 8.1.7. There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, "in exceptional circumstances" there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.
- 8.1.8. A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

## **8.2. Finance**

- 8.2.1.** There are no significant financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.
- 8.2.2.** The SPD will help to improve the process through which financial contributions are secured and provide further clarity for developers and decision makers in relation to the policy requirements of the Development Plan. If S106 is not secured appropriately, in a timely manner, there could be a risk that monies do not come forward and delivery of infrastructure may be delayed.

## **8.3. Policy**

- 8.3.1.** The SPD will provide guidance on the application of existing development plan policies related to the provision of funding for infrastructure and developer contributions through S106. The SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.
- 8.3.2.** It should be noted that as part of the governments planning reform, the Levelling Up Bill includes proposals to replace both S106 agreements and CIL with a single 'infrastructure levy' capturing all contribution requirements in a single mechanism. Should this proposal come to pass, the guidance in the Developer Contributions SPD will be superseded. However, implementation of planning reform is likely to take considerable time and continuing developing this SPD will ensure the council has a single document that summarises contribution requirements across a wide range of issues. Therefore, although the SPD may ultimately have a short shelf life it will be useable for some time ahead of implementation of planning reforms and can inform the Council's future work on an Infrastructure Levy.

## **8.4. Equality**

- 8.4.1.** The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; foster good relations between persons who share a "relevant protected characteristic" and persons who do not share it.
- 8.4.2.** The draft Developer Contributions SPD provides further guidance on the approach that is expected from developers on this matter and provides clarity on how the Council will apply policies of the Development Plan. The SPD is consistent with the LPS which was itself the subject of an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. A draft EqIA on the draft Developer Contributions SPD has been prepared (appendix C) and will be published alongside the draft SPD for comment.

## **8.5. Human Resources**

8.5.1. There are no implications for human resources.

**8.6. Risk Management**

8.6.1. The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

**8.7. Rural Communities**

8.7.1. The draft Developer Contributions SPD seeks to provide further guidance on the financial mechanisms to secure infrastructure funding. Infrastructure has a wide definition and includes provision of assets and services that will benefit many rural communities, whether directly or indirectly.

**8.8. Children and Young People/Cared for Children**

8.8.1. The draft SPD does not have implications for children and young people or cared for children but will assist in securing growth that is properly serviced and inclusive for all.

**8.9. Public Health**

8.9.1. The draft SPD may assist in securing contributions to essential services that indirectly improve public health (the delivery of walking and cycling measures in a new road scheme for example) as well as direct funding for healthcare.

**8.10. Climate Change**

8.10.1. The draft SPD does not have any direct climate change implications but may indirectly help reduce the impacts of climate change through providing more sustainable travel options (for example).

<b>Access to Information</b>	
Contact Officer:	Tom Evans, Neighbourhood Planning Manager Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Developer Contributions Supplementary Planning Document Appendix B: SEA / HRA Screening Report Appendix C: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A

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# Cheshire East Local Plan

## Developer Contributions Supplementary Planning Document

First Draft

August 2022



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# 1. Introduction

## Purpose of the Supplementary Planning Document

- 1.1 Supplementary Planning Documents (“SPDs”) add further detail to policies contained within the development plan and are used to provide guidance on specific sites or particular issues. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.
- 1.2 This Draft Planning Contributions SPD builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and ‘saved’ policies within previous Local Plans<sup>1</sup>. The SPD also identifies additional plans and policies that are currently in preparation.
- 1.3 The purpose of this SPD is to provide information about the provision of and/or contributions towards infrastructure, facilities and services for the plan area, set out the circumstances where infrastructure provision, including financial contributions, will be sought through planning obligations.
- 1.4 This SPD updates, consolidates and sets out the Councils approach to developer contributions in a single Planning Obligations SPD for the Borough. It provides guidance in relation to a range of policies that may require a contribution from development. It is designed to assist prospective developers and other stakeholders by establishing one document that sets out the approach to determining likely contributions in Cheshire East, based on local evidence of need and in response to mitigating the impact of development. By providing this information upfront Cheshire East Council aims to minimise uncertainty in the development process and ensure negotiating obligations is based on a clear and consistent approach.
- 1.5 The Draft SPD:
  - Explains what a planning obligation is and the relationship with CIL.

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<sup>1</sup> Including the Congleton Local Plan, Crewe & Nantwich Local Plan and the Macclesfield Local Plan.

- Identifies the national and local planning policies of relevance when considering planning obligations;
- Sets out the likely scope and scale of planning obligations applicable to different types of development and outlines the Borough Councils general approach to securing them.

1.6 These requirements are additional to the Community Infrastructure Levy (“CIL”) payments towards the broader infrastructure payments of the area. CIL is a charge on most types of development to fund additional infrastructure to support the development of the area. Further details are available on the Councils website.

## Status of the SPD

1.7 The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

1.8 Once finalised and published, this document will replace the Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements (2004); and Congleton Borough Local Development Framework Interim Policy Note - Public Open Space Provision for New Residential Development (2008).

1.9 This draft SPD relates to policies held in both the Cheshire East Local Plan Strategy (CELPS) and the Site Allocations and Development Policies Document (SADPD). At the time of writing, the SADPD is yet to be adopted. The first draft Developer Contributions SPD is being prepared in advance of adoption of the SADPD. The SADPD is anticipated to be adopted during the autumn of 2022. The final draft of the Developer Contributions SPD will not be adopted until the SADPD has been adopted.

## 2. Draft SPD Consultation

2.1 Consultation on the draft SPD will take place between 15<sup>th</sup> August 2022 and 23<sup>rd</sup> September 2022. Comments must be received by the Council **no later than 5pm on 23<sup>rd</sup> September 2022.**

2.2 The consultation documents can be viewed online at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/hmo>

and at:

public libraries in Cheshire East during opening hours (for information about opening hours see [www.cheshireeast.gov.uk/libraries](http://www.cheshireeast.gov.uk/libraries) or telephone 0300 123 7739).

2.3 There is no legal requirement for Supplementary Planning Documents to be accompanied by Sustainability Appraisal, and this is reinforced in national planning guidance. However, “in exceptional circumstances” there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been undertaken and concludes that further such assessment is not necessary.

2.4 A screening exercise has been carried out to determine whether the document gives rise to the need for Appropriate Assessment (under the Habitats Regulations). This similarly concludes that further such assessment is not necessary. These screening assessments have been published (Appendix 1) and you can give your views on their findings too.

### Submitting your views

2.5 The council’s online consultation portal is our preferred method for submitted responses, but you can also respond by e-mail or in writing using a comment form available online and at the locations listed above. You can respond:

- **Online:** Via the consultation portal at: <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/hmo>
- **By e-mail:** To [planningpolicy@cheshireeast.gov.uk](mailto:planningpolicy@cheshireeast.gov.uk)
- **By post:** Strategic Planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ

2.6 Please make sure that your comments reach us by **5pm on the 23<sup>rd</sup> of September 2022**. We are not able to accept anonymous comments and you must provide us with your name and contact details. Your personal data will be processed in line with our Spatial Planning Privacy Notice, which is available on the council's website ([www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)). Your name and comments will be published and made available to view on the council's online consultation portal.

## What happens after the consultation?

- 2.7 Following consultation, the council will carefully consider all representations received before deciding whether any amendments to the draft SPD are needed. The final version of the SPD alongside a Consultation Statement summarising the feedback and changes to the SPD will then be published for further comment before the SPD is adopted.
- 2.8 Once adopted the SPD will be formal planning guidance and will be considered as a material consideration to securing planning obligations in the Cheshire East area.

## 3. Planning Policy Framework

3.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise<sup>2</sup>. Material planning considerations include national planning policy and adopted supplementary planning guidance, where relevant.

### National Planning Policy Overview

#### Legislation Context

3.2 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended. Regulation 122 and 123 of the Community Infrastructure Levy (“CIL”) Regulations 2010 (as amended) and paragraph 54 to 57 of the National Planning Policy Framework (February 2019) set out the Government’s policy on planning obligations.

3.3 Section 106 of the Town and Country Planning Act 1990 provides the mechanism for planning obligations to be secured from development. Section 106 allows anyone interested in land in the area of the planning authority to enter into planning obligations. Section 106 (1) allows a planning obligation to:

- Restrict development or use of land in a specified way.
- Require specified operations or activities to be carried on, in or over the land.
- Require the land to be used in any specified date or dates periodically.
- Require a sum or sums of money to be paid to the local planning authority on a specified date or dates.

3.4 Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration in granting planning permission, it must meet the following three tests:

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<sup>2</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

3.5 Regulation 123 of the CIL Regulations previously placed limitations on the pooling of planning obligations. However, it was deleted by amendment regulations that came into force on 1 September 2019, and there are now no limits on pooling planning obligations.

### National Policy Context

3.6 The national planning policy framework (“NPPF”) identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (paragraph 54). The NPPF also restates the previous three statutory tests for planning obligations which are defined in CIL Regulations (paragraph 56).

3.7 The NPPF sets a presumption that up-to-date policies on planning obligations should apply and says that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, and such assessments should reflect the approach in national guidance and be made publicly available (paragraph 57).

3.8 The national planning practice guidance (“PPG”) provides further advice on planning obligations and viability<sup>3</sup>. It sets out a clear expectation that viability assessments should be made publicly available other than in exceptional circumstances. It also states that an “existing use value plus” (“EUV+”)

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<sup>3</sup> Planning Practice Guidance, available at:  
<https://www.gov.uk/government/collections/planning-practice-guidance>

approach should be taken to land value assumptions in viability assessments, which is based in the existing use value of the land plus a suitable premium for the landowner.

- 3.9 In addition, the PPG identifies that contributions for affordable housing should only be sought from developments comprising 10 or more dwellings, or on sites of 0.5 hectares or more. The guidance also identifies that in calculating the affordable housing contribution, a financial credit should be made where a vacant building will be brought back into use or is demolished to be replaced by a new building. The Council's Housing SPD provides further information on these matters<sup>4</sup>.

## Local planning policy

- 3.10 Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy and 'saved' policies within previous local plans which remain in effect until such time as they are replaced by the emerging Site Allocations and Development Policies Document ("SADPD"). Neighbourhood Development Plans that have been successful at referendum and have subsequently been 'made' also form part of the statutory development plan.
- 3.11 Development plan policies of relevance to planning contributions are summarised below. Consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals.

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<sup>4</sup> [Cheshire East Housing SPD June 2022](#)

## Cheshire East Local Plan Strategy

3.12 The Cheshire East Local Plan Strategy (“LPS”) was adopted on the 21 July 2017, and this is the strategic plan for the borough. Relevant policies include but are not limited to the following:

- Policy IN 1: Infrastructure
- Policy IN 2: Developer Contributions
- Policy SE 6: Green Infrastructure
- Policy SE 7: The Historic Environment
- Policy SC 1: Leisure and Recreation
- Policy SC 2: Indoor and Outdoor Facilities
- Policy SC 3: Health and Well-Being
- Policy SC 5: Affordable Homes
- Policy SC 6: Rural Exceptions Housing for Local Needs
- Policy SE 3: Biodiversity and Geodiversity
- Policy SE 5: Trees, Hedgerows and Woodland
- Policy SE 6: Green Infrastructure
- Policy SE 12: Pollution, Contamination and Land Instability
- Policy SE 13: Flood Risk and Water Management.
- Policy CO 2: Enabling Business Growth Through Transport Infrastructure

### ‘Saved’ policies from previous Local Plans

3.8 The Crewe and Nantwich, Congleton Borough and Macclesfield Borough legacy local plans contain ‘saved policies’ that remain part of the development plan. These policies will continue to be used in determining planning applications until such time that the SADPD is adopted and the legacy authority plans are formally withdrawn. For a full list ‘saved’ policies please see Appendix B of the Local Plan Strategy<sup>5</sup>.

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<sup>5</sup> [local-plan-strategy-web-version-1.pdf \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/local-plan-strategy-web-version-1.pdf)

## Made Neighbourhood Development Plans

3.9 As at the 31 March 2020, 30 Neighbourhood Development Plans (“NDP’s”) had been ‘made’ and now form part of the adopted development plan. Further details of these plans can be found on the council’s website:

<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>

## Supplementary Planning Documents

3.10 The council has adopted a number of Supplementary Planning Documents and full details of these can be found on the council’s website at: [https://www.cheshireeast.gov.uk/planning/spatial\\_planning/cheshire\\_east\\_local\\_plan/supplementary\\_plan\\_documents/supplementary\\_plan\\_documents.aspx](https://www.cheshireeast.gov.uk/planning/spatial_planning/cheshire_east_local_plan/supplementary_plan_documents/supplementary_plan_documents.aspx)

3.11 Relevant SPDs include:

### **Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements**

3.12 This SPG was adopted May 2004. It contains guidance on developer contributions and sets out the principles and practice of the Council in relation to the negotiation of planning obligations.

### **Congleton Borough Local Development Framework Interim Policy Note: Public Open Space Provision for New Residential Development**

3.13 The Interim Policy Note was adopted September 2008. It contains guidance on the level of public open space provision expected in the respect of new development.

3.14 It should be noted that upon adoption of the Developer Contributions SPD, these two SPDs will be revoked.

## Emerging plans

3.15 The council is currently preparing a number of Local Plan Documents which once adopted, will form part of the adopted development plan. These include the Site Allocations and Development Policies Document and the Minerals and Waste Development Plan Document.

### **Cheshire East Site Allocations and Development Policies Document**

3.16 The Cheshire East Site Allocations and Development Policies Document (“SADPD”) will form the second part of the Local Plan. It will set non-strategic and detailed planning policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the LPS.

3.17 The Revised Publication Draft SADPD is being published for representations between the 19 October and 31 November 2020. Further details about this can be found on the council’s website: [www.cheshireeast.gov.uk/localplan](http://www.cheshireeast.gov.uk/localplan)

3.18 The draft SPD has been prepared in a way that is consistent with, and supplementary to, emerging planning policies. Whilst this is not a legal or national planning policy requirement, this approach provides opportunity for this SPD to complement and support the implementation of future development plan policies too.

3.19 Relevant policies in the Revised Publication Draft SADPD include, but are not limited to the following:

- **GEN 4: Recovery of forward-funded infrastructure costs.** This policy seeks to recover costs associated with forward funded infrastructure from applicants that rely on this infrastructure to mitigate the effects of their development and make it acceptable in planning terms.
- **GEN 7: Recovery of planning obligations reduced on viability grounds.** This policy states that development proposals should meet all relevant planning obligations required by local plan policy. It is up to the applicant to demonstrate to the council whether particular circumstances justify the need for a viability assessment at the application stage.

- **ENV 1: Ecological Network.** This policy states that new development should seek proportionate opportunities to protect, conserve, restore and enhance the ecological network for the borough. Development in sustainable land use areas should enhance the wider environment by actively contributing to the integration and creation of appropriate green infrastructure and habitats.
- **ENV 2: Ecological Implementation.** This policy states development proposals must deliver an overall net gain for biodiversity. Major developments and developments affecting semi-natural habitats must be supported by a biodiversity metric calculation to ensure the delivery of a biodiversity measurable net gain.
- **ENV 6: Trees, hedgerows and woodland implementation.** This policy states replacement trees, woodlands and/or hedgerows must be integrated in development schemes as part of a comprehensive landscape scheme. Where it can be demonstrated that this is not practicable, contributions to off-site provision should be made, priorities in the locality of the development.
- **ENV 11: Proposals for battery energy storage systems.** This policy supports battery energy storage systems where they assist with the balancing of the electricity grid and support renewable energy sources (such as wind and solar). Planning conditions/legal obligations will be used to make sure that installations are removed when no longer in use and the land is restored to its previous condition.
- **RU 4: Essential rural workers occupancy conditions.** This policy states where essential rural worker occupancy conditions are removed, planning conditions or legal obligations will be usually imposed to require the dwelling to remain as affordable housing, with occupancy restricted in perpetuity.

- **RU 8: Visitor accommodation outside of settlement boundaries.** The policy states that where visitor accommodation is permitted in the open countryside that would be physically capable of forming a habitable dwelling, the council will impose planning conditions or legal obligations to restrict occupancy of the accommodation to prevent unauthorised permanent access.
- **RET 10: Crewe town centre.** This policy seeks to support and implement a range of measures to improve pedestrian and cycle connectivity between the town centre and Grand Junction Retail Park, including through developer contributions, where justified.
- **RET 11: Macclesfield town centre and environs.** This policy states that where proposed new development would generate intensified use of the public realm in the town centre, or where necessary to provide a high-quality setting for new development and ensure its positive integration within the urban form, planning obligations may be used to secure the improvement of the town centre public realm.
- **Policy REC 2: Indoor sport and recreation implementation.** This policy states that developer contributions should be provided where new development will increase the demand for such facilities. Contributions should be directed to the nearest accessible facility to the development. Where there is no leisure centre provision nearby, say in more rural locations, the contribution will be directed to the nearest community facility (for example village hall) that provides recreational facilities.
- **Policy REC 3: Green space implementation.** This policy states that all areas of green space that are of strategic significance should be conveyed to the council along with a commuted sum for a minimum provision of 20 years maintenance. The provision of, or contribution, to outdoor playing pitch facilities will be informed by the Playing Pitch Strategy and Sports England Sport Pitch Calculator. Other outdoor sports provision not covered

by the Playing Pitch Strategy will be sought on a site by site basis using 10sq.m per family home as a benchmark figure.

### **Cheshire East Minerals and Waste Development Plan Document**

3.20 The Minerals and Waste Development Plan Document is currently in preparation. A first draft will be consulted on during July 2022. It will set out the council's planning policies on minerals and waste.

## **4. Planning Obligations**

### **What are Planning Obligations?**

4.1 Planning obligations, also known as Section 106 Agreements ("s106 agreements"), are legally binding agreements entered into between a local authority and a developer. They provide the mechanism by which measures are secured to mitigate the impact of development on the local area.

4.2 Unless it is stated otherwise, planning obligations run with the land in perpetuity and may be enforced against the owners, mortgagees and their successors. Planning obligations form part of the title deeds of the property and only be secured through the following type of Deed:

- Section 106 agreements with mutual obligations between the Council and owners with interest in the application site;
- Unilateral planning obligations, sometimes called unilateral undertakings signed solely by owners with interests in the application site which can impose no obligations on the local planning authority.

4.3 A planning obligation will be sought where a development would otherwise be unacceptable, and the objections cannot be overcome by conditions. They will be negotiated on a site-by-site basis. They will typically address, but are not limited to, issues such as:

- Affordable housing
- Public Open Space

- Transport
- Social infrastructure, including education and healthcare.

## What is a Community Infrastructure Levy?

4.4 The Community Infrastructure Levy (“CIL”) is a charge which is levied by local authorities on new development in their area. Cheshire East Council adopted a CIL charging schedule in February 2019. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.

4.5 Further details can be seen on the Councils website: [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/community-infrastructure-levy.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/community-infrastructure-levy.aspx)

## Relationship between CIL and Planning Obligations

4.6 On 1<sup>st</sup> September 2019, changes came into effect in relation to the preparation of the Community Infrastructure Charging Schedule as well as relating to the process of securing developer contributions as part of the planning application process.

4.7 Prior to the CIL Regulation changes coming in on the 1<sup>st</sup> of September 2019, s106 Obligations requiring payments were limited to site specific development impacts and not related to projects or types of infrastructure that will be funded by CIL. The CIL regulations required Councils to avoid “double dipping” and produce clear guidance of infrastructure needs and projects funded through s106 Obligations and the Community Infrastructure Levy. The Cheshire East Infrastructure Funding Statement provides information on the monetary (and non-monetary) contributions sought and received from developers for the provision of infrastructure to support development in Cheshire East and identifies infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.

## Section 278 Agreements

- 4.8 A Section 278 agreement allows developers to enter into a legal agreement with the Highway Authority to fund alterations or improvements to the public adopted highway network, having regard to the needs of the development. Examples of such works could include the construction of a new access; junction improvements on the highway; or safety related works such as traffic calming or improved facilities for pedestrians or cyclists.
- 4.9 Requirements for s278 agreements will be negotiated separately, although an obligation will be imposed as part of the s106 agreement to enter into a s278 agreement.

## Planning Conditions

- 4.10 Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g., roads, sewers, play areas. They can also be used to secure the delivery of on-site affordable housing.
- 4.11 Planning conditions are imposed by the Council when granting planning permission to ensure that certain actions or elements related to the development proposal are carried out. Paragraph 55 of the National Planning Policy Framework states that planning conditions should only be imposed where they are:
- Necessary;
  - Relevant to planning and
  - To the development to be permitted;
  - Enforceable;
  - Precise; and
  - Reasonable in all other aspects.
- 4.12 No payment of money or other consideration can be positively required by a condition when granting planning permission. However, where the 6 tests are

met, it may be possible to use a negatively worded condition to prohibit development or occupation until a specified action has been taken.

## 5. Procedures

### Pre-Application Discussions

- 5.1 The Council recommends that pre-application advice is sought before making a planning application. This provides an opportunity to enter into discussions regarding planning obligation requirements with Council officers so that the nature of planning obligations that are likely to be required for a particular development are made known to the developer as early as possible in the decision-making process. Pre-application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application once validated.
- 5.2 Where pre-application discussions have identified that developer contributions will be required, applicants should submit draft heads of terms with their planning application. It will be essential that this be submitted as part of the application, and as part of the validation process. Please be aware that failure to submit this will result in a delay in the planning application, as the application will not be validated.
- 5.3 Details of the process for engaging with the Local Planning Authority at pre-application stage can be found on the council's web page or by contacting the Development Management service.
- 5.4 The process for negotiating planning obligations from the pre-application stage and standard templates for the legal agreements and Unilateral Undertakings can be found on the Council's webpage at:

[https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/s106\\_agreements\\_planning.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/s106_agreements_planning.aspx)

## Viability

- 5.5 The NPPF (paragraph 57) states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 5.6 The council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place. Viability testing of the CELPS and SADPD has confirmed that the policy requirements set out in these plans are viable. The guidance here provides the detailed approach the council will take to calculating financial contributions.
- 5.7 Viability assessment of the LPS was produced as part of the evidence base for the local plan and was updated in July 2020 to support the production of the SADPD<sup>6</sup>. The July 2020 update reconfirms the assumption that all modelled sites will contribute an average of £5,202 per unit towards infrastructure. The 2020 viability update re-tested CELPS policy requirements and tested newly produced SADPD policy requirements. Appraisals concluded that residual land value remained high in high value areas and more challenging in medium and low value areas with results on mixed use and brownfield sites.
- 5.8 The conclusions of this assessment confirm that the Council must continue to engage with site promoters and should consider potentially accepting a lower level of affordable housing or policy requirements in these areas.
- 5.9 Whilst the guidance in this SPD does not present additional requirements over and above those existing policy obligations tested as part of the 2020 Viability Update Assessment, the council recognises the need for flexibility and a pragmatic approach to securing developer contributions in some circumstances. Where developers expect sites are unviable in terms of

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<sup>6</sup> [July 2022 SADPD Viability Assessment Update](#)

delivering the full suite of policy obligations, they are invited to submit a viability assessment as part of their planning application.

- 5.10 The conclusions of the 2020 viability assessment are held in Chapters 8, 9 and 10 of the 2020 Viability Assessment Update. Chapter 10 of the Viability assessment Update includes appraisals across a range of site typologies, assessing a variety of policy impacts and other scenarios. The key findings of the appraisal results are included at Appendix 2.

## **Cross Boundary Applications**

- 5.11 In the case of development applications close to the district boundary which may have implications for service delivery in adjoining authority areas, these authorities will be consulted on and requests for contributions to services provided by those authorities will be duly considered. Similarly, if adjoining authorities receive applications which will have an impact on the delivery of services in Cheshire East, the District Council will seek contributions.

## **Security and Timing of Payment**

- 5.12 Where a financial obligation is necessary, payment would normally be required on commencement or on first occupation of a development. However, in the case of a large-scale development, it may be that the payments would be phased to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent.

## **Index Linking**

- 5.13 All financial contributions will be subject to indexation from the date of adoption of this SPD. The indexation period will therefore start with the date of adoption and end with the date when each payment becomes due. The indices to be used are the Retail Prices index for non-housing related payments, the RICS Road Costs Engineering Index for highways related matters, and the House Prices Index (maintained by the land registry) for housing related payments.

- 5.14 Whilst the contribution amounts set out in this SPD are not governed by the CIL Regulations, the indexation that will be used both to calculate the initial agreement amounts and any post-agreement changes prior to payment, will reflect the approach contained within the CIL regulations to ensure that obligations provide for the actual costs of the infrastructure for which they are levied.
- 5.15 Regulation 40 of the Community Infrastructure Regulations 2010 required Local Authorities to obtain the All-in-Tender Price Index, as published by the Building Cost Information Service (BCIS) of the Royal Chartered Surveyors (RICS) on the 1st of November each year to calculate the proportionate increase in contribution rates for the following year.
- 5.16 The Royal Institution of Chartered Surveyors has produced a bespoke index for the Levy, based on the Building Cost Information Service's (BCIS) All-in Tender Prices Index, known as the 'RICS CIL index'.
- 5.17 This index is produced annually, made publicly available and does not change through the year.
- 5.18 The September 2019 amendments to the Regulations require that the BCIS index applies to planning permissions granted before 1 January 2020 and the RICS CIL Index for the year in which it applies is calculated in the October of the previous year<sup>7</sup>.
- 5.19 The BCIS index will reapply if for any reason the RICS CIL index is not produced in November of any preceding year.
- 5.20 Contributions for affordable housing will be calculated by using the rates set out in this SPD adjusted as follows:
- i) Index linked for inflation/deflation between the year of adoption of this SPD (Anticipated to be 2022/23 = the base year) and the year an obligation relating to an application granted planning permission is signed; and

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<sup>7</sup> [Calculation of the RICS Community Infrastructure Levy \(CIL\) Index](#)

- ii) Index linked for inflation/deflation between the date the agreement is signed, and the payment is made towards the actual delivery.

5.21 For open space contributions, the amounts set out in this SPD will be:

- i) Index linked for inflation/deflation between the year of adoption of this SPD (Anticipated to be 2022/23 = the base year) and the year an obligation relating to an application granted planning permission is signed; and
- ii) Index linked appropriately to reflect increases in costs between the date the agreement is signed, and the payment is made towards the actual delivery date of the service or facility.

5.22 For other types of infrastructure where there is no rate or amount pre-set in this SPD, contribution amounts will be set out in the Agreement and clauses will be included to the effect that these will be index linked appropriately to reflect increases in build costs between the date the agreement is signed, and the payment is made towards the actual delivery date of the service or facility.

## Legal Fees

5.23 Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking and proof of title will be required by Cheshire East Council where applicable.

## Monitoring and Enforcement

5.24 Monitoring of obligations will be undertaken by the Council's Planning Contributions Officer to ensure that all obligations entered into are complied with by both the developer and the Council.

5.25 The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations.

- 5.26 All monitoring fees will be subject to indexation and payable on commencement of the development.

## 6. Contributions and Requirements

## 7. Ecology

### Objective:

- 7.1 Local Plan Strategy Policy SE 3 'Biodiversity and Geodiversity', seeks to make sure that there is no overall loss of biodiversity and geodiversity and seeks to utilise avoidance, mitigation, compensation, and offsetting strategies to achieve this. The policy makes clear the council's commitment to increasing the total area of valuable habitat in the borough, through linking up of existing habitats and the creation of ecological steppingstones and wildlife corridors.
- 7.2 SADPD Policy ENV1 'Ecological Network' and ENV2 'Ecological Implementation' provide additional detail about how this will be achieved by making sure that all development proposals contribute positively to the conservation of biodiversity and geodiversity.
- 7.3 Overall, the council's objective is to seek ecological mitigation and enhancement on site, and where that is not possible, seek contributions to offsite in order to ensure that development in Cheshire East positively contributes to the conservation and enhancement of biodiversity.

### Background

- 7.4 NPPF para.174 (d) requires that 'Planning policies and decisions should contribute to and enhance the natural and local environment by:
- i) (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

7.5 NPPF Para. 179 (b) requires that:

i) To protect and enhance biodiversity and geodiversity, plans should:

(1) (b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

7.6 Biodiversity Net Gain is a concept introduced by the Environment Act and will become a statutory obligation from 2023 onwards. The Council does not have a specific Biodiversity Net Gain policy in the development plan for Cheshire East, but, through CELPS policy SE3 'Biodiversity and Geodiversity', does seek to ensure that development will 'positively contribute to the conservation and enhancement of biodiversity' and policies ENV1 and ENV2 of the SADPD provide further detail on this approach.

7.7 Policy SE3 of the LPS identifies areas of high biodiversity or geodiversity and emerging policy ENV1 of the SADPD sets out the extent of the Ecological Network in Cheshire East. The Ecological Network is the extent of known ecological assets which incorporates existing protected sites and priority habitats, and it identifies areas to restore and buffer the network. Policy ENV2 'Ecological Implementation' sets out that proposals should achieve a biodiversity net gain and be supported by a biodiversity metric calculation.

7.8 The policy also requires applicants to apply the mitigation hierarchy in their approach to site design by firstly avoiding harm, then, if impacts cannot be avoided, successfully mitigating such impacts; and if mitigation is not possible, or fully possible, providing compensation measures. The expectation is that enhancement and mitigation is delivered on-site, and it is only where this is demonstrably not possible that offsite compensation will be considered.

7.9 Applicants should include an ecological assessment, prepared to industry standards, which identifies the relevant site assets, evaluates the value and extent of such assets, assesses the impact of the proposal and identifies net losses. The assessment should also identify options to enhance the values of the

assets and provide sufficient information to inform a Habitats Regulations Assessment where necessary.

## Required Contributions

- 7.10 Where contributions are required, developers must provide a financial contribution to:
- i) secure the long-term management and maintenance of on or off-site habitat enhancement or creation.
- 7.11 To determine whether a proposal is compliant with policy requirements applicants will be expected to submit detailed worked-up proposals that clearly set out how Biodiversity Net Gain will be achieved
- 7.12 Commuted sum calculations are to be undertaken in accordance with the Natural England Version 3.1 metric (April 2022)<sup>8</sup> or subsequent revised Natural England/Defra metric.
- 7.13 The calculation must consider both the direct impacts of a proposed development, both permanent and temporary, also the indirect effects of development, such as lighting on a woodland edge, or pollution resulting from the operation of a scheme.
- 7.14 Applicants are advised to seek assistance from Cheshire Wildlife Trust, the Environment Bank or an ecological consultant when completing the calculation.
- 7.15 In some circumstances, particularly lower impact schemes or where the Council is aware of suitable opportunities for compensatory habitat creation at an offsite location, the Council may consider a commuted sum secured through a legal agreement, that would be used to deliver suitable compensatory habitat.

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<sup>8</sup> [The Biodiversity Metric 3.1 - JP039 \(nepubprod.appspot.com\)](https://nepubprod.appspot.com)

- 7.16 The Council will charge a fee to cover its own, and partners, costs of developing and implementing habitat creation and management measures using the commuted funds. The fee will cover officer time to:
- i) to liaise with landowners and partners
  - ii) undertake site visits to appraise the opportunities for habitat creation
  - iii) draw up habitat creation measures and management plans
  - iv) legal fees for land acquisition and associated administration
  - v) site visit to monitor delivery and to maintain a registry of offsets agreed.
- 7.17 At the time of writing fees are anticipated to be £1,200 per biodiversity unit required. CEC fees are likely to be reviewed periodically.
- 7.18 The Council will work with partner organisations, primarily Cheshire Wildlife Trust, to ensure that any commuted sum is used appropriately to ensure sufficient habitat creation is delivered in a quantifiable way to address the loss of biodiversity resulting from the consented development. The Council will utilise the funding to create habitat that delivers best value for biodiversity. In some circumstances this may involve the creation of smaller areas of habitat subject to more costly long-term management or alternatively funding may be utilised to deliver larger areas of habitat with relatively limited management input.
- 7.19 The overall costings for offsite contributions will include habitat creation, 30 years management, land costs and monitoring of the site.
- 7.20 An offset provider/habitat bank may ask for lower or higher prices than the council would define using the DEFRA metric.
- 7.21 Very large-scale habitat creation schemes involving multiple habitat types on substantial areas of land may require substantial additional staff and infrastructure resources to deliver and maintain. A bespoke commuted sum calculation is likely to be required for these schemes.

## S106 Agreements

- 7.22 Off-site financial contributions, and contributions to habitat maintenance, will be secured via S106 agreements.
- 7.23 Planning conditions may also be used to secure delivery of onsite enhancement, monitoring and commencement.

## 8. Highways and Transport

### Objective:

- 8.1 The Councils objective is to secure delivery of strategic infrastructure that ensures the safe and efficient operation of the highways network and prioritises measures that positively encourage sustainable transport through walking and cycling.
- 8.2 New development should also contribute to delivering a safe, sustainable, high quality, integrated transport system that encourages a modal shift away from car travel to public transport, cycling and walking.
- 8.3 Accordingly, Travel Plans or Transport Plans will be required to identify the relevant highway impacts and required mitigation and off-site contributions will be sought to mitigate the impacts of travel needs arising from new development.
- 8.4 CIL contributions will be used for strategic projects identified in the Councils medium term financial strategy, with S106 / S278 agreements applied on a case-by-case basis to address needs arising directly from development.

### Background

- 8.5 The CELPS identifies strategic highways infrastructure, and site-specific transport requirements necessary to enable development, including any parking requirements.
- 8.6 Policies CO1: 'Sustainable Travel and Transport', CO2: 'Enabling Business Growth Through Transport Infrastructure' and CO4: 'Travel Plans and Transport

Assessments' set out the key requirements that applicants should consider when preparing planning applications.

- 8.7 The CELPS also identifies a series of site-specific requirements related directly to a variety of major site allocations across the borough. The Councils major infrastructure projects are also listed in the Infrastructure Delivery Plan.
- 8.8 The Local Transport Plan identifies other transport projects necessary to achieve the objectives of the CELPS and the detail of local schemes is currently being consulted on through a series of Local Transport Town Delivery Plans,
- 8.9 Neighbourhood plans may also set out a locally specific approach to travel and transport infrastructure and, where relevant, should be referred to in Travel Plans, Transport Assessments and Transport Statements.

### **Travel Assessments and Travel Plans**

- 8.10 For major development and large-scale development sites, applications must be accompanied by a Travel Assessment.
- 8.11 A Travel Assessment should identify the travel implications arising from the development and set out the measures that will be undertaken to mitigate these impacts, including any contributions to strategic infrastructure identified in the Local Plan. The Travel Assessment will be used as the basis to establish S106 or S278 payments and will be subject to agreement during the planning application process.
- 8.12 Smaller schemes should be accompanied by a travel plan or travel statement which sets out the travel and movement implications of the development and identifies how they will be addressed through design and, where necessary, contributions to local transport infrastructure.

### **Required Contributions**

- 8.13 All development should ensure safe access and good connectivity which may mean direct mitigation is necessary within and in the vicinity of a site (for

example provision of footways, upgraded bus stops, or cycling infrastructure etc). This type of mitigation will primarily be delivered through S278 agreements.

**8.14 Parking**

8.15 Appendix C of the Local Plan Strategy sets out Parking Standards for Cheshire East. These requirements are included at Appendix 3 of this SPD.

**8.16 Off-Site Contributions**

8.17 For major development, a Travel Assessment will be used to establish whether off-site contributions are required to improve the strategic and local highways networks and mitigate the impact of development. Where transport modelling is required and identifies an impact on the local or strategic highways network, mitigation will be required and will form the basis of S106 and/or S278 agreements.

8.18 Where modelling identifies a significant impact on the highways network, contributions will be required. Such contributions will be calculated proportionately and based on the percentage impact that the scheme has on the capacity of key receptors in the network, and the costs of delivering improvements that ensure the continued safe and efficient operation of the network.

**8.19 Strategic Infrastructure**

8.20 Where appropriate, development sites will be required to contribute to the delivery of identified strategic infrastructure on a proportionate basis.

8.21 This will normally be secured through a S278 agreement on a tariff style basis, related to identified infrastructure needs. Sites that rely on highways infrastructure provided through one of the following schemes listed below will be required to contribute to the delivery of the scheme on a proportionate basis, based on the percentage capacity the scheme will rely on. For example, if a new roundabout costs £1,000,000 and a scheme is expected to rely on 20% of the roundabout capacity, the financial contribution required would be 20% of £1,000,000 (i.e., £200,000).

8.22 Strategic and Major Schemes:

- (1) M56 Junctions 6-8
- (2) M6 Junction 19 Improvements
- (3) M6 Junctions 16-19
- (4) A556 Knutsford to Bowden
- (5) M6 J17 Improvements (Sandbach)
- (6) M6 J16 Improvements (Stoke on Trent)
- (7) Crewe Green Roundabout
- (8) Sydney Road Bridge
- (9) Middlewich Eastern Bypass
- (10) Congleton Link Road
- (11) A6 to Manchester Airport Relief Road (A6MARR)
- (12) A500 Dualling (Crewe)
- (13) Poynton Relief Road
- (14) Southern Link Road Bridge, (Crewe)

8.23 Sites allocated in the CELPS, and other sites that rely on schemes that have been forward funded and have already been built out (or have funding secured), will also be required to contribute, retrospectively to the above infrastructure schemes.

8.24 The approach the Council will use as a starting point for calculating contributions to the schemes listed above is based on establishing proportionate contributions per residential unit and/or employment floorspace and is set out in SADPD Policy GEN4 'Recovery of Forward Funded Infrastructure'.

- 8.25 The policy requires that the overall amount to be recovered for each scheme is divided by the overall number of homes/employments floorspace.
- 8.26 Stage payments will be agreed and linked to onsite housing or employment floorspace completions and included as part of the legal agreement. Recoverable costs for the council will include any administrative, legal and financing costs associated with both providing the infrastructure and its subsequent recovery through the planning obligations process.

### **S278 Agreements**

- 8.27 Section 278 Agreements are entered into between the Local Highways Authority (Cheshire East Council) and the site developer and apply to both residential and non-residential schemes.
- 8.28 Such agreements set out the works to be carried out in relation to the adopted highway. Identified works will either be undertaken directly by the Council at the developer's expense or directly by the developer themselves.
- 8.29 S278 agreements will normally be secured through securing of a planning condition which requires agreement with the council on:
- i) Design of the works to be carried out
  - ii) Funding arrangements
  - iii) Trigger point at which the works may commence

### **S106 Agreements**

- 8.30 Contributions to other transport related projects that mitigate the impact of travel arising from the development will normally be secured through S106 contributions or on-site provision of infrastructure, secured by condition.

## 9. Recovery of Infrastructure Costs

### Objective:

- 9.1 Delivery of infrastructure is essential to achieving the aspirations of the LPS and is necessary to both facilitate new growth and address existing deficiencies across the borough. The delivery of the full range of infrastructure needs of existing and new communities is dependent on partnership working between a variety of public and private sector agencies, drawing from a range of funding sources.
- 9.2 Strategic infrastructure requirements are set out in the Local Plan Strategy and in the Infrastructure Delivery Plan. Whilst particular infrastructure needs have been identified, it is recognised that there needs to be flexibility to allow the council to seek developer contributions through Section 106 agreements, CIL contributions and other mechanisms for infrastructure needs that emerge during the plan period.
- 9.3 The objective of the LPS, as set out in LPS policy IN1 Infrastructure and IN2 Developer contributions is to ensure the comprehensive provision of the social, physical and green infrastructure necessary to support development in Cheshire East. Where new development creates a need for new or improved infrastructure, contributions from developers will be sought to make the development acceptable on the impact on local services.

### Background

- 9.4 SADPD Policy GEN4 'Recovery of Forward Funded Infrastructure Costs' provides greater detail to assist in implementing LPS Policy IN 1 'Infrastructure' and LPS Policy IN 2 'Developer contributions'. Policy GEN4 is intended to help facilitate development in the borough as detailed in the LPS where it is necessary or desirable for infrastructure to be provided in advance of planned development. For example, this need may arise because a new road is needed to open up parcels of land to enable development or because it enables the provision of important infrastructure at an earlier stage than would otherwise

have been possible and helps to bring forward individual schemes that would not otherwise be able to progress on their own.

- 9.5 Policy GEN 4 applies only to infrastructure schemes funded by the council or its partners where the funding approval was made on the basis that all or part of the costs incurred will be subsequently recovered from developers benefiting from it i.e., where the council has borrowed; used its reserves; or diverted funding from other budgets in the short term to help bring forward development on the understanding that it will be repaid. These infrastructure schemes are derived from the council's LPS, including its supporting Infrastructure Delivery Plan, and are identified in Table 3.1 of SADPD Policy GEN4. The schemes are reproduced in this SPD at paragraph 8.22.
- 9.6 The approach to calculating contributions to forward funded infrastructure is set out in Policy GEN4 of the SADPD. Applicants should refer to this policy for guidance on this matter.

### **Required Contributions**

- 9.7 The mechanism to be used for proportionately calculating the cost of contributions from applicants seeking development on sites linked to strategic infrastructure projects is calculated by dividing the overall amount to be recovered for the scheme, by the overall number of residential units or employment floorspace likely to be developed.
- 9.8 The sites linked to each infrastructure scheme are set out at table 3.1 of the SADPD and the cost of each infrastructure scheme is set out at table 3.2 of the SADPD.

### **S106 Agreements**

- 9.9 The recovery of infrastructure costs will be secured in accordance with Policy GEN4 of the SADPD, primarily via S106 agreements which will include relevant trigger points
- 9.10 Each planning application will agree a payment profile based upon the cash-flow specific to that planning application. Recovery fund trigger points could be

agreed by house sales, occupations, and prior to occupation or post occupation or any other agreed trigger. However, these are to be negotiated during the planning application process for a particular development site.

- 9.11 The recovery of infrastructure costs will be monitored by relevant CEC officers and recovered funds will be held by CEC in perpetuity and used to support infrastructure delivery which will unlock or accelerate additional growth.
- 9.12 The use of planning obligations to secure funding from developments is preferable to CEC because of the enforcement powers and security afforded by a planning obligation agreement. Planning obligations run with the land and therefore offer CEC greater security as the obligation to pay a financial contribution would be enforceable against future occupiers of the land bound by the agreement.
- 9.13 However, CEC is aware that there are limitations on what constitutes a planning obligation and that to enforce the planning obligation, it will need to meet the CIL tests. In the event that it is determined that the proposed obligation does not meet the CIL tests, CEC intends to use other general powers available to it to secure funds from development sites for this purpose. Those obligations would be contractual obligations, contained within a planning agreement but not themselves planning obligations, and would be enforceable by CEC against the person giving the covenant as a contractual obligation.

## 10. Education

### Objective:

10.1 The Councils objective is to secure excellent educational facilities to meet the needs of the current and future population of all ages, to improve educational attainment and provide a wide skills base (Strategic Priority 1). The Council will seek contributions from development toward the delivery of education provision and infrastructure. including education of all phases (age 0-19) and special educational needs.

### Background

10.2 Contributions to education provision may be required from all residential development. A housing impact assessment will be carried out to determine whether there would be a surplus or deficit of school places arising from the impact of a proposed development and therefore whether:

- i) a developer contribution is required; and
- ii) whether this is required as a contribution to the expansion of existing education facilities, or toward the creation of a new school.

10.3 All residential planning applications of 11 dwellings (2 bedroom +) or more will be assessed against impact on education.

10.4 Applications of fewer than 11 dwellings will be considered for assessment if their location, in relation to other development sites, may give rise to a cumulative on education provision.

10.5 Specialist accommodation such as student accommodation, elderly accommodation, assisted living accommodation and 1-bedroom dwellings are exempt from assessment as it is assumed no children would reside there.

10.6 Where the Service has built school provision/infrastructure in anticipation of forthcoming Local Plan sites, The Service will require a proportionate share of

a retrospective contribution where the development is directly relatable to the project.

- 10.7 The Community Infrastructure Levy (CIL) Regulations (as amended in September 2019) no longer impose a pooling restriction on the use of the planning obligations to fund the same type of infrastructure or infrastructure project therefore S106 contributions will be used at the most appropriate school at the time of implementing the additional infrastructure requirements.
- 10.8 Contributions to EYFS and Further Education are not currently sought.
- 10.9 Forecasts are used to estimate the future need for school places, considering existing school capacity and parental preference outcomes. Future need is not therefore a direct comparison with current or previous numbers on roll, or what percentage live in the catchment area of the school or otherwise, or what percentage are siblings, as it is highly unlikely that the same ratios will exist in the future.
- 10.10 A housing impact assessment is carried out to determine whether the impact of a proposed development would result in a surplus or deficit of school places and therefore whether a developer contribution is required. This assessment is provided as part of every education consultation response to a proposed development.
- 10.11 The methodology used is to estimate future need based on School Census data, but also considering live birth data, parent choice through admission process and other trends. Approved housing is factored into the forecasts based on the Cheshire East build rate.
- 10.12 When a housing impact assessment is carried out, assessment of primary schools identified within either a two-mile straight line, or a two-mile safe walking distance, will be carried out. For secondary schools, assessments will be carried out based on either a three-mile straight line or a three-mile safe walking distance.

10.13 The Council will seek contributions from developers towards Early Years, Primary, Secondary, Further Education and Special Educational Needs, where a proposed development creates a need for any of those types of educational provision.

10.14 A developer contribution will be sought if there is a shortfall of school places at any point in the forecasting period, as a result of the pupils expected from a proposed development.

10.15 The Council will seek contributions for SEN infrastructure until data shows that SEN children from new development can be accommodated sustainably.

## Required Contributions

### 10.16 Pupil Yields

10.17 The Council applies the following yields:

- i) 19 x Primary children per every 100 dwellings
- ii) 15 x Secondary children per every 100 dwellings 2 x SEN pupil per every 100 dwellings (see section 15 for details regarding this)
- iii) 13 x EYFS children per every 100 dwellings – Currently the Early Years' Service are developing a Policy for claims/yields for EYFS, and this will be consulted upon and added to this document as an Appendix at a later date
- iv) 4 x Further Education Pupils per every 100 dwellings –

10.18 Currently the Education Service is developing a Policy for claims/yields for FE Pupils, and this will be consulted upon and added to this document as an Appendix at a later date.

10.19 The yields are derived from the 2011 Census and relatable to Cheshire East only.

10.20 The SEN yield reflects SEN need for all through ages for EYFS (0.13), Primary (0.19), Secondary (0.15) and Further Education (0.04) with a total of 0.51.

Current statistics show that 3.6% of the Borough's children have a Special Education Need. SEN need is reviewed regularly, and the requirement may therefore change.

10.21 **Worked Example based on school expansion figures**

10.22 In addition to provision of school places, contributions may be sought toward school expansion costs, provision of new schools (including retrospective contributions), synthetic pitch costs and school transport costs.

10.23 Example:

10.24 400 2 bed + dwellings would expect to generate 52 EYFS children (400 x 0.13), 76 primary children (400 x 0.19) 60 secondary children (400 x 0.15) and 16 Further education children. The development would be anticipated to result in 5 pupils requiring an SEN school place (of which 1 child is of EYFS age, 2 children are of primary age, 1 child of secondary age and 1 child of Further Education age).

10.25  $76 (-2 \text{ SEN}) \times \pounds 17,268 / 1.08695622 = \pounds 1,175,606$  Primary Contribution

10.26  $60 (-1 \text{ SEN}) \times \pounds 23,775 / 1.08695622 = \pounds 1,290,507$  Secondary Contribution

10.27  $5 \times \pounds 76,185 / 1.08695622 = \pounds 350,451$  SEN Contribution

10.28 Total education contribution =  $\pounds 2,816,564$

**S106 Agreements**

10.29 S106 will be used to secure education contributions based on the requirements outlined above.

10.30 The Service has the flexibility to use S106 contributions at the most appropriate school at the time of implementing the additional infrastructure requirements.

10.31 It should be noted that approved housing, for which no S106 contribution in relation to education was received, will take up surplus school places. If such

developments have been approved between re-assessments for a particular area, the outcome of a housing impact assessment may fluctuate.

## 11. Health Infrastructure

### Objective:

- 11.1 The Strategic policies of the CELPS set out the overall pattern of development in the borough, identifying specific large-scale development sites and setting out requirements for the provision of a variety of community facilities including public health provision.
- 11.2 The Councils objective is to provide opportunities for healthier lifestyles through provision of leisure and recreation facilities but also to make sure that local health and social care facilities are provided to meet the needs of the community (Strategic Priority 2).

### Background

- 11.3 In drawing up the Local Plan, there was consultation with the NHS and Integrated Care Boards (ICBs) at all stages; and specific discussion with the ICBs about the planned level of growth and proposed housing allocations and the impacts on the health services the ICBs provide and the capacity to accommodate the sites and growth planned.
- 11.4 The NPPF requires that strategic policies should make provision for community facilities such as health facilities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs (NPPF para.92).
- 11.5 Recognising that new major residential development will introduce new populations with various health care needs into an area, the CELPS addresses this issue at a local level via CELPS Policy SC3 Health and Wellbeing. This policy requires that all major applications submit a screening report to determine if a full health impact assessment will be required. Where increased demand on

local health services can be demonstrated, the Council will seek contributions towards new or enhanced health and social care facilities.

- 11.6 An example screening assessment is set out at Appendix 4 and should be submitted with all major development applications.
- 11.7 Integrated Care Boards are responsible for commissioning planned hospital care, rehabilitative care, urgent and emergency care, most community health services, and mental health and learning disability services. The ICBs do not manage local NHS hospitals, however they commission many of the services they offer.
- 11.8 Advice will be sought from the ICBs to establish the likely impact on health services in the area, and the necessary mitigation measures that will be required to meet the needs of the community.
- 11.9 Financial contributions will be based on a formula approach, adjusted to each area, on the basis of ICBs.

### Required Contributions

- 11.10 Where a direct link between proposed development and appropriate health care needs can be demonstrated, development sites will be required to contribute to the delivery of health infrastructure including financial contributions toward the provision and maintenance of local health services.
- 11.11 Financial contributions to health services will be established through liaison with local ICBs. A proportionate approach, based on the increase in local population, the increase in health service needs arising from the new population, and the costs of servicing the new population is used. Based on deprivation and health economy modelling data the financial effect a new resident has on local health services in Cheshire East equates to £360<sup>9</sup>.

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<sup>9</sup> NHS Cheshire and Mersyside

11.12 The table below sets out the required financial contributions on 1<sup>st</sup> April 2022 and will be adjusted annually for inflation.

Size of Residential Unit	Occupancy Assumptions Based on Size of residential unit	Health Need/Sum Requested per residential unit as of April 2022
1 bed unit	1.4 persons	£612.50 per 1 bed unit
2 bed unit	2.0 persons	£875.00 per 2 bed unit
3 bed unit	2.8 persons	£1,225.00 per 3 bed unit
4 bed unit	3.5 persons	£1,537.50 per 4 bed unit
5 bed unit	4.8 persons	£2,100.50 per 5 bed unit

### S106 Agreements

11.13 Where appropriate, S106 agreements will be used to secure financial contributions towards health care. Agreements will include relevant trigger points at which payments are required and timescales within which funding should be received and spent. The agreement will also include a clawback provision to ensure that where a GP practice dissolves, any contribution received on the basis of S106 will be returned to the Local Planning Authority for reinvestment for the same purpose.

## 12. Indoor and Outdoor Sports Facilities, Public Open Space, Play Space and Green Infrastructure

### Objective

- 12.1 Publicly accessible open space, play and sports facilities all have a vital role to play in helping to promote health and wellbeing. Existing facilities represent important assets serving communities across Cheshire East and the Councils objective is provide appropriate facilities by protecting existing facilities and to support development of new facilities by ensuring all major residential development contributes toward the new or improved facilities.
- 12.2 Green Infrastructure (GI) is the term that refers to the network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities across Cheshire East.
- 12.3 Green infrastructure is a natural capital asset that provides multiple benefits, at a range of scales. For communities, these benefits can include enhanced wellbeing, outdoor recreation and access, enhanced biodiversity and landscapes, food and energy production, urban cooling, and the management of flood risk. These benefits are also known as ecosystem services.
- 12.4 This section clarifies the Council's approach to the negotiation and implementation of green infrastructure in new developments particularly green space standards, on-site maintenance costs and off-site developer contributions and maintenance costs.

### Background

- 12.5 The CELPS sets out a series of policies that establish how the provision, maintenance and management of open space, indoor and outdoor sport facilities, and green infrastructure will be required in accordance with policy requirements, and how development can be made acceptable in planning

terms. Such agreements will often be secured through Section 106. The relevant policies of the CELPS are:

- i) SC1 Leisure and Recreation
- ii) SC2 Indoor and Outdoor Sports Facilities and
- iii) SE6 'Green Infrastructure'
- iv) and SADPD policies
- v) REC 1 'Open space Protection'
- vi) REC 2 'Indoor Sport and Recreation Implementation'
- vii) REC 3 'Open Space Implementation'.

12.6 The provision, maintenance and management of these green infrastructure elements; children's play space, amenity open space, allotments, outdoor sports facilities and green infrastructure connectivity, will be required in accordance with policy requirements and to make the development acceptable in planning terms will be secured through Section 106.

12.7 The purpose of the SPD is to clarify the Council's approach to implementing the policy and the provision of new green infrastructure in new developments and particularly the offsite provision of new provision via off-site developer contributions. The ongoing management and maintenance of all new on and offsite provision is also critical.

12.8 Open space in the context of this document includes children's play space, amenity open space, often referred to as green space, incidental amenity or open space and allotments as referred to in SE6.

12.9 The purpose of the guidance in this section is to clarify the Council's the approach to securing contributions green infrastructure in new developments particularly open space standards (and contributions to sports facilities), on-site maintenance costs and off-site developer contributions and maintenance costs.

## Required Contributions

- 12.10 Planning obligations relating to open space, outdoor sport and green infrastructure connectivity will be sought for residential and non-residential developments of 10 units or more, or where the site has an area of 0.5hectares or more.
- 12.11 Open space, outdoor sport and green infrastructure will unless otherwise agreed, be provided on site. If agreed, off site provision of part or all of the requirements will be provided by means of a commuted sum to the council for off-site provision.
- 12.12 Where the provision of open space, outdoor sport and green infrastructure is on site, management and maintenance in perpetuity will need to be demonstrated and will be secured via S106.
- 12.13 Where all or some of the open space, outdoor sport and green infrastructure is to be provided off site via a commuted sum, it will be accompanied by a commuted sum for maintenance.
- 12.14 Where the offsite provision of open space or green infrastructure connectivity is or contains countryside elements, a commuted sum for maintenance will also be required.
- 12.15 Where provision is of strategic significance, it should be conveyed to the council with a commuted sum for maintenance of a minimum of 20years. The council may work with third party organisations to undertake long term management and maintenance.
- 12.16 Major development developments will require a specific Sports Needs Assessment to best identify what, how and where to provide outdoor sports facilities, often in combination with indoor sport and recreation.
- 12.17 Planning obligations relating to indoor sport will be sought for residential units of 10 units or more or where the site has an area of 0.5hectares or more.
- 12.18 Indoor sport will be secured by means of a commuted sum to the council.

12.19 Major development developments will require a specific Sports Needs Assessment and often combine indoor, outdoor and other provisions for health and wellbeing.

12.20 Where provision is not required on-site, or the Council considers a commuted sum in lieu of on-site provision is acceptable, the following calculations will apply:

Provision Category	Threshold	Amount / units	Notes
Open space: Residential Development	Major development	40m <sup>2</sup> per family home* Or 20m <sup>2</sup> per bedroom	Contributions for offsite provision will be accompanied by a com sum for maintenance <sup>4</sup> . [This is to be provided at later date]. Offsite provision may include land purchase as well as projects to expand existing facilities
		Or Financial contribution of £4,500 per family home	
		£2,250 per bed space in apartments <sup>2</sup> [to a maximum of £4,500 per apartment <sup>3</sup> ]	
		Residential homes / supported living / sheltered housing 20m <sup>2</sup> per bed space	Residential homes / supported living / sheltered housing or similar will be expected to provide amenity open space consistent with the requirements of the development and/or as appropriate to location, size and scale of development where offsite opportunities exist
Or Financial contribution of £1,125 per bed space or as negotiated for specific offsite opportunities <sup>6</sup>			
Open space: Commercial developments	Major development of 10 or more units	No set level for onsite provision	Presumption is that most commercial developments will not be required to provide onsite children's play. On site amenity elements and green links will be desirable. These will be negotiated as appropriate to type, location, size and scale of development. Contributions for offsite provision will be accompanied by a com sum for maintenance <sup>4</sup>
		Class E(b) Shops Food £32.15 per m <sup>2</sup>	
		Class E(a) Shops non-food £22.50 per m <sup>2</sup>	
		Class E(b) food and drink restaurants £20 per m <sup>2</sup>	
		Sui Generis food and drink fast food / drive through £13 per m <sup>2</sup>	
		Class E (g) offices £15 per m <sup>2</sup>	
		Class E(c) business parks £11.42 per m <sup>2</sup>	
		Class B2 and B8 General industry, storage and distribution £10 per m <sup>2</sup>	
		Class C1 Hotels £450 per bedroom	
Recreation and outdoor sport:	Major Development	40m <sup>2</sup> per family bedroom; Or financial contribution of £1,500	Contributions for offsite provision will be accompanied

Residential Development	(10 or more units)	per family home / £750 per bed space in apartments	by a com sum for maintenance <sup>4</sup>
			The Sports England Sports Pitch Calculator, CEBC Playing Pitch Strategy and CEBC Indoor Facilities strategy, neighbourhood plans, and other local plan policy / strategy documents will inform the requirement for provision
Recreation and outdoor sport: Commercial Development	Commercial developments over 1,000m <sup>2</sup> of floor space	40m <sup>2</sup> per family bedroom; Or financial contribution of £1,500 per family home / £750 per bed space in apartments	Contributions for offsite provision will be accompanied by a com sum for maintenance <sup>4</sup> . The Sports England Sports Pitch Calculator, CEBC Playing Pitch Strategy and CEBC Indoor Facilities strategy, neighbourhood plans, and other local plan policy / strategy documents will inform the requirement for provision. Presumption is that most commercial developments will not be required to provide onsite Recreation and Outdoor Sport. On site facilities may be desirable and will be negotiated as appropriate to type, location, size and scale of development.
		On site provision negotiated as appropriate	
		Or	
		Class E (b) Shops Food £32.15 per m <sup>2</sup>	
		Class E(a) Shops non-food £22.50 per m <sup>2</sup>	
		Class E(b) food and drink restaurants £20 per m <sup>2</sup>	
		Sui Generis food and drink fast food / drive through £13 per m <sup>2</sup>	
		Class E (g) offices £15 per m <sup>2</sup>	
		Class E(c) business parks £11.42 per m <sup>2</sup>	
		Class B2 and B8	
		Class B2 and B8 General industry, storage and distribution £10 per m <sup>2</sup>	
		Class C1 Hotels £450 per bedroom	
Allotments / growing space / community gardens	Major development of 10 or more units	5m <sup>2</sup> per family home	On site provision may include land set aside for future development along with com sum to enable at later date in line with community development
		Or	Offsite provision may include land purchase as well as projects to expand existing or introduce new opportunities.
		Financial contribution of £562.50 per family home / £281.25 per apartment <sup>7</sup>	Contributions for offsite provision will be accompanied by a com sum for maintenance <sup>4</sup>

Allotments / growing space / community gardens	Commercial developments over 1,000m <sup>2</sup> of floor space	Requirement will be identified as appropriate to location, size and scale of development and local need and opportunity	Presumption is most commercial developments will not be required to contribute to offsite provision. On site facilities on occasion may be appropriate. These will be negotiated as appropriate to type, location, size and scale of development <sup>8</sup>
Green Infrastructure (Residential developments)	Major development of 10 or more units	20m <sup>2</sup> per family home	Presumption is most major developments will provide GI on site unless significant opportunities or need exists in locality of development
		Or Financial contribution of £1,125 per family home / £562.50 per apartment	Shortfalls in on site will require payment of com sum for offsite provision and will be accompanied by a com sum for maintenance <sup>4</sup>
Green Infrastructure	Commercial developments over 1,000m <sup>2</sup> of floor space	Any shortfall in on site provision or preferred opportunity offsite will be identified as appropriate to location, size and scale of development and as identified through Green Space Strategy and other policy documents. Offsite provision will be based on actual cost of provision	Presumption is most commercial developments will provide GI on site unless significant opportunities or need exists in locality of development
			Shortfalls in on site will require payment of com sum for offsite provision and will be accompanied by a com sum for maintenance <sup>4</sup>

12.21

### S106 Agreements

12.22 SADPD Policy **REC 3 (Green Space Implementation)** states “applicants will need to demonstrate how the management and maintenance of additional green space provision will be provided for in perpetuity. All areas of green space that are of strategic significance, for example because they will form part of a wider, connected network of green space, should be conveyed to the council along with a commuted sum for a minimum period of 20 years maintenance”.

12.23 S106 Agreements will be used to secure commuted sums for provision, enhancement and maintenance as appropriate.

## 13. Affordable Housing

### Objective

- 13.1 A key priority of the LPS, is to create and maintain sustainable communities by supporting the delivery of an appropriate mix of house types, sizes and tenures including affordable housing to meet the borough's needs. It also seeks to support vulnerable and older people to live independently, and for longer (LPS Strategic Priority 2, point 1 (ii & iii)).
- 13.2 The Council has produced a Housing SPD (adopted July 2022), to provide additional policy guidance, focused on LPS policies SC4 (residential mix), SC5 (affordable homes) and SC6 (rural exceptions housing for local needs). This SPD aims to give greater clarity to developers, landowners and communities, focused primarily on affordable housing and specialist accommodation, including older persons accommodation.
- 13.3 The Housing SPD includes information on how developer contributions to affordable housing should be calculated. The approach to financial contributions from the Housing SPD is included here. For full information on how the council applies affordable housing policies, please refer to the Housing SPD 2022 available on the Councils Website<sup>10</sup>.

## Background

- 13.4 The NPPF (2021), in paragraph 63, states that the provision of affordable homes should only be sought for residential developments that are major developments<sup>11</sup>. However, as the LPS is a recently adopted Plan, planning decisions should be made in accordance with the thresholds included in policy SC5 (affordable homes).
- 13.5 In applying the size threshold for affordable housing, site areas will normally be measured to the natural, physical perimeters of the site. It will not be acceptable for sites to be artificially divided into smaller components in order to take a site below the stated affordable housing threshold.

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<sup>10</sup> [Housing Supplementary Planning Document \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk)

<sup>11</sup> Major developments are defined in the NPPF as housing sites of 10 or more homes, or where the site has an area of 0.5 hectares or more.

13.6 There will be occasions where meeting the affordable housing requirement on residential sites would not result in a 'round' number of dwellings. In such cases, the number shall be rounded up to the nearest whole number. For example, if the requirement is for 7.1 homes the number would be rounded up to create a requirement for 8 homes. This is to ensure that the full 30% requirement for affordable housing is met on-site. Where applicants expect such an approach may render a scheme unviable, applicants should submit a viability assessment for consideration.

### Required Contributions

13.7 The LPS identifies a need for a minimum of 7,100 affordable homes (an average of 355 affordable homes each year) across the borough for the twenty-year Plan period (2010 to 2030).

13.8 LPS policy SC5 (affordable homes) sets out the thresholds for affordable housing provision in the borough. In residential developments, affordable housing will be provided as follows: -

- i. In developments of 15 or more dwellings (or 0.4 hectares) in the Principal Towns and Key Service Centres at least 30% of all units are to be affordable;
- ii. In developments of 11 or more dwellings (or have a maximum combined gross floorspace of more than 1,000 sqm) in Local Service Centres and all other locations at least 30% of all units are to be affordable;

13.9 The Councils approach to Affordable Housing delivery is set at in the Housing SPD 2022.

13.10 The Council will first seek Affordable Housing provision on-site. Exceptionally, as a first alternative and where it can be justified, the Council may accept provision off-site.

13.11 In exceptional circumstances, where suitable sites aren't available, and where it can be justified, as a second alternative, a financial contribution will be

accepted. The circumstances where this approach may be acceptable are set out in the Housing SPD at paragraph 6.48.

13.12 Where a financial contribution is offered, the amount of such contribution will normally be expected to reflect the cost necessary to facilitate an equivalent amount of affordable housing as would have been provided on-site. The amount of any contribution will need to be agreed with the council. Where off-site provision is made by the developer or as a result of any financial contribution, this should be in a location elsewhere within the borough where there is an identified need.

13.13 The basis for calculating the cost to the developer for off-site provision will be the difference between the open market value of the units that would have otherwise been affordable and the average amount a Registered Provider would offer for those units. We would require the applicant to submit an affordable housing mix outlining the type, size and tenure of units which meet the housing need for the locality and the policy requirements of the LPS, including constructed to national building regulations requirements and provided at 65% rented and 35% intermediate tenure mix. This should include the open market values of the units and details of offers from a Registered Provider to take the affordable units. In order to establish open market values, a valuation will need to be completed by a RICs qualified valuer, then verified by the Council.

13.14 **Worked Example**

13.15 12 units on site of 1 hectare in a Local Service Centre

13.16 30% affordable housing requirements:  $12 \times 0.3 = 4$  units

13.17 In this example, there is 3 x 2 bedroom house at social rent and 1 x 3 bedroom house at intermediate tenure. Using some illustrative values as an example presents the following position:

Unit Type	OMV	Tenure	RP offer	Financial Contribution [per unit]	Total
2 bed house (65m2)	£100,000	Social Rented	£55,000	£45,000	£135,000
3 bed house (70m2)	£120,000	Intermediate	£80,000	£40,000	£40,000
					£175,000

13.18 Where viability is cited as a reason for fewer affordable dwellings being delivered, the developer will be required to submit an open book viability assessment. In such cases, the council will commission an independent review of the viability study, for which the developer will bear the cost. In cases where such affordable housing provision is agreed there may be a requirement for 'overage' payments to be made. This will reflect the fact that the viability of a site will be agreed at a point in time and may need to be reviewed, at set point(s) in the future.

### S106 Agreements

13.19 The council will normally require provision of affordable housing and/or any control of occupancy to be secured by means of planning obligations pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).

13.20 In respect of affordable homes, Section 106 agreements may cover the following areas: -

- (1) Tenure
- (2) Dwelling Types and Sizes
- (3) Price and Rent Control
- (4) Use of financial and other contributions
- (5) Phasing
- (6) Involvement of Registered Provider

13.21 Applicants are encouraged to provide the necessary information to assist in the production of a Section 106 agreement including: -

- (1) Proposed 'heads of terms' of the legal agreement setting out in broad terms what the main elements that the Section 106 agreement will cover.
- (2) Up to date copies of any relevant title and ownership deeds from land registry.
- (3) An undertaking to pay the council's appropriate and reasonable legal and administrative costs in connection with preparation of the legal agreement.
- (4) In the event that the applicant is represented by a member of the legal profession, the relevant contact details and name of the individual and/or organisation dealing with the matter.

13.22 The Council provides additional information on Affordable Housing Legal Agreements at para.6.54 of the Housing SPD. Applicants should refer to this document for further guidance.

## 14. Cheshire Constabulary

### Objective

- 13.1 To enable the delivery of sustainable growth Cheshire Constabulary and Cheshire Fire Service must deliver the infrastructure necessary to guarantee the safety, security and wellbeing of existing and planned communities.
- 13.2 Where the scale, nature and significance of proposals may place a demand on the police service, a contribution to police and fire infrastructure may be required mitigate the impacts of development.
- 13.3 Increases in population bring with it a risk of a corresponding increase in crime and demand from new residents for policing services across a wide spectrum of support and intervention. The development will require police deployment on occupation of the first dwellings and throughout the lifetime of the development as residents go about their daily lives at the site and across the wider policing sub region.

## Background

- 13.4 Cheshire Constabulary delivers crime prevention and presence through response, neighbourhood and town centre teams, attendance and service lead at emergencies and non-emergencies (such as road traffic incidents, flooding etc.), counter terrorism and community reassurance. It also attends all incidents involving deaths, provide crowd and events policing, supports community safety and crime partnerships, and provides referral responses when there are expressed concerns about domestic abuse, the safety of children, the elderly and those with special needs. Whether residents are victims of crime, witnesses to it, or require the police for any other reason, the increase in population brought about by the proposed development will result in an increase in demand for these services.
- 13.5 The total number of crimes reported across Cheshire increased 6.2% between the periods of April to December 2020 (63,850) and April – December 2021 (67,806). There was also an upward trend in the number of 999 calls made to the Constabulary's Force Control Centre; 131,179 in the year ending December 2020 and 148,788 in the year ending December 2021. This in turn resulted in an increase in the Constabulary's attendance rates to the most serious "emergency" incidents.
- 13.6 Where development is proposed, the Constabulary will seek to deploy additional staffing and infrastructure at the same level that is required to deliver policing to the locality. Without additional support, unacceptable pressures will be placed on existing personnel and capital infrastructure.

## Required Contributions

- 13.7 Contributions will be sought based on staff set up, vehicles and premises.
- 13.8 **Staff set-up**
- 13.9 Establish A) Local population to policing personnel ratio

13.10 Establish B) average population of development (homes / divided by ONS average household size for CE)

13.11 Establish C) Local population to central policing personnel

13.12 Establish increase in police personnel required to serve the new development.

13.13 Cheshire Constabulary currently employs 4,198 staff to do this (2,275 officers/1,923 staff). The Constabulary serves a population of approximately 1,027,709 across Cheshire (2011 census) and 329,608 in Cheshire West and Chester.

13.14 Force wide, Cheshire Constabulary employ officers to staff at a ratio of 0.54 to 0.46. Basic set-up costs of equipping and recruiting staff are set out below. Prices are correct as of 2022 and will be updated annually:

Officer Costs			
Start-up equipment (uniform, ICT and workstation, radio, body worn cameras)	£4,767.83	0.54	£2,574.62
Start-up recruitment	£940	0.54	£507.60
Total	£5,707.83	0.54	£3,082.22
Support Costs			
Start-up equipment (ICT and workstation)	£2,120.83	0.46	£975.58
Start-up recruitment	£400	0.46	£184.00
Total	£2,520.83	0.46	£1,159.58

### 13.15 Vehicles

13.16 Current fleet deployment to Cheshire is 735 vehicles.

13.17 The average equipped cost of a vehicle is £16,255 (not including fuel and maintenance) and this is very close to the actual cost of a GRV. Our guideline for the majority of marked vehicles is to replace them on average every 8 years or 110,000 miles. The condition of vehicles at the end of their police life varies

however the Constabulary forecasts that they will redeem on average, 5% of a vehicles original value on disposal.

13.18 To calculate the increase in police vehicles required to serve the new development requires establishing the net average value of vehicles (a) serving the population of an area (b) and then establishing a unit cost per person (a divided by b).

13.19 Following this, the unit cost per person is multiplied by the population of the new development.

13.20 For example, if 100 vehicles serve Cheshire East the net average value would be  $100 \times 16,255$  (£1,625,500).

13.21 Population of Cheshire East is 398,800 people.

13.22 Therefore, the unit cost per person would be  $(1,625,000 \text{ divided by } 398,880) = \text{£}4.07$ .

13.23 For a proposed new development, this equates to  $\text{£}4.07 \times$  population of new development, to give an 8-year life of provision.

#### 13.24 Premises

13.25 Due to the recent shift in working approaches, the Constabulary is currently undertaking an exercise to understand capacity at Winsford HQ premises and its ability to accommodate force-wide, centralised staffing provision. Therefore, a contribution is not being sought towards premises costs for centralised policing staff generated by the development in this instance.

13.26 Establish net additional personnel staff (A)

13.27 Establish average floorspace provision across the existing estate (including WC and locker / changing facilities) (B).

13.28 Establish adaption / conversion Costs (C). The Q1 2022 (15/01/2022) issue of the RICS BICS costs lists the median cost for adaptation/conversion of northwest police stations as  $\text{£}1,897 \text{ p/sqm}$  (Median) which would be considered

the minimum cost appropriate to support the additional officers/staff based at Northwich LPU.

13.29 Multiply (A) x (B) x(C). I.e., net additional personnel staff multiplied by floor space required per staff member, multiplied by adaption/conversion costs.

### **S106 Agreement**

13.30 The contributions set above will be secured through S106 agreements which will include relevant trigger points.

## **15. Other Matters**

### **Heritage**

15.14 Many of the potential impacts of development on heritage assets can be addressed through scheme design and by conditions attached to a planning permission, for example the need to carry out surveys or excavation and recording.

15.15 Circumstances where the objectives of heritage protection may not be satisfactorily controlled by a condition, for example where impacts or public benefits are off-site, or involve a particularly sensitive or complex programme of works, involving phasing, the Council may require implementation of these measures through a Section 106 Agreement. By way of example these could include, but would not be limited to, the following:

- (1) securing the investigation and protection of archaeological remains in advance of development;
- (2) recording, removing, storing, displaying and maintaining specifically identified artefacts or remnants from demolition as part of a new development or in another location;
- (3) drawing up of a conservation management plan;
- (4) providing and implementing a restoration scheme for historic buildings and features to a set timescale and an agreed specification;

- (5) reinstating and/or repairing historic features in the public realm (such as streetlights, bollards and surfaces) directly affected by the development and its construction impacts
- (6) undertaking and completing specified works to a heritage asset at risk prior to the construction or occupation of any enabling development.
- (7) enabling development to secure the repair, restoration and maintenance of a heritage asset.
- (8) Repairing, restoring or maintaining a heritage asset identified as being at risk
- (9) Increased public access and improved signage;
- (10) Measures for preservation or investigation, recovery and interpretation of archaeological remains and sites.

15.16 Works critical to the principal of the scheme being granted consent e.g., to securing the investigation and protection of archaeological remains, secure the public benefits which justify harm or in the case of enabling development works, to secure the repair, restoration and maintenance of a heritage asset will be considered as a priority.

## **Public Rights of Way**

15.17 New housing and commercial developments within the Borough may have a direct impact on the PRow network in a number of ways: requiring existing routes to be moved; requiring existing routes to be improved or given additional rights; and creating the need for new routes. Where development is likely to have an impact, the Council may seek to negotiate a planning obligation to ensure that public rights of way and access are appropriate to accommodate the increased usage new residents will generate or to provide safe connectivity of the network.

15.18 Improvements required on existing routes can include widening of a public right of way to reflect increased use or sealing the surface to provide an all-weather

surface. Where appropriate, a development may necessitate a route status being upgraded to accommodate multi-use, such as equestrian and cycling use. Improvements to the existing PRoW network required as a result of a development may also necessitate provision of new routes linking to national cycle routes, long-distance footpaths, canal towpaths and rights of way networks. Contributions may also be sought for any towpath works necessary to mitigate the direct impact of new development in close proximity to canals.

15.19 The measures in each case will be assessed on a case-by-case basis and determined in relation to the scale and location of development, securing opportunities for modal shift, and ensuring an appropriate access strategy to strategic facilities including green infrastructure. Any contribution sought will be proportionate, reasonable and in support of relevant council strategies, including The Rights of Way improvement Plan, Cycling Strategy and Local Transport Plan.

15.20 The level of any financial contribution will be based on the cost of carrying out works, which will be calculated via either quotes obtained from contractors or estimate of cost using recent quote prices for similar jobs. There may be a degree of overlap with regards to contributions towards transportation improvements, particularly in urban areas, see 'Highways and Transport' section.

15.21 Information is available on the Cheshire East Council website <sup>12</sup> for applicants whose schemes are likely to impact on a public right of way. This includes details of the legal process required for diversions, or temporary / long-term closures. The legal process required is in addition to the planning consent process, with applications made to the Local Planning Authority. The granting of planning permission in itself does not authorise the alteration of a public right of way. The most common forms of public path orders include public path

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<sup>12</sup> Cheshire East Council Public Rights of Way, available at: [https://www.cheshireeast.gov.uk/leisure\\_culture\\_and\\_tourism/public\\_rights\\_of\\_way/public\\_rights\\_of\\_way.aspx](https://www.cheshireeast.gov.uk/leisure_culture_and_tourism/public_rights_of_way/public_rights_of_way.aspx)

diversion orders, public path extinguishment orders or public path creation orders.

## Flood Risk and SUDS

15.22 LPS Policy SE13 Flood Risk and Water Management seeks to ensure that development integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity within the borough and provide opportunities to enhance biodiversity, health and recreation. SADPD Policy ENV16 Surface Water Management and Flood Risk introduces a requirement to incorporate surface water SUDS on site.

15.23 The Council's Strategic Flood Risk Assessment (SFRA) 2013<sup>13</sup> draws on Environment Agency Flood Zone and Surface Water mapping data and data on local sources of flood risk supplied by the Council's Flood Risk Team and United Utilities.

15.24 CELPS Policy SE134: Flood Risk and Water Management requires that new development does not result in increased flood risk from any source or other drainage problems, either on the development site or elsewhere, and that where mitigation is required to make any identified impacts acceptable, these will be secured through conditions and/or legal agreement, including where necessary through planning contributions.

15.25 Management of 'local' flood risk<sup>32</sup> and land drainage is a function of Cheshire East Council in its role as Lead Local Flood Authority (LLFA). The LLFA investigates and publishes the results of incidents of significant flooding; it designates assets which have a significant effect on flood risk; it maintains a register of flood risk assets; it provides consent for works on ordinary watercourses and is a statutory consultee in the planning application process.

15.26 When consulted on planning applications, CEC will provide an assessment of the proposed developments potential impacts on the drainage network with regard to surface water discharge rates and volume, design standards and the

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<sup>13</sup> [Strategic Flood Risk Assessment \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)

continued safe operation and maintenance of the surface water drainage network to ensure that flood risk is appropriately managed.

15.27 Central government funding for flood risk management comes from various sources, including DEFRA Support Grant, conventional capital settlements and the Local Growth Fund (Growth Deal). Typically, these funding sources do not address the specific impacts of individual new development. Instead, funds are directed at inherited drainage problems resulting from economic progress and previous development activity, or at large scale projects designed to deliver growth.

15.28 Conditions or developer contributions may therefore be requested by CEC or exceptionally the Environment Agency or United Utilities, to address flooding, drainage or water quality issues.

15.29 It is envisaged that any such requirements would be identified on a site-by-site and scheme specific basis.

## Glossary

### Affordable Housing

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

- a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).
- b) Starter homes: is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.
- c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

Amenity	A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them.
Authority Monitoring Report	An annual report prepared by Cheshire East Council to assess progress and effectiveness of a Local Plan.
Building for Life 12	The industry standard endorsed by government for designing new homes in England, based on 12 key criteria.
Catchment school/s	School/s allocated to serve a specific area of a community
Cheshire Home Choice	A partnership between the council and registered providers who advertise properties and manage the housing need register and allocation policy.
Community Infrastructure Levy	A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Custom and Self-Build Dwellings	As defined by the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).
Development	Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order.
Development Plan	This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004
DfE	Department for Education
Entry Level Exception Sites	As defined in the NPPF, entry level exception sites are suitable for first time buyers or those looking to rent their first home. The NPPF provides more details.
EYFS	Early Years Foundation Stage (nursery,pre-school, and reception)
Family Housing	Domestic dwellings with 2 bedrooms or more
FE	Further Education (6 <sup>th</sup> form and colleges)
First Homes	First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of ‘affordable housing’ for planning purposes

Green Infrastructure	A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.
Habitats Regulations Assessment	The process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest.
Housing Impact Assessment	The process to determine the need for a developer contribution from new development against current education infrastructure.
Local Plan	<p>The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.</p> <p>In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.</p> <p>Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.</p>
Local Plan Strategy	Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.
Local Planning Authority	The local authority or council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.
National Described Space Standards	The nationally described space standard is not a building regulation and remains solely within the planning system as a new form of technical planning standard if supported by a local plan policy. It deals with internal space standards within new dwellings and is suitable for application across all tenures
Neighbourhood Plan	A plan prepared by a parish council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).
Planning area	School(s) designated to an area for the purposes of pupil place planning.
Playing Field	Land in the open air which is provided for the purpose of physical education or recreation.
Rural Exception Sites	Small sites used for affordable housing in perpetuity where sites would not normally be use for housing. Rural exception sites seek to address the needs of the local community by

<p>Site Allocations and Development Policies Document</p>	<p>accommodating householders who are either current residents or have an existing family or employment connection. Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.</p>
<p>SEN Supplementary Planning Document</p>	<p>Special Educational Needs A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.</p>
<p>Sustainability Appraisal</p>	<p>An appraisal of the economic, environmental and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.</p>
<p>Strategic Environmental Appraisal</p>	<p>SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.</p>
<p>Viability Study</p>	<p>A report, including a financial appraisal, to establish the profit or loss arising from a proposed development. It will usually provide an analysis of both the figures inputted and output results together with other matters of relevance. An assessment will normally provide a judgement as to the profitability, or loss, of a development.</p>
<p>Walking Distance</p>	<p>Walking route distance of 2 miles from dwelling to school for Primary, walking route distance of 3 miles from dwelling to school for Secondary, in reference to DfE walking distances and Cheshire East School Transport Policy. Please note that for the purpose of Section 106 Developer Claims Cheshire East uses the 2 mile distance for Primary Age Pupils.</p>

# Appendices

## Appendix 1 HRA / SEA Screening Assessment

### Draft Developer Contributions Supplementary Planning Document

### Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

#### Introduction and Purpose

1. Cheshire East Council has produced a first draft Developer Contributions Supplementary Planning Document (“SPD”). The purpose of the SPD is to provide guidance on the application of S106 and S278 agreements that form the basis of developer contributions across a range of matters including highways, education and affordable housing.
2. The Development Plan for Cheshire East consists of the Local Plan Strategy (“LPS”) and ‘saved’ policies in the Crewe and Nantwich, Congleton and Macclesfield Local Plans. In addition, made Neighbourhood Plans also form part of the Development Plan.
3. The policy framework for the SPD is contained mostly in the LPS, with a particular focus on Policy IN1 (“Infrastructure”), and IN2 (“Developer Contributions”).
4. The Council is also in the process of preparing the second part of its Local Plan, called the Site Allocations and Development Policies Document (“SADPD”). The SADPD has now been submitted for examination on the 29 April 2021 and an Inspector appointed to assess whether the SADPD has been prepared in accordance with legal and procedural requirements and if it is sound.
5. This screening report is designed to determine whether or not the contents of the first draft Developer Contributions SPD require a Strategic Environmental Assessment (“SEA”) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the first draft Developer Contributions SPD has a significant adverse effect upon any internationally

designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.

6. The draft SEA / HRA statement, alongside the draft Developer Contributions SPD, will be the subject of consultation in accordance with the relevant regulations and the Council's Statement of Community Involvement. This consultation will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). No formal comments on the SEA / HRA screening report were received from the Environment Agency and Historic England to the draft Developer Contributions SPD.

## **Strategic Environmental Assessment Screening**

### **Legislative Background**

7. The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.
8. Article 3(3) and 3(4) of the regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan. In addition, planning practice guidance (PPG – ref Paragraph: 008 Reference ID: 11-008-20140306) states that a SEA is unlikely to be required where an SPD deals only with a small area at local level, unless it is considered that there are likely to be significant environmental effects.

## **Overview of Developer Contributions SPD**

9. The purpose of the final draft Developer Contributions SPD is to provide further guidance on the implementation of the infrastructure (IN1) Developer Contributions (IN2) LPS policies.
10. It is important to note that Developer Contributions policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.
11. SEA has been undertaken for policies IN1 and IN2 as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:
  - SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
  - PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
  - RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
  - RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
  - PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
  - PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
  - MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.
12. In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS.

## SEA Screening Process

13. The council is required to undertake a SEA screening to assess whether the draft Developer Contributions SPD is likely to have significant environmental effects. If the final draft Developer Contributions SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary. This is considered in Table 1 below: -

**Table 1: Establishing the need for a SEA**

Stage	Decision	Rationale
1.	Yes	The SPD will be prepared and adopted by Cheshire East Borough Council.
2.	No	The Council's Local Development Scheme (2020 – 2022) does not specifically identify the need to produce a Developer Contributions SPD.
3.	No	The SPD is being prepared for town and country planning use. It does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Article 3.2 (a)). Whilst some developments to which the guidance in the SPD applies would fall within Annex II of the EIA Directive at a local level, the SPD does not specifically plan for or allow it.
4.	No	A Habitats Regulations Assessment has been undertaken for the LPS and emerging SADPD. The SPD does not introduce new policy or allocate sites for development. Therefore, it is not considered necessary to undertake a HRA assessment for the SPD. This conclusion has been supported by an HRA screening assessment as documented through this report.
5	No	The SPD will not determine the use of small areas at a local level. The SPD provides guidance on the provision of rural exception sites for local needs,

	of a PP subject to Art. 3.2? (Art 3.3)		but it does not specifically determine the use of small areas at a local level. The SPD will be a material consideration in decision taking.
6.	Does the SPD set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	No	The LPS and emerging SADPD provide the framework for the future consent of projects. The SPD elaborates upon approved and emerging policies and does not introduce new policy or allocate sites for development.

14. The SPD is considered to not have a significant effect on the environment and therefore SEA is not required. However, for completeness, Table 2 assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC<sup>14</sup> and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004<sup>15</sup>.

Table 2: assessment of likely significance of effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
<b>1.Characteristics of the SPD having particular regard to:</b>		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	Guidance is supplementary to policies contained in the LPS and has been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.  The draft Developer Contributions SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.  Final decisions will be determined through the development management process.  No resources are allocated.	No

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

<sup>15</sup> [http://www.legislation.gov.uk/uksi/2004/1633/pdfs/ukxi\\_20041633\\_en.pdf](http://www.legislation.gov.uk/uksi/2004/1633/pdfs/ukxi_20041633_en.pdf)

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
(b)The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS, which has itself been the subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	No
(c)The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2022) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has limited relevance for the integration of environmental considerations but promotes the 'social' objective of sustainable development by providing guidance on the delivery of affordable Developer Contributions in the borough.	No
(d) Environmental problems relevant to the SPD.	There are no significant environmental problems relevant to the SPD.	No
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
<b>2.Characteristics of the effects and area likely to be affected having particular regard to:</b>		
(a)The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b) The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of Developer Contributions policies IN1, and IN2 in the LPS and does not, in itself, influence the location of development.	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
(d)The risks to human health or the environment (e.g., due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to affordable Developer Contributions policies in the Local Plan.	No
(e)The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area. The draft SPD will assist those making planning applications in the borough.	No
(f)The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> <li>• Special natural characteristics of cultural heritage</li> <li>• Exceeded environmental quality standards or limit values</li> <li>• Intensive land use.</li> </ul>	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of Developer Contributions policies N1 and IN2 in the LPS, and does not, in itself, influence the location of development.	No
(g)The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

### Conclusion and SEA screening outcome

15. Consultation on the initial draft of the Developer Contributions SPD will take place during August and September 2022 during which the three statutory consultees (the Environment Agency, Historic England and Natural England) will be asked to comment on the document and its implications. The SPD is not setting new policy; it is supplementing and providing further guidance on existing LPS policies. Therefore, it is considered that an SEA is not required on the first draft Developer Contributions SPD. This conclusion will be kept under review until after consultation, when the conclusion will be reviewed and updated accordingly.

## Habitats Regulations Assessment Statement

16. The Council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.
17. The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
18. European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.
19. Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Developer Contributions SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.
20. A judgement, published on the 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no

longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.

21. The LPS has been subject to HRA.

22. The Developer Contributions SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies IN1 Infrastructure and IN2 Developer Contributions could not have a likely significant effect on a European Site. The same applies to the draft Developer Contributions SPD. The draft Developer Contributions SPD in itself, does not allocate sites and is a material consideration in decision making, once adopted.

23. The draft Developer Contributions SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.

### **Conclusion and HRA screening outcome**

24. Consultation on the initial draft of the Developer Contributions SPD will take place between during August and September 2022. Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England) during this consultation, this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required. This conclusion will be reviewed post-consultation and updated accordingly.

## Appendix 2: Local Plan SADPD Viability Assessment Update and Refresh.

<b>Table 12.5 Residential Development – BLV v Residual Values</b>					
30% Affordable (65% Social Rent / 35% Intermediate), CIL, s106 £5,202/unit					
			Existing Use Value	Benchmark Land Value	Residual Value
Site 2	Medium Green 40	Prime	25,000	625,000	1,763,912
Site 3	Medium Green 20	Prime	25,000	625,000	2,284,239
Site 4	Small Green 11	Prime	50,000	800,000	2,335,060
Site 5	Small Green 9	Prime	50,000	800,000	2,200,897
Site 6	Brown 50	Prime	740,000	888,000	1,733,554
Site 8	Mixed Large 80 LD	Prime	740,000	888,000	1,815,422
Site 9	Mixed Medium 20	Prime	740,000	888,000	2,040,124
Site 12	Large Allocation 200	Prime	25,000	625,000	1,749,138
Site 15	Medium Green 40	High	25,000	625,000	527,120
Site 16	Medium Green 20	High	25,000	625,000	698,075
Site 17	Small Green 11	High	50,000	800,000	868,888
Site 18	Small Green 9	High	50,000	800,000	564,381
Site 19	Brown 50	High	740,000	888,000	413,165
Site 22	Mixed Medium 20	High	740,000	888,000	489,879
Site 2	Medium Green 40	Medium	25,000	625,000	101,764
Site 3	Medium Green 20	Medium	25,000	625,000	142,029
Site 4	Small Green 11	Medium	50,000	800,000	356,434
Site 5	Small Green 9	Medium	50,000	800,000	-19,502
Site 6	Brown 50	Medium	740,000	888,000	97,873
Site 9	Mixed Medium 20	Medium	740,000	888,000	105,373
Site 11	Large Allocation 550	Medium	740,000	888,000	131,899
Site 14	Large Green 70	Low	25,000	625,000	-315,687
Site 15	Medium Green 40	Low	25,000	625,000	-326,894
Site 16	Medium Green 20	Low	25,000	625,000	-396,697
Site 17	Small Green 11	Low	50,000	800,000	-126,836
Site 18	Small Green 9	Low	50,000	800,000	-627,274
Site 19	Brown 50	Low	740,000	888,000	-440,990
Site 22	Mixed Medium 20	Low	740,000	888,000	-529,309
Site 23	Large Allocation 550	Low	25,000	625,000	-194,095
Site 24	Large Allocation 550	Low	740,000	888,000	-308,005
Site 25	Large Allocation 200	Low	25,000	625,000	-202,931

Source: HDH (June 2020)

## Appendix 3: Cheshire East Council Parking Standards

Car Parking Standards		
A1	Food Retail	1 per 14m <sup>2</sup>
	on Food Retail	1 per 20m <sup>2</sup>
	Open Air Markets	3 spaces per vendor
	DIY Store	1 car space per 25 m <sup>2</sup> / 1 lorry space per 500m <sup>2</sup>
	Retail Parks	Individual assessment based against use-classes and location
A2	Financial and Professional Services	1 per 30m
A3	Restaurants	1 per 5m <sup>2</sup> per Public Floor Area (PFA)
A4	Pubs	1 per 5m <sup>2</sup> per PFA
A5	Fast Food Drive Through	1 per 7.5m <sup>2</sup>
B1	Office / Light Industry	1 per 30m <sup>2</sup>
B2	General Industry	First 235m <sup>2</sup> - 1 per 30m <sup>2</sup> , then 1 per 50m <sup>2</sup>
		Warehouse Storage -1 per 80m <sup>2</sup> and 1 lorry space per 200m <sup>2</sup> Warehouse Distribution - 1 per 60m <sup>2</sup> and 1 lorry space per 200m
B8	Storage and Distribution	Warehouse Distribution - 1 per 60m <sup>2</sup> and 1 lorry space per 200m
		Warehouse Distribution - 1 per 60m <sup>2</sup> and 1 lorry space per 200m
C1	Hotels and Motels	1 per bedroom
C2	Hospitals	1 per 2 resident staff and 1 per 3 beds
	Sheltered Accommodation	Residents - 0.5 per unit and 1 per 3 units (for visitors) Staff - 1 per resident staff and 1 per 2 non-resident staff
	Extra Care	Residents - 0.5 per unit and 1 per 3 units (for visitors) Staff - 1 per resident staff and 1 per 2 non-resident staff Facilities (open to non-residents) 1 per 4m <sup>2</sup> of floor space used for this purpose
	Residential Homes and Nursing Homes	Residents - 1 per 3 beds Staff - 1 per resident staff and 1 per 2 non-resident staff
	Purpose built student accommodation	Residents - 1 space per 3 bedrooms Staff - 1 per resident staff and 1 per 2 non-resident staff
C3/C4	Dwelling Houses and Houses in Multiple Occupation	Principal Towns and Key Service Centres: for 1 bedroom - 1 space per dwelling; for 2 bedrooms - 2 spaces per dwelling; for 3+ bedrooms - 2 spaces per dwelling Remainder of borough: for 1 bedroom - 1 space per dwelling; for 2/3 bedrooms - 2 spaces per dwelling; for 4/5+ bedrooms - 3 spaces per dwelling
D1	Medical and Health Facilities	1 per 2 staff and 4 per consulting room
	Creche, Day Nursery, Day Centre, Primary / Junior School	1 per staff and 3 additional spaces for visitors and safe picking up/ dropping off point

	Secondary Schools	1 per 2 staff and 5 spaces (less than 1200 students) or 10 spaces (more than 1200 students) and 1 per 10 sixth form students and safe picking up / dropping off point. Consider bus facilities, drop off / pick up
	Higher and Further Education	1 per 2 staff and 1 per 15 students
	Art Galleries, Museums and Libraries	1 per staff and 1 per 30m <sup>2</sup> (PFA) or 1 per staff and 1 per 15m <sup>2</sup> up to 300m <sup>2</sup> (PFA) and 1 per 50m <sup>2</sup> over 300m <sup>2</sup> (PFA)
	Public or Exhibition Hall	1 per staff and 1 per 4m <sup>2</sup> PFA
	Places of worship	1 per 5 seats
D2	Leisure	Individual assessment based on use - See Cheshire East Parking Standards Guidance Note for details and recommended standards for a variety of land uses
	Cinema	1 per staff and 2 for buses / coaches and 1 per 3 seats
Sui Generis	For example, theatres	Individual assessment based on use - See Cheshire East Parking Standards Guidance Note for details and recommended standards for a variety of land uses
<b>Disabled Parking Requirements</b>		
B1, B2, B8	Employment	Min 1 space or 2% of overall requirement, whichever is greater.
	Shopping, recreation, education, health and leisure, hotels, community halls and advice centres	Min 1 space or 6% of total capacity up to a total of 200 bays (whichever is greater) plus 4% of capacity above 200 bays. Allow spaces for larger special needs transport as appropriate. An additional 4-5% of provision of enlarged spaces to meet future needs at health / medical locations. Parent / infant parking to be provided at 6% of total capacity.
	Railway and other public car parks	Min 1 space per 55 of capacity up to 200 spaces plus 4% of spaces above 200 bays
	Places of worship, crematoria and cemetery chapels	Min of 2 spaces or 6% of total as close as possible to the entrance. Larger bays to be provided for special needs transport.
	Housing	1 wider space for every dwelling provided to wheelchair standard. 1 wider space for every 10 spaces provided in parking areas separate from dwellings.
	Sheltered accommodation	p to 10 spaces or garages 3 wider spaces or garages to be provided. Thereafter, 1 wider space or garage to be provided for every 4 additional spaces or garages.
<b>Cycle Parking Requirements</b>		
A1	Convenience retail	1 space per 125m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m

A2	Comparison retail	1 space per 300m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
A3	Financial and Professional Services	1 space per 125m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
A4	Restaurants and Cafes	1 space per 18 covers
A5	Pubs, wine bars and private clubs	1 space per 100m <sup>2</sup> drinking area
B1	Offices / Flexible business uses	1 space per 250m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
B2 /B8	Industry and warehouses	1 space per 500m <sup>2</sup> < 1000m <sup>2</sup> / 1 space per 400m <sup>2</sup> > 1000m
C1	Hotels and guesthouses	Provision based on expected staff requirements
C2	Purpose built student accommodation	1 space per 4 bedrooms
	Sheltered residential accommodation	1 space per 10 units
	Hospitals	1 space per 10 staff
C3/C4	Flats and apartments	1 space per unit
D1	Higher and further education and schools	1 space per 10 staff and students
	Doctors' dentists and health centres	1 space per consulting room
D2	Cinema, concert halls and conference centres	1 space per 50 seats

## Appendix 4: Health Impact Screening Assessment

### Draft Health Screening Form

The **Local Plan Strategy Policy SC3** sets out that the council and its partners will create and safeguard opportunities for safe, healthy, fulfilling and active lifestyles by **ensuring new developments provide opportunities for healthy living** and improve health and well-being through the encouragement of walking and cycling, good housing design (including the minimisation of social isolation and creation of inclusive communities), access to services, sufficient open space and other green infrastructure, and sports facilities. The policy also requires improvements to education, protection of community infrastructure, safe and secure design and access to healthy, affordable and locally produced food.

The policy requires a Health Screening or Rapid Impact Assessment Screening which will determine if a full Health Impact Assessment is required. Where development results in a shortfall or worsening of provision the council will seek contributions towards new or enhanced health and social care facilities from developers.

Using this table as a Rapid Impact Assessment will form the basis of the Health Impact Assessment and be shared with the council's Public Health team, who will review it, informing their comments on a planning application and advising the case officer. In certain circumstances, further information or assessment may be required, especially where significant impacts are likely. The case officer will advise if this is required.

This form will need to be filled in for all **major** developments.

The information gathered below will help applicants demonstrate how the development meets the above policy. All relevant policies referred to below can be viewed on our website along with made Neighbourhood Plans and other planning document.

Assessment Criteria	Relevant ?	Details / Evidence		Recommended mitigation or enhancement actions
Does the proposal address the ten Healthy Streets indicators? <a href="https://www.healthystreets.com/resources/healthy-streets-index">https://www.healthystreets.com/resources/healthy-streets-index</a>	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal prioritise and encourage walking, for example through the use of shared spaces?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	

Does the proposal prioritise and encourage cycling, for example by providing secure cycle parking, showers and cycle lanes?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal connect public realm and internal routes to local and strategic cycle and walking networks?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include traffic management and calming measures to help reduce and minimise road injuries?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal well connect to public transport, local services and facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include an appropriate level of parking in accordance with CELPS Parking Standards (Appendix 3)?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal allow people with mobility problems or a disability to access buildings and places?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate elements to help design out crime?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate design techniques to help people feel secure and avoid creating 'gated communities'?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
	Yes		Positive	

Does the proposal include attractive, multi-use public spaces and buildings?	No		Negative	
	N/A		Neutral	
			Uncertain	
Has engagement and consultation been carried out with the local community and voluntary sector?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal facilitate the supply of local food, for example allotments, community farms and farmers' markets?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Are there a range of retail uses, including food stores and smaller affordable shops for social enterprises?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal avoid contributing towards an over-concentration of hot food takeaways in the local area?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide access to local employment and training opportunities, including temporary construction and permanent 'end-use' jobs?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide childcare facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include managed and affordable workspace for local businesses?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	

Does the proposal include opportunities for work for local people via local procurement arrangements?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal consider health inequalities by addressing local needs through community engagement?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal connect with existing communities, i.e., layout and movement which avoids physical barriers and severance, and land uses and spaces which encourage social interaction?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal include a mix of uses and a range of community facilities?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal provide opportunities for the voluntary and community sectors?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal consider issues and principles of inclusive and age-friendly design?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal make best use of existing land?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal encourage recycling, including building materials?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	

Does the proposal incorporate sustainable design and construction techniques?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate renewable energy?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal ensure that buildings and public spaces are designed to respond to winter and summer temperatures, for example through ventilation, shading and landscaping?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal maintain or enhance biodiversity?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	
Does the proposal incorporate sustainable urban drainage techniques?	Yes		Positive	
	No		Negative	
	N/A		Neutral	
			Uncertain	



**Cheshire East Council**

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# Draft Developer Contributions Supplementary Planning Document

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## Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

### Introduction and Purpose

1. Cheshire East Council has produced a first draft Developer Contributions Supplementary Planning Document (“SPD”). The purpose of the SPD is to provide guidance on the application of S106 and S278 agreements that form the basis of developer contributions across a range of matters including highways, education and affordable housing.
2. The Development Plan for Cheshire East consists of the Local Plan Strategy (“LPS”) and ‘saved’ policies in the Crewe and Nantwich, Congleton and Macclesfield Local Plans. In addition, made Neighbourhood Plans also form part of the Development Plan.
3. The policy framework for the SPD is contained mostly in the LPS, with a particular focus on Policy IN1 (“Infrastructure”), and IN2 (“Developer Contributions”).
4. The Council is also in the process of preparing the second part of its Local Plan, called the Site Allocations and Development Policies Document (“SADPD”). The SADPD has now been submitted for examination on the 29 April 2021 and an Inspector appointed to assess whether the SADPD has been prepared in accordance with legal and procedural requirements and if it is sound.
5. This screening report is designed to determine whether or not the contents of the first draft Developer Contributions SPD require a Strategic Environmental Assessment (“SEA”) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the first draft Developer Contributions SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.
6. The draft SEA / HRA statement, alongside the draft Developer Contributions SPD, will be the subject of consultation in accordance with the relevant regulations and the

Council's Statement of Community Involvement. This consultation will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). No formal comments on the SEA / HRA screening report were received from the Environment Agency and Historic England to the draft Developer Contributions SPD.

## **Strategic Environmental Assessment Screening**

### **Legislative Background**

7. The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.
8. Article 3(3) and 3(4) of the regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan. In addition, planning practice guidance (PPG – ref Paragraph: 008 Reference ID: 11-008-20140306) states that a SEA is unlikely to be required where an SPD deals only with a small area at local level, unless it is considered that there are likely to be significant environmental effects.

### **Overview of Developer Contributions SPD**

9. The purpose of the final draft Developer Contributions SPD is to provide further guidance on the implementation of the Infrastructure (IN1) Developer Contributions (IN2) LPS policies.
10. It is important to note that Developer Contributions policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.

11. SEA has been undertaken for policies IN1 and IN2 as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.

12. In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS.

### SEA Screening Process

13. The council is required to undertake a SEA screening to assess whether the draft Developer Contributions SPD is likely to have significant environmental effects. If the final draft Developer Contributions SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary. This is considered in Table 1 below: -

**Table 1: Establishing the need for a SEA**

Stage		Decision	Rationale
1.	Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared through a legislative procedure by Parliament or Government? (Art. 2 (a)).	Yes	The SPD will be prepared and adopted by Cheshire East Borough Council.

2.	Is the SPD required by legislation, regulatory or administrative provisions? (Article. 2 (a)).	No	The Council's Local Development Scheme (2020 – 2022) does not specifically identify the need to produce a Developer Contributions SPD.
3.	Is the SPD prepared for agricultural, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Article 3.2 (a)).	No	The SPD is being prepared for town and country planning use. It does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Article 3.2 (a)). Whilst some developments to which the guidance in the SPD applies would fall within Annex II of the EIA Directive at a local level, the SPD does not specifically plan for or allow it.
4.	Will the SPD, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? Art 3.2 (b)).	No	A Habitats Regulations Assessment has been undertaken for the LPS and emerging SADPD. The SPD does not introduce new policy or allocate sites for development. Therefore, it is not considered necessary to undertake a HRA assessment for the SPD. This conclusion has been supported by an HRA screening assessment as documented through this report.
5	Does the SPD determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art 3.3)	No	The SPD will not determine the use of small areas at a local level. The SPD provides guidance on the provision of rural exception sites for local needs, but it does not specifically determine the use of small areas at a local level. The SPD will be a material consideration in decision taking.
6.	Does the SPD set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	No	The LPS and emerging SADPD provide the framework for the future consent of projects. The SPD elaborates upon approved and emerging policies and does not introduce new policy or allocate sites for development.

14. The SPD is considered to not have a significant effect on the environment and therefore SEA is not required. However, for completeness, Table 2 assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC<sup>1</sup> and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004<sup>2</sup>.

Table 2: assessment of likely significance of effects on the environment

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

<sup>2</sup> [http://www.legislation.gov.uk/ukxi/2004/1633/pdfs/ukxi\\_20041633\\_en.pdf](http://www.legislation.gov.uk/ukxi/2004/1633/pdfs/ukxi_20041633_en.pdf)

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
<b>1.Characteristics of the SPD having particular regard to:</b>		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and has been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The draft Developer Contributions SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process.</p> <p>No resources are allocated.</p>	No
(b)The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS, which has itself been the subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	No
(c)The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2022) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has limited relevance for the integration of environmental considerations but promotes the 'social' objective of sustainable development by providing guidance on the delivery of affordable Developer Contributions in the borough.	No
(d) Environmental problems relevant to the SPD.	There are no significant environmental problems relevant to the SPD.	No

<b>SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004</b>	<b>Summary of significant effects, scope and influence of the document</b>	<b>Is the Plan likely to have a significant environmental effect (Yes / No)</b>
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
<b>2.Characteristics of the effects and area likely to be affected having particular regard to:</b>		
(a)The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b) The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of Developer Contributions policies IN1, and IN2 in the LPS and does not, in itself, influence the location of development.	No
(d)The risks to human health or the environment (e.g. due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to affordable Developer Contributions policies in the Local Plan.	No
(e)The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area. The draft SPD will assist those making planning applications in the borough.	No
(f)The value and vulnerability of the area likely to be affected by the SPD due to:	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of Developer Contributions policies N1 and IN2 in the	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
<ul style="list-style-type: none"> <li>• Special natural characteristics of cultural heritage</li> <li>• Exceeded environmental quality standards or limit values</li> <li>• Intensive land use.</li> </ul>	LPS, and does not, in itself, influence the location of development.	
(g)The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

### Conclusion and SEA screening outcome

15. Consultation on the initial draft of the Developer Contributions SPD will take place during August and September 2022 during which the three statutory consultees (the Environment Agency, Historic England and Natural England) will be asked to comment on the document and its implications. The SPD is not setting new policy; it is supplementing and providing further guidance on existing LPS policies. Therefore, it is considered that an SEA is not required on the first draft Developer Contributions SPD. This conclusion will be kept under review until after consultation, when the conclusion will be reviewed and updated accordingly.

**Habitats Regulations Assessment Statement**

16. The Council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.
17. The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
18. European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.
19. Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Developer Contributions SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.
20. A judgement, published on the 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.
21. The LPS has been subject to HRA.
22. The Developer Contributions SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies IN1 Infrastructure and IN2 Developer Contributions could not have a likely significant effect on a European Site. The same applies to the draft Developer Contributions SPD. The draft Developer Contributions SPD in itself, does not allocate sites and is a material consideration in decision taking, once adopted.

23. The draft Developer Contributions SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.

### **Conclusion and HRA screening outcome**

24. Consultation on the initial draft of the Developer Contributions SPD will take place between during August and September 2022. Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England) during this consultation, this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required. This conclusion will be reviewed post-consultation and updated accordingly.

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# EQUALITY IMPACT ASSESSMENT

**TITLE: Draft Developer Contributions Supplementary Planning Document (“SPD”)**

## VERSION CONTROL

<b>Date</b>	<b>Version</b>	<b>Author</b>	<b>Description of Changes</b>
<b>19.07.2022</b>	<b>1</b>	Tom Evans	<b>Initial Draft</b>

EQUALITY IMPACT ASSESSMENT

**CHESHIRE EAST COUNCIL - EQUALITY IMPACT ASSESSMENT**

**Stage 1 Description:** Fact finding (about your policy / service /

<b>Department</b>	Strategic Planning		<b>Lead officer responsible for assessment</b>		Tom Evans, Neighbourhood Plan Manager	
<b>Service</b>	Environmental and Neighbourhood Services		<b>Other members of team undertaking assessment</b>		n/a	
<b>Date</b>	19/07/2022		Version 1			
<b>Type of document (mark as appropriate)</b>	<b>Strategy YES</b>	<b>Plan</b>	<b>Function</b>	<b>Policy</b>	<b>Procedure</b>	<b>Service</b>
<b>Is this a new/ existing/ revision of an existing document (please mark as appropriate)</b>	<b>New YES</b>		<b>Existing</b>		<b>Revision</b>	
<b>Title and subject of the impact assessment (include a brief description of the aims, outcomes, operational issues as appropriate and how it fits in with the wider aims of the organisation)</b>  <b>Please attach a copy of the strategy/ plan/ function/ policy/ procedure/ service</b>	<p><b>Draft Developer Contributions Supplementary Planning Document (“SPD”)</b></p> <p><u>Background</u></p> <p>Supplementary Planning Documents (“SPDs”) provide further detail to the policies contained in the development plan. They can be used to provide guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan. They must be consistent with national planning policy, must undergo consultation and must be in conformity with policies contained within the Local Plan.</p> <p>The council has prepared a draft Developer Contributions SPD for consultation. The draft SPD provides additional guidance on the implementation of polices IN1 (“Infrastructure”), IN2 (“Developer Contributions”) and multiple polices related to highways, education, affordable housing, green spaces, blue light services and a series of other matters including heritage, design, public rights of way, public health and flooding. The SPD, once adopted, should assist applicants when making planning applications, and the council in determining them. The SPD provides further guidance on existing policies, rather than setting a new policy approach in relation to developer contributions and includes guidance on the processes, financial calculations and the legal agreements that CEC use when securing contributions from development.</p>					

## EQUALITY IMPACT ASSESSMENT

	<p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended by the Local Planning, Development Management Procedure, Listed Buildings etc (England) (Coronavirus) (Amendment) Regulations 2020), the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>An Equalities Impact Assessment was prepared alongside the integrated Sustainability Appraisal work which supported the Local Plan Strategy. The SPD also provides guidance on policies held in the Site Allocations and Development Policies Document (SADPD) which is nearing completion and expected to be adopted late in 2022.</p> <p>An Equalities Impact Assessment has also been prepared to support the emerging Site Allocations and Development Policies Document. The assessment found that the LPS policies (including policies particularly relevant to the SPD) and emerging SADPD are unlikely to have negative effects on protected characteristics or persons identified under the Equality Act 2010.</p>
<p><b>Who are the main stakeholders and have they been engaged with? (e.g. general public, employees, Councillors, partners, specific audiences, residents)</b></p>	<p>Public consultation will take place on the draft SPD for four weeks in accordance with the Town and Country Planning ((Local Planning) (England) Regulations 2012) and the council's adopted Statement of Community Involvement require at least 4 weeks public consultation. Consultation on this SPD will take place over the summer and into the autumn. Recognising that some stakeholders are likely to be taking holidays and time off over this period, the consultation will be extended and held over a period six weeks. Consultation will include focused communication to the general public, town and parish councils, statutory consultees, elected members, consultees who have registered on the strategic planning database.</p>
<p><b>What consultation method(s) did you use?</b></p>	<p>The council prepares a Statement of Community Involvement which provides detail on how it will consult on Local Plan documents and SPDs. This includes the availability of documents, how residents and stakeholders will be notified etc. The council's Local Plan consultation database, which will be notified of the consultation, also includes a number of organisations who work alongside groups with protected characteristics in the borough.</p> <p>Once consultation has taken place on the draft SPD, all comments received will be reviewed before consideration is given to any amendments required. A report of consultation will be prepared alongside the final version of the SPD and this will also be subject to further consultation. This EIA will be kept updated as the draft SPD progresses.</p>

## EQUALITY IMPACT ASSESSMENT

### Stage 2 Initial Screening

<p><b>Who is affected and what evidence have you considered to arrive at this analysis? (This may or may not include the stakeholders listed above)</b></p>	<p>Ward councillors. Those living and working in the borough, property owners, landowners and developers, clinical commissioning groups, special interest groups.</p>
<p><b>Who is intended to benefit and how?</b></p>	<p>Local communities including landowners and developers. The SPD will provide additional guidance on the implementation of existing planning policies related to securing investment contributions toward a range of public infrastructure, including public services infrastructure. Developers will benefit from additional clarity on how to successfully meet policy obligations, the Council will benefit from establishing consistent methods, in a single document, that all officers can use and ensure business continuity. Individuals within local communities will benefit from the various contributions secured, and less visibly, will benefit from guidance that helps make CEC process more efficient.</p>
<p><b>Could there be a different impact or outcome for some groups?</b></p>	<p>No, the SPD builds upon existing planning policy guidance and provides further information about how the council will consider planning applications. Securing developer contributions will assist in supporting balanced communities with the right range of social, transport and green infrastructure that underpins successful places. Further guidance on factors that inform an appropriate housing mix should also support balanced communities. The SPD, in applying additional guidance to assist in the interpretation of planning policies should be beneficial to groups.</p>
<p><b>Does it include making decisions based on individual characteristics, needs or circumstances?</b></p>	<p>No, the introduction of the SPD is not based on individual characteristics, needs or circumstances. The SPD includes information on the approach to assessing the impact of development, and the means that may be necessary to mitigate for any harmful impacts (for example providing improved habitats off site, where a development site cannot avoid destruction of an existing habitat).</p>
<p><b>Are relations between different groups or communities likely to be affected? (eg will it favour one particular group or deny opportunities for others?)</b></p>	<p>No, the SPD is not intended to affect different groups or communities in this way. Whilst development will take place in various different communities, the SPD is designed to apply to all development ensuring consistency of approach regardless of where the development takes place.</p>
<p><b>Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?</b></p>	<p>No, the SPD is not intended to target any group and will be consulted upon in line with the council's Statement of Community Involvement.</p>
<p><b>Is there an actual or potential negative impact on these specific characteristics? (Please tick)</b></p>	

**EQUALITY IMPACT ASSESSMENT**

<b>Age</b>	Y	N	<b>Marriage &amp; civil partnership</b>	Y	N	<b>Religion &amp; belief</b>	Y	N
<b>Disability</b>	Y	N	<b>Pregnancy &amp; maternity</b>	Y	N	<b>Sex</b>	Y	N
<b>Gender reassignment</b>	Y	N	<b>Race</b>	Y	N	<b>Sexual orientation</b>	Y	N
<b>What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts</b>							<b>Consultation/ involvement carried out</b>	
							<b>Yes</b>	<b>No</b>
<b>Age</b>	<p>The SPD may have an impact those living and working in the borough.</p> <p>The draft Developer Contributions SPD provides further guidance on the implementation of LPS policy IN1 Infrastructure and IN2 Developer Contributions to support delivery of a range of infrastructure associated with the needs arising from new development. Delivery of which will likely have a positive impact on a range of characteristics.</p> <p>The SPD makes reference to supporting local health care services through financial contributions and is therefore likely to have a positive impact on a range of characteristics including age, disability, and pregnancy and maternity.</p> <p>The guidance in the SPD may be beneficial as it will assist in supporting the provision of affordable homes, where policies in the local plan apply to support balanced and sustainable communities.</p> <p>The SPD provides further guidance on the policy approach set out in the Local Plan Strategy.</p> <p>No negative impacts are identified at this stage in relation to any of the specific characteristics however public consultation will be undertaken and this may raise issues officers are not currently aware of.</p>						<b>X (to be carried out)</b>	
<b>Disability</b>								
<b>Gender reassignment</b>								
<b>Marriage &amp; civil partnership</b>								
<b>Pregnancy &amp; maternity</b>								
<b>Race</b>								
<b>Religion &amp; belief</b>								
<b>Sex</b>								
<b>Sexual orientation</b>								

**EQUALITY IMPACT ASSESSMENT**

	The EIA will be reviewed (and updated) once the initial consultation has taken place.		
<b>Proceed to full impact assessment? (Please tick)</b>	<b>Yes</b>	<b>No</b>	<b>Date: 19/07/2021</b>
<b>Lead officer sign off</b>		<b>Date</b>	
<b>Head of service sign off</b>		<b>Date</b>	

**If yes, please proceed to Stage 3. If no, please publish the initial screening as part of the suite of documents relating to this issue**

## EQUALITY IMPACT ASSESSMENT

### Stage 3 Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	<p>Is the policy (function etc....) likely to have an adverse impact on any of the groups?</p> <p>Please include evidence (qualitative &amp; quantitative) and consultations</p> <p><i>List what negative impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Are there any positive impacts of the policy (function etc....) on any of the groups?</p> <p>Please include evidence (qualitative &amp; quantitative) and consultations</p> <p><i>List what positive impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Please rate the impact taking into account any measures already in place to reduce the impacts identified</p> <p><b>High:</b> Significant potential impact; history of complaints; no mitigating measures in place; need for consultation</p> <p><b>Medium:</b> Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures</p> <p><b>Low:</b> Little/no identified impacts; heavily legislation-led; limited public facing aspect</p>	<p>Further action (only an outline needs to be included here. A full action plan can be included at Section 4)</p> <p><i>Once you have assessed the impact of a policy/service, it is important to identify options and alternatives to reduce or eliminate any negative impact. Options considered could be adapting the policy or service, changing the way in which it is implemented or introducing balancing measures to reduce any negative impact. When considering each option you should think about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion. You should clearly demonstrate how you have considered various options and the impact of these. You must have a detailed rationale behind decisions and a justification for those alternatives that have not been accepted.</i></p>
Age				
Disability				
Gender reassignment				
Marriage & civil partnership				

**EQUALITY IMPACT ASSESSMENT**

<b>Pregnancy and maternity</b>				
<b>Race</b>				
<b>Religion &amp; belief</b>				
<b>Sex</b>				
<b>Sexual orientation</b>				
<p><b>Is this change due to be carried out wholly or partly by other providers? If yes, please indicate how you have ensured that the partner organisation complies with equality legislation (e.g. tendering, awards process, contract, monitoring and performance measures)</b></p>				

<b>Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed</b>			
<b>Specific actions to be taken to reduce, justify or remove any adverse impacts</b>	<b>How will this be monitored?</b>	<b>Officer responsible</b>	<b>Target date</b>
<b>Please provide details and link to full action plan for actions</b>			
<b>When will this assessment be reviewed?</b>			
<b>Are there any additional assessments that need to be undertaken in relation to this assessment?</b>			
<b>Lead officer sign off</b>	 Tom Evans	<b>Date:</b> 11/03/21	
<b>Head of service sign off</b>	 David Malcolm	<b>Date:</b> 11/03/21	

Please publish this completed EIA form on the relevant section of the Cheshire East website

**EQUALITY IMPACT ASSESSMENT**



*Working for a brighter future together*

## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	4 <sup>th</sup> August 2022
<b>Report Title:</b>	Cheshire East Council Hackney Carriage and Private Hire Licensing Policy
<b>Report of:</b>	Jayne Traverse, Executive Director – Place
<b>Report Reference No:</b>	EC/37/21-22
<b>Ward(s) Affected:</b>	All Wards

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### **1. Purpose of Report**

- 1.1. This report seeks approval to adopt the revised Cheshire East Council Hackney Carriage and Private Hire Licensing Policy.

### **2. Executive Summary**

- 2.1. This report advises the Committee of the publication of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and subsequent changes that are required to the existing Cheshire East Council Taxi Licensing Policies and procedures to implement the recommendations within the standards.
- 2.2. The draft policy has been subject to informal engagement and a formal consultation with stakeholders including trade representatives, businesses that may be affected by the amendments, the general public, neighbouring authorities, police and other agencies (e.g. safeguarding agencies).
- 2.3. Responses received to the consultation have been given consideration and changes were made to the draft policy as a result.
- 2.4. The draft policy, including changes made as result of the consultation, has been considered by the Licensing Committee which resolved that the draft policy be recommended to the Environment and Communities Committee for adoption.

### **3. Recommendations**

- 3.1. That the Environment and Communities Committee:
  - 3.1.1. Consider the representations received to the consultation undertaken on the draft policy (Appendix 2).

- 3.1.2. Approve the Cheshire East Council Hackney Carriage and Private Hire Licensing Policy (Appendix 1) for adoption with an effective date of 1<sup>st</sup> November 2022.

#### **4. Reasons for Recommendations**

- 4.1. Licensing Authorities are obliged, under section 177 of the Police and Crime Act 2017, to have regard to the 'Statutory Standards, and are expected to adopt them unless there are compelling local reasons not to.

#### **5. Other Options Considered**

- 5.1. There is a statutory requirement for the Council to adopt a policy setting out our approach to hackney carriage and private hire licensing, therefore no other options have been considered.

#### **6. Background**

- 6.1. Local authorities are required to have in place a taxi licensing policy to enable the authority to carry out its functions relating to the licensing of Hackney Carriage and Private Hire Driver, Vehicles and Operators. In 2020 the Department for Transport (DfT) issued a Statutory Standards document which requires local authorities to review their licensing policies, every five years, unless legislative changes or local circumstances dictate otherwise.
- 6.2. The draft revised policy and conditions document has incorporated proposals set out in the Statutory Standards document, along with other changes that fall outside the scope of the DfT Standards document.
- 6.3. The Environment and Communities Committee considered a draft policy at its meeting on the 9<sup>th</sup> September 2021. This followed some informal initial consultation with the licensed trade. The Committee resolved that the draft policy should be sent out for formal consultation.
- 6.4. Details of the draft policy and conditions were circulated widely to stakeholders, trade representatives, businesses that may be affected by the amendments, the general public, partners, including neighbouring authorities, police and other agencies (i.e. safeguarding agencies). The closing date for comments was 24<sup>th</sup> December 2021.
- 6.5. The Council received over 230 responses to the consultation. A copy of the consultation report is provided at Appendix 2.
- 6.6. It is important to demonstrate that in reviewing responses to the consultation, due weight and consideration has been given to all representations including, where appropriate, why some responders have been disregarded. This is so that in the event that the policy is challenged, the authority can demonstrate to a court how it arrived at the final policy.
- 6.7. Responses received during the consultation period have been given consideration and changes were made to draft policy as a result of these responses. The key changes made following the consultation were:

- 6.7.1. Frequency of DBS checks changed from every six months to every twelve months.
- 6.7.2. The sections of the policy (for hackney carriage and private hire vehicles) will take effect after one year of the policy coming into effect for EURO 5, and EURO 6 requirements to take effect 24 months after the EURO 5 requirements take effect.
- 6.7.3. The requirement for an additional vehicle check, at the six-month point, will take effect when the vehicle is seven years old from date of registration rather than the previously proposed five years.
- 6.7.4. Providing grandfather rights for existing licence holders.
- 6.8. Several consultation responses raised matters that were either outside of the scope of the policy or were matters over which the Council has no control. These matters were therefore disregarded and include cross border hiring issues and the amount of trade or business available.
- 6.9. A draft of the policy, including any changes made as result of the consultation, was considered by the Licensing Committee at a meeting on the 6th June 2022. At that meeting the Licensing Committee considered the changes made following the consultation and officer comments responding to some responses. The Licensing Committee resolved that the draft, as amended, be recommended to the Environment and Communities Committee for adoption.

## **7. Consultation and Engagement**

- 7.1. The DfT formally consulted on the Standards from 12<sup>th</sup> February to 22<sup>nd</sup> April 2019. The consultation document was entitled 'Taxi and Private Hire Vehicle Licensing: Protecting Users – Consultation on Statutory Guidance for Licensing Authorities'.
- 7.2. The Licensing Service undertook a pre-engagement consultation with existing licence holders seeking their views on the standards and changes to the policy/conditions that fall outside the DFT national standards.
- 7.3. At a meeting of the Environment and Communities Committee on Thursday 9th September 2021 members approved the draft policy for public consultation.
- 7.4. The consultation took place between October and December 2021 by way of an online questionnaire; written representatives were also considered to be acceptable. Relevant stakeholders were given notice of the consultation both through email invites to take part and a written paper invitation to those whose email details were not held.
- 7.5. The Licensing Committee was also able to comment on the draft policy before making a recommendation to the Environment and Communities Committee that it should be adopted.

## **8. Implications**

### **8.1. Legal**

- 8.1.1. The Statutory Taxi and Private Hire Vehicle Standards are not legislation. However, paragraph 1.3 of the Standards states “The Department (for Transport) expects these recommendations to be implemented unless there is compelling local reason not to”.
- 8.1.2. The document makes it clear that the standards have been developed because of past failings of licensing regimes and makes reference to both Jay and Casey reports and lists several local authorities where taxi licensing policy and practice had failed to offer the necessary protection to children.
- 8.1.3. The duty is a “have regard” duty. This means that the Council must take the standards into account and must give clear reasons for departing from them.
- 8.1.4. The risks of not adopting changes to the Policy outweigh the risks with adopting changes. A failure to adopt the proposed changes would leave the Authority exposed in the event harm arose as a result.

### **8.2. Finance**

- 8.2.1. Proposals within the final policy will result in additional direct costs to the licensed trade. The main costs will be the capital costs associated with the purchasing of Electric and Low Emission Vehicles. However, the running costs associated with these types of vehicles is considered to be lower than vehicles than diesel or petrol fuel.
- 8.2.2. There is also the potential for challenges by the trade to any change in policy that are brought in and if so, this may incur legal costs to defend any such challenge. Any costs associated with this outcome would be funded from the existing Licensing budget but may cause a budgetary pressure.
- 8.2.3. Some additional costs associated with the administration and enforcement of the taxi licencing regime can be recovered via taxi licensing fees. Other costs are funded from the existing Licensing budget.

### **8.3. Policy**

- 8.3.1. The Council has, on a number of occasions, written to the Department for Transport, Local Government Association and local Members of Parliament to express concerns in the different standards applied across the Country. This has the potential to allow applicants deemed unsuitable by one Council to be licensed by a different Council who apply their own policy. This could include those with criminal convictions. As a result of cross-border hiring the applicant could work anywhere in the country, even in areas where they may have been refused a licence. The DfT Standards go some way to ensuring that scenario is less likely.

- 8.3.2. The Council's Corporate Plan 2021 – 25 sets out our vision for a more open, fairer, greener Cheshire East. The plan also sets out priorities under the three broad aims including "welcoming safe and clean neighbourhoods". This policy will support the priority to protect residents and improve our environment and in particular the action to have a robust licensing regime for hackney carriage and private hire vehicles.

#### **8.4. Equality**

- 8.4.1. There are no equalities implications arising from this report. An Equality Impact Assessment has been undertaken and identified that the draft policy does include changes that would beneficially affect those with protected characteristics identified in the Equality Act 2010. Those changes include the types of vehicles that will be considered (e.g. wheelchair accessible vehicles), a public register to be kept identifying accessible vehicles with contact details, and officers are in communication with the RNIB to discuss appropriate signage in vehicles.

#### **8.5. Human Resources**

- 8.5.1. There are no Human Resources implications arising from this report. However, the proposed changes may have an impact on staffing resources to deliver some of these changes, such as the additional DBS checks proposed, and implementation of the NAFN NR3 register. It is anticipated that any policy changes will be implemented within existing resources, and this will be monitored as part of the Service Business Planning process.

#### **8.6. Risk Management**

- 8.6.1. There are no known risks other than those already highlighted within the report. The risk of not adopting this policy and the risk of legal challenge as a result could leave the Council open to criticism. Additionally, the policy is intended to provide a framework for decision-makers to make reasonable, fair, and appropriate decisions. This will mitigate the risk of any challenges to decisions taken.

#### **8.7. Rural Communities**

- 8.7.1. There are no Rural Communities implications arising from this report. Rural communities can rely on taxis as a safe, convenient and cost-effective transport provider where other forms of local transport do not exist.

#### **8.8. Children and Young People/Cared for Children**

- 8.8.1. The main focus of the standards is on protecting children and vulnerable adults, however all passengers will benefit from the standards.

#### **8.9. Public Health**

- 8.9.1. There are no public health implications arising from this report.

#### **8.10. Climate Change**

- 8.10.1. The policy seeks to implement measures to reduce the effects of climate change and will contribute to the Council’s pledge to make Cheshire East a carbon neutral borough by 2045. The policy encourages the purchase of zero emission or hybrid vehicles and includes policies in relation to minimum vehicle emission standards.

<b>Access to Information</b>	
Contact Officer:	Kim Evans, Licensing Team Leader / Amanda Andrews, Licensing Enforcement Officer <a href="mailto:Kim.evans@cheshireeast.gov.uk">Kim.evans@cheshireeast.gov.uk</a> / <a href="mailto:amanda.andrews@cheshireeast.gov.uk">amanda.andrews@cheshireeast.gov.uk</a> 0300 123 5015
Appendices:	Appendix 1 – Draft CEC Taxi Policy 2021 – 2025 Appendix 2 - Report following public consultation (October to December 2021)
Background Papers:	<a href="#">Report to the Licensing Committee 6<sup>th</sup> June 2022</a> <a href="#">Statutory Taxi &amp; Private Hire Vehicle Standards – Department for Transport July 2020</a> <a href="#">Report to the Environment &amp; Communities Committee 9<sup>th</sup> September 2021</a>

Cheshire East Borough Council

Hackney Carriage and Private Hire  
Licensing Policy

2022 – 2027

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# **PART 1**

## **ABOUT THIS POLICY**

## 1.1 Introduction

The Borough of Cheshire East (the 'Council') is the Licensing Authority for the hackney carriage and private hire regime in the Borough of Cheshire East.

In carrying out its licensing function, the Council seeks to promote the following objectives:

- Safety and Protection of the Public;
- High standards of vehicle safety, comfort and access;
- Prevention of crime and disorder and the protection of consumers;
- Ensure that the decision-making processes are transparent and result in decisions that are appropriate, proportionate and consistent;
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors, and operators to demonstrate commitment to promoting these objectives.

In addition, this Policy attempts to encompass the Council's key corporate priorities of:

- An open and enabling organisation
- A council which empowers and cares about people
- A thriving and sustainable place

And our general vision for a more open, fairer, greener Cheshire East.

The policy seeks to ensure that transport for those with a disability will be provided.

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using hackney carriage and private hire services.

The main types of licences are:

1. **Joint Hackney Carriage and Private Hire Driver's Licence** – All drivers of Hackney Carriage and Private Hire Vehicles ("Drivers") must hold a Joint Hackney Carriage and Private Hire Drivers' Licence issued by the Borough of Cheshire East;
2. **Private Hire Vehicle Licence** – Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council;

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3. **Private Hire Operator Licence** – Private Hire Operators must be licensed by the Council, as must the drivers and vehicles they operate;
4. **Hackney Carriage Vehicle Licence** – Hackney Carriages must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on hackney carriage and private hire licensing are complex. This document intends to make it clear how the Council operates its licensing service.

Each time this policy is reviewed a new version will be produced. This edition was approved by the [insert Committee] on [insert date].

### 1.2 Mission Statement

#### Scope

1.2.1 The Taxi Licensing Policy ('the Policy') is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriage Vehicles, Private Hire Vehicles, Operators and Drivers.

#### Purpose

1.2.2 The fundamental purpose of the policy is to protect the safety and welfare of the public who live, work and visit the Borough of Cheshire East. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of the Borough's local economy is recognised; however the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under the Policy.

1.2.3 Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available or are outside normal hours of operation, and to assist those with mobility problems.

1.2.4 The main concerns for the Council are to ensure:

- The safeguarding of children, young persons and adults at risk of abuse and neglect;
- To promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families will have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to Cheshire East Council's Safeguarding Policy);

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- That any person who applies to be a licence holder, is a fit and proper person and does not pose a risk (in any form) to the public. The words 'safe and suitable' aid the interpretation of 'fit and proper' and what is meant by it. The test the Council will use to determine whether an individual is considered fit and proper to hold a licence are as follows:
  - For drivers: "Would you allow your child, spouse or partner, parent, grandchild or any other person for who you care, to get into a vehicle with this person alone at any time of the day or night?"
  - For private hire operators: "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
  - For vehicle proprietors: "Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?"
- That the public are safeguarded from dishonest persons;
- That vehicles used to convey passengers are safe and fit for the purpose for which they are licensed; and
- That the impact of licensed vehicles on the environment is reduced

1.2.5 The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- Persons who wish to apply for new licences; persons who hold existing licences, including those that are the subject of review;
- The Council, in its capacity as the Licensing Authority, including licensing officers, members of the [Committee];
- Service users who have concerns relating to an operator, vehicle or driver;
- Licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates and Judges hearing appeals against the Council decisions.

1.2.6 The Policy is also designed to put the Council's licensing requirements into context.

### **1.3 Consultation and Communication**

- 1.3.1 In determining the Policy, the Council has consulted widely with various stake holders, including licence holders. The views of relevant stakeholders have been taken into consideration when compiling the policy.
- 1.3.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information. The method of communication and consultation will be determined having regard to what is most appropriate in the circumstances.

### **1.4 Review of the Policy**

- 1.4.1 The Policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.
- 1.4.2 Minor changes will be made without consultation where:
- They are to correct an administrative error
  - They are a change needed because something is no longer possible or lawful
  - There is no foreseeable detrimental effect to the interests of a licence holder
  - To reflect a change in legislation that is beyond the Council's control or outside our discretion

### **1.5 Legislative Framework**

- 1.5.1 The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions and the Secretary of State for Transport's Statutory Taxi and Private Hire Vehicle Standards, and such other guidance that may be issued from time to time by the Department for Transport (DfT) and other Government departments, such as the DfT's Best Practice Guidance for Taxis and Private Hire Vehicle Licensing and the DfT's guidance note on "Private Hire Vehicle Licensing"
- 1.5.2 The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

- Road Safety Act 2006;
- Road Traffic Acts (various);
- Criminal Justice & Public Order Act 1994;
- Transport Act 1985

1.5.3 In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the Council must have regard to when exercising its licensing functions:

- Safeguarding Policy
- Equality & Diversity Policy
- Data Protection Policy
- Enforcement Policy

1.5.4 The Data Protection Act 2018 (“DPA18”) and The General Data Protection Regulations (“GDPR”) control the collection, storage, processing and distribution of personal data. They also give certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 requires local authorities to comply with data protection principles. The principles state that the information shall be:

- Used fairly, lawfully and transparently
- Used for specified, explicit purposes
- Used in a way that is adequate, relevant and limited to only what is necessary
- Accurate and, where necessary, kept up to date
- Kept for no longer than is necessary
- Handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access loss, destruction or damage

Further information about DPA18 and GDPR can be found on the Information Commissioner’s website ([www.ico.gov.uk](http://www.ico.gov.uk)). Enquiries regarding the Council’s use of personal data should be addressed to the Council’s Data Protection Officer at [dp@cheshireeast.gov.uk](mailto:dp@cheshireeast.gov.uk). The Licensing Authority has published a Privacy Notice explaining how data will be used.

1.5.5 The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with

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disabilities e.g. those who need to carry oxygen for medical purposes or those with assistance dogs. This may have implications on the extent of the discretion that drivers may have to refuse to carry passengers with certain disabilities.

### 1.6 Conditions

1.6.1 The Council will adopt any reasonable conditions that are deemed necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of this Policy i.e. to protect the safety and welfare of the public, and in particular children and vulnerable adults.

### 1.7 The Service provided by the Council

1.7.1 There are, at present, approximately 850 drivers, 120 Operators, 275 private hire vehicles and 430 hackney carriages. (NB. Numbers fluctuate as licences are granted, lapse or are surrendered based on market forces). The Council does not set a cap on the maximum number of licences it will issue.

#### What can I expect from the Licensing Service?

1.7.2 You can expect a professional and efficient service. The service aims to be focused on the public and the trade. If you have any concerns about the service you receive please contact a member of the licensing team in the first instance.

Ultimately, if you are unhappy with the service provide you can escalate this via the Council's complaints procedure which can be found at [https://www.cheshireeast.gov.uk/council\\_and\\_democracy/customer-services/complaints\\_and\\_feedback/complaints\\_and\\_feedback.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/customer-services/complaints_and_feedback/complaints_and_feedback.aspx)

The Council's performance should be open to scrutiny and you should know when you can expect to receive an answer. We will therefore aim to respond to enquiries within 10 working days from the date the application is valid and supporting information verified.

Matters that need to be referred to a committee or a higher decision maker may take longer. If your application needs to be determined this way, you will be notified within 10 working days. This will fluctuate at times of high service demand and any extension of these timescales will be updated on our website and in automated responses to emails.

### **Our approach**

1.7.3 The Council aims to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately reduce the availability and increase the cost of licensed vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public and the quality of vehicles available.

The Council is committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in an accessible and user-friendly format.

### **Public Register**

1.7.4 The Council will hold and maintain a register of all the licences we issue. The information held on the register will be restricted to the name of the licence holder; a unique licence number, the start date and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Council's Licensing Team and where possible will be published on the Council's website.

**PART 2**

**LICENSING PRINCIPLES,  
DELEGATIONS & DECISIONS**

## **2.1 Licensing Principles**

- 2.1.1 The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.
- 2.1.2 This part of the Policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee, the Environment and Communities Committee, and Officers of the Council.
- 2.1.3 The Council aims to provide a clear, consistent and responsible service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant, but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.
- 2.1.4 All licence applications will be considered and determined on their own merits but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services. Any decisions taken will also be informed by this policy document.

## **2.2 Licensing Process and Delegation of Functions**

- 2.2.1 The Council is the Licensing Authority. The Council's constitution delegates all functions relating to the licensing of vehicles, drivers, and operators to the Licensing Committee, Sub-Committees and authorised officers of the Council. However, the adoption of any policy is reserved to the Environment and Communities Committee, who will act on the recommendation(s) of the Licensing Committee.
- 2.2.2 Whilst officers and the relevant committees will, in the majority of cases, follow Policy and statutory guidance, there may be specific circumstances that require a departure from these. In such circumstances, the reasons for departing from Policy or Guidance will be made clear. The aim of this policy is not to bind the decision-making process but to inform to decision-making process and provide a general guidelines.

## **2.3 Committees**

### **2.3.1 Licensing Committee**

This Committee is currently made up of fifteen elected members of the Council. It deals with overarching matters such as fee setting, amendments to the tables of fares, and providing recommendations to other Committees on the adoption of policies. Further details can be found on the Council's website <https://www.cheshireeast.gov.uk>

### **2.3.2 General Licensing Sub-Committee**

This Sub-committee is made up of five members from the Licensing Committee. The Sub-committee will deal with new applications, renewals and reviews of licences that are referred to it by officers. The quorum of the Sub-Committee is set at three members in accordance with the Council's Constitution. Unlike other committees of the Council, this Sub-committee's membership is not based on political proportionality. Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to:

- Hackney carriage and private hire legislation
- The information contained within this policy
- The Council's Safeguarding Policy
- Department for Transport and any other Government Guidance as applicable
- Road Traffic Act 1988 and other relevant road traffic legislation including MOT provisions
- Human Rights Act 1998
- Equality Act 2010
- Deregulation Act 2015
- Immigration Act 2016
- Any other relevant legislation drawn to its attention
- Any relevant legal case law; and
- Any recommendations from officers

## **2.4 Decisions**

2.4.1 The Licensing Authority has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings or issue cautions where applicable, or to prosecute those who have committee offences.

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2.4.2 Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning, will be made in accordance with the Council's scheme of delegation and other relevant policies, statutory guidance and procedures.

2.4.3 Where applications are to be determined, the officer or General Licensing Sub-Committee, will take into consideration:

- The facts of the application;
- Any information and/or evidence provided by other interested parties. This may include; Officers from the Council with responsibility for safeguarding, those responsible for the testing of vehicles, Licensing Enforcement Officers and Officers from Cheshire Police; and
- In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or Sub-committee Hearing.

2.4.4 Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on any right of appeal.

2.4.5 Licensing decisions are made in accordance with the powers and responsibilities delegated by the Council's constitution:

- Decisions on driver applications are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on vehicles are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on existing and prospective private hire operators are taken by an authorised officer or the General Licensing Sub-Committee.

### **2.5 Application/Renewal Decisions**

2.5.1 Where the Council is minded to not approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make oral representations or representations in writing (by letter or email) before a decision is taken.

2.5.2 Where an application is incomplete or does not meet the application criteria, the Council will reject the application. This will be confirmed in writing.

## **Decision to suspend/revoke a licence**

- 2.5.3 Suspension, Immediate Suspension, Revocation and Immediate Revocation of a driver licence can be carried out by the Licensing Committee, Sub-Committee, or an authorised Officer of the Council.

Where the Licensing Authority is minded to suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, face to face, or in writing by letter or email before the decision is taken.

- 2.5.4 Suspension or revocation of a vehicle licence can be carried out by an authorised officer, Licensing Committee or the Sub-Committee.

## **2.6 Appeals**

- 2.6.1 If the applicant/licence holder is aggrieved by the decision of the Council they may appeal to the relevant Court (in most cases the Magistrates' Court). The appeal must be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to seek appropriate independent legal advice without delay if they are considering appealing a decision.

## **2.7 Working in Partnership**

- 2.7.1 The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, neighbouring local authorities, Cheshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits Teams, Safeguarding Partnerships and consumer groups.
- 2.7.2 Cheshire East Borough Council regularly meets and shares information with other enforcement agencies including Cheshire Police, Cheshire East Trading Standards Team and Multi-agency Child Sexual Exploitation Operational Groups and Children's Safeguarding Groups.
- 2.7.3 The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure the protection of the public.
- 2.7.4 Where licensing staff do not consider that this policy is being correctly applied they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.

# **PART 3**

## **TYPES OF LICENCE & APPLICATIONS**

### 3.1 General Information

This part of the Policy concerns the types of licence and the necessary steps required to obtain and hold such a licence. These steps include the standards that applicants must attain and maintain and the conditions that will apply to any licences granted. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

#### 3.1.1 The following are applicable to all licence types:

- a) Where an applicant has failed to declare relevant information or provided false information, the application is likely to be refused since these acts are seen as behaviour that brings into question the applicants honesty and suitability to hold a licence; where this relates to an existing licence, the licence is likely to be considered for revocation on the same grounds. Applicants are reminded that it is an offence to knowingly or recklessly make a false declaration or omit any material particularly when giving information required for the application for a licence;
- b) All licence fees are payable at the time of application. Fees are staggered to reflect the processing of the application. Where a licence is refused the applicant is not entitled to a refund of the fee paid. Because the fees are staggered, any outstanding fees will need to be paid after all checks are completed and before a licence is issued. Where an applicant decides to withdraw their application a portion of the fees **may** be returned to the applicant, but this will be based on what administrative functions have been carried out.
- c) In the event that an application for a licence is paid by cheque, the application will not be valid until such time as the cheque has been cleared. In the event that the cheque does not clear and the licence has been issued, the Council will suspend the licence until such time as full payment has been received.
- d) The application process must be completed within 6 months, unless prevented from doing so by matters that are outside the applicant's control e.g. external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned and will be returned to the applicant. A new application and payment of fees will be required if the applicant wished to continue with the process.
- e) Where a licence has lapsed, been surrendered or revoked, a new application may be submitted in accordance with the relevant new licence procedures before the Council will consider the application.

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- f) When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

### Appointments

The Council operates an appointment system through Cheshire East Council's Customer Contact Centres for the undertaking of **Disclosure and Barring Service (DBS) checks and Right to Work (RTW) Checks only.**

The submission of new and renewal applications for Drivers, Vehicles and Operators Licences can be made by post.

### Postal Applications:

Completed applications should be submitted together with all of the relevant supporting documents (as set out in the application form) and the application fee to:

The Licensing Team, Cheshire East Council, Municipal Buildings, Crewe, CW1 2BJ.

**Payment by Cheque** - the cheque must be made payable to Cheshire East Council.

**Payment by Card** - If you wish to make payment by card, you will need to submit the application either by way of post or email. Once the application form has been received and checked by the Licensing Team, you will be asked to contact the Customer Contact Centre to make payment by card over the phone. You will need to provide a valid email address/telephone number so that instructions can be communicated to you.

### Email Applications

Completed applications and supporting documents can be sent to: The Licensing Service – [licensing\\_CE@cheshireeast.gov.uk](mailto:licensing_CE@cheshireeast.gov.uk)

Once the application has been received by the Licensing Team and checked, the team will send an email providing further instructions in relation to making payment of the application fee. The application will only be considered a valid application once the fee has been paid. Failure to make payment of the fee will result in the application being delayed.

### Important

**It is the licence holder's responsibility, and the onus is on them to ensure that a renewal application is made in good time. Under no circumstances will a licence be issued without satisfactory completion of all required checks.**

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**Disclosure & Barring Service (DBS) data and other relevant information**

3.1.3 The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and **will not retain a copy of the certificate**, in line with the Council's data retention policy and data protection legislation. Applicants will need to retain a copy of the original DBS Certificate for future licensing applications. DBS certificates must be in the correct workforce (i.e. 'Other Workforce') and for the correct job role (i.e. Taxi Driver or Taxi Licensing). Further information about the DBS can be found at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided:-

- It is for 'other workforce'
- It includes both of the Barring checks
- It is for the same job role (taxi driver or taxi licensing)
- It is presented to the Council for verification within 28 days of issued date of the certificate
- The applicant has subscribed to the DBS Update Service; and
- The applicant has authorised the Council to access the relevant online record.

Further information can be found at <https://www.gov.uk/dbs-update-service>

The Council will make regular use of the Multiple Status Check Facility provided by the DBS Service and where this shows changes to a licence holder's record, a new DBS disclosure will be required. The licence holder is required to pay the appropriate fee before the new DBS disclosure application is submitted.

3.1.4 Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the Licensing Authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

3.1.5 Drivers who undertake work for Transport Service Solutions (TSS) e.g. school contracts, are advised to contact TSS in order to ascertain the level of criminal record disclosure required and any other requirements in this respect. Information will be shared between TSS and the Licensing Team about individuals and businesses that apply and/or tender to deliver passenger

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transport contracts. Further information about TSS can be found at <http://www.transportservicesolutions.co.uk/home.aspx>

- 3.1.6 In addition to the information via the DBS service the Council maintains close links with the local police ensuring that information held by either party, relevant to hackney carriage and private hire licensing, is efficiently and effectively shared under existing protocols.
- 3.1.7 Where the Council obtains or holds relevant information not known to the DBS service or the local police they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual presents a risk of harm to a child or vulnerable adult.
- 3.1.8 The Council will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the National Register maintained by the National Anti-Fraud Network (NAFN) known as the 'NR3' register.

### **Counter-Terrorism and Security Act 2015**

- 3.1.9 The Council has a duty under the Counter Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism.

The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under Section 29 of the CTSA and in particular to ensure that they:

- Understand what radicalisation means and why people may be vulnerable to being drawn into terrorism;
- Are aware of extremism and the relationship between extremism and terrorism;
- Know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- Obtain support for people who obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in illegal terrorist related activity, the applicant/licence holder must refer such person or activity to the police. For more information please see <https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-and-communities>

## **Immigration Act 2016**

3.1.10 From the 1<sup>st</sup> December 2016 the Council is required to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found at:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with one of the documents listed in Annex A of the Government Guidance. Where an applicant cannot provide a current proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK, then the Council will only issue a licence up until the expiry date of that document.

### **3.2 Joint Hackney Carriage and Private Hire Drivers Licences**

3.2.1 It is the responsibility of the Council to protect the public and to ensure that before anyone is granted a licence the Council is satisfied that they are a 'fit and proper' person to hold such a licence.

There is no agreed definition for 'fit and proper' – in the absence of such a definition, the council will use the widely accepted interpretation of:

“Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care to get into a vehicle with this person alone at any time of the day or night?”

If on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence.

3.2.2 Cheshire East Council issues joint driver's licences. This means that once you hold a driver licence, you can drive any Cheshire East licensed Hackney Carriage or Private Hire Vehicle. A joint drivers' licence is referred to as a "taxi driver's licence" and drivers are referred to as "taxi drivers" within the Council and for the remainder of this document.

3.2.3 An application for a taxi driver's licence must be made on the approved form and submitted at the Licensing Team. If any information given by you on the application form is false, or relevant information is not revealed as required, the licence can be revoked or a renewal refused and you could be prosecuted under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976.

3.2.4 As it issues joint driver licences, the Council has a Code of Conduct for taxi drivers which applied to both hackney carriage and private hire activity. This Code is not a condition: it is a standard of behaviour which it expects drivers to maintain. Any failure to comply with the Code will lead to the Council questioning whether you remain a fit and proper person to drive a hackney carriage or private hire vehicle. The Code of Conduct can be seen at Appendix B.

3.2.5 The Council's byelaws only apply when you are using your licence to drive a Hackney Carriage.

#### **Period of Licence**

3.2.6 New and renewal driver licences will be valid for three years (36 months) from the date of issue and will then last for that period unless action is taken against it before its expiry or a medical practitioner, as part of the medical examination, has indicated that a shorter period licence is appropriate. Additionally, a

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licence with a shorter period will be granted where there is a time limited right to work in the UK. In these circumstances, the licence will be valid for the right to work period.

**Pre- Application Requirements**

- 3.2.7 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and will be informed that the application will not be accepted/valid until such time as all required information/documentation is submitted.
- 3.2.8 Before the licence expires, an application for renewal must be made if the driver wishes to continue working. Any application for renewal must be made at least six weeks before the licence expires. If applicants do not apply to renew the licence in time there may be a period when they will be unable to drive a hackney carriage or private hire vehicle. If a situation arises where the application was made at least six weeks before expiry, but for reasons beyond the applicant's control (e.g. delay in the processing of, but not the application for, a DBS check), the licence application cannot be processed before the current licence expires, the Council will consider issuing a short term licence. This will be specifically without prejudice to any decision on the renewal application the Council may make. Any such decision will be wholly at the Council's discretion.
- 3.2.9 If a renewal application is not received before the expiry of the current licence, it will be treated as a new application, rather than a renewal, and there will be a requirement to provide all the information that is required for a new application (e.g. a new DBS check, up-to-date medical, passing a local knowledge test, relevant qualification etc.)
- 3.2.10 Once a licence is issued it cannot be transferred. The renewal of the licence will be at the Council's discretion.
- 3.2.11 In addition to submitting the application form and fee an applicant must:
- Be over 21 years of age;
  - Provide a full UK driving licence (or European equivalent) that has been held for at least 12 months. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the government for exchanging/applying for a DVLA licence;
  - Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 28 days or be Registered with the DBS update service with a relevant up to date certificate (See paragraph 3.2.13);

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- Authorise the Council to access the relevant online record via the DBS Update Service;
- Provide one (1) passport sized recent photograph;
- Provide evidence of their right to work in the UK, in accordance with Home Office requirements (See paragraph 3.1.10);
- Complete a Statutory Declaration confirming they have read and understood the HMRC guidance on tax requirements (New applicants)\*
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's local knowledge test;
- Pass Disability Equality Training approved by the Council **(the licensing service are liaising with other local authorities to establish what is currently being done elsewhere)**;
- Provide a Safeguarding and Child Sexual Exploitation Awareness Training Certificate issued by the Council within the previous 3 months;
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered General Practitioner or a Medical Provider approved by Cheshire East Council who confirms they are medically fit to the DVLA Group 2 Medical Standards, within the previous 3 months. Medical examinations are required at the initial application and thereafter every other application (alternate) until the age of 60. All applicants aged 60 years and over must undertake a Group 2 medical examination on initial application and at every application thereafter. Applicants must produce the medical report to the Council at their earliest convenience;
- Provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver;

\*See paragraph 3.2.14 for further details on the new tax requirements

3.2.12 On renewal of an existing licence, applicants must:

- Submit a completed application form;
- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 12 months;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS Update Service with a relevant up to date certificate\*;

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- Authorise the Council to access the relevant online record via the DBS Update Service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- Provide a tax check code to the Licensing Team (from 4<sup>th</sup> April 2022)\*;
- Provide one (1) passport sized recent photograph;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements (See paragraph 3.1.10);
- Provide a Safeguarding and Child Exploitation Awareness Training certificate issued by the Council within the previous 3 months;
- Pass Disability Equality training approved by the Council (first renewal after policy implementation only);
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Provider approved by Cheshire East Council who confirms are medically fit to the DVLA Group 2 Medical Standards, within the previous 3 months. Medical certificates are required on initial application and thereafter every other application (alternate) until the age of 60. All licensed drivers aged 60 years and over must undertake a Group 2 medical examination at every application and produce the report to the Council;
- Provide a DVLA online check code;

\*See paragraph 3.2.14 for further details on the new tax requirements

### **DBS Process**

3.2.13 With effect from [DATE TO BE DECIDED] Cheshire East Council requires all new applicants and existing drivers licence holders to subscribe to the DBS Update Service. An additional fee payable to the DBS will be required in relation to this service. Applicants must apply to the update service within the specified DBS time frame. The Update Service will allow criminal record certificates to be kept up to date so that they can be taken from role to role.

Licence holders will need to provide Cheshire East Council's Licensing Team with their Disclosure Certificate when applying for a licence or renewal of a licence and complete and sign a mandate confirming that they consent to the Authority carrying out the online check. A new application may be deemed incomplete if the DBS certificate is not produced to the Licensing Team within 4 weeks of receipt. Where an existing driver receives a request to produce their DBS and fails to do so, the licence of that driver may be suspended or revoked.

The Update Service will then allow Cheshire East Council's Licensing Team to carry out free, instant online checks of an individual's certificate to check it is up to date. Cheshire East Council's Licensing Team will only have to seek a new criminal record

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check if the DBS advises that something has changed. Further information is available on the Disclosure and Barring Service website at [www.gov.uk/dbs](http://www.gov.uk/dbs)

### **3.2.14 Tax Conditionality requirements for new applicants and renewals (Hackney Carriage/Private Hire Drivers/Private Hire Operators)**

From 4<sup>th</sup> April 2022 all holders of a Joint Hackney Carriage/Private Hire Drivers Licence/Private Hire Operators must meet the Tax Conditionality requirement, before a licence may be granted. The requirement for new applicants and renewal applicants are slightly different and explained as follows:

#### **New applicants**

If you are applying for a licence for the first time (Joint Hackney Carriage/Private Hire Drivers Licence or Private Hire Operators Licence) you will **not** be required to complete a tax check. However, you will be required to read the HMRC guidance on what you need to do to be properly registered for tax in the future. You will be required to sign a declaration, on the application form, to confirm that you have done this.

#### **Renewal applicants**

If you are renewing or applying for a subsequent licence under a different licensing body, you will have to do a tax check. You will be able to do this online through a digital service provided through the GOV.UK website.

You will be required to have a Government Gateway Account in order to do this and you can sign up on the GOV.UK website. There will be guidance provided and extra support will be available to complete the tax check by phone through the HMRC customer helpline.

When a tax check has been completed, you will get a code, and this must be provided to Cheshire East Council's Licensing Team. The Licensing Team will not progress the licence application until a tax check code has been received.

Cheshire East Council's Licensing Team will only receive confirmation from the HMRC that you have completed the tax check, they will not have access to information about your tax affairs.

#### **Qualifications**

3.2.15 Applicants will need to hold either the BTEC Level 2 Certificate in the introduction of the role of the Professional Taxi and Private Hire Driver or the NVQ Level 2 Certificate in Road Passenger Vehicle driving (Taxi and Private Hire Driver) or an equivalent qualification or be enrolled on such a course before they make an application.

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- 3.2.16 The determination as to whether another qualification is equivalent will lie with the Council. No licence will be issued until the Qualification has been passed and the Certificate has been verified. Obtaining such a qualification is not a guarantee that a licence will be granted.
- 3.2.17 Applicants will be required to pass a theory test that consists of a knowledge test of the Cheshire East area, questions in relation to the Taxi Legislation and the Highway Code. Applicants will be expected to show a suitable knowledge of the Borough before a licence will be issued.
- 3.2.18 The Council reserves the right to require any applicant or existing driver to take and pass an additional driving test at the applicant or licence holder's expense. In the case of a new application this would be before application for a driver licence can be made, and in the case of an existing driver, at any time during the duration of the licence. In both cases it will be at the discretion of the Council but will usually (but not exclusively) be based on concerns or complaints in relation to the standard of driving. The cost of undertaking such a test or assessment will be the responsibility of the applicant or licensed driver.
- 3.2.19 Applicants that have not held a driver licence issued by Cheshire East Council within a year of the date of application will be required to repeat all the above (the qualification (BTEC or NVQ), the theory test and the driving test) before they can be considered for a new driver's licence.

### **Safeguarding Training**

- 3.2.20 All applicants must have attended and completed a Council approved course relating to Child and Adult Sexual Exploitation prior to being licensed. Any existing licence holder must complete this course within the currency of their existing licence in order to have it renewed. Failure to do so will lead to delay in renewal of the licence until such time as the course has been satisfactorily completed.

### **Previous Convictions**

- 3.2.21 Most applicants will not have any criminal convictions, however it is acknowledged that some applicants will have made mistakes in the past which will have led to them being convicted of crimes. The Council's approach to previous convictions is detailed in the Previous Convictions Policy. This lays down the minimum acceptable standard for those with criminal convictions to be granted a taxi drivers licence. Failure to meet these standards means that the licence cannot be granted by officers under delegated powers, and the matter will be referred to the Licensing Committee/General Licensing Sub-Committee for determination. It must be emphasised that the grant of a licence in these circumstances will be unusual.

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3.2.22 Any existing driver who falls below these standards will also be in serious danger of having their licence revoked or suspended

### **Sanctions against breaches of the Code of Conduct and for Acquiring Driving Licence Points**

3.2.23 Where a driver acquires 6 or more penalty points on their DVLA licence, or who breaches any legislation, byelaws or requirements of the code of conduct may be referred to the General Licensing Sub-Committee or the Licensing Committee.

3.2.24 The Council also has its own Penalty Point Scheme as a method of enforcing the requirements for taxi drivers (See appendix R).

3.2.25 The Licensing Committee or Sub-Committee has the discretion, where appropriate, to order a driver to attend a Driver Correction Course (at the drivers own expense) before they may resume duties as a taxi driver.

3.2.26 The Licensing Committee or Sub-Committee may also suspend or revoke the driver's licence or impose penalty points. Suspension or revocation of your licence can be with immediate effect where the Council is of the opinion that in the interest of public safety such action is required. Section 61(2A) of the Local Government (Miscellaneous Provisions) Act 1976 provides a local authority with such powers.

3.2.27 It must be understood that a decision to grant a licence would have been made on the basis that an applicant was a fit and proper person to drive a hackney carriage and private hire vehicle at the time the application was determined. That decision would have been made on the particular facts of the case on the day of the decision. That status can be lost at any time in the future and the licence holder must ensure that their behaviour remains of the highest standard to protect their licence and therefore their livelihood.

3.2.28 Providing the above are satisfied, the Council will renew the licence. It is the responsibility of the applicant to provide the Council with the DBS certificate once received. A licence will not be issued without a current DBS certificate, or any of the other specified documents that make up a complete application.

3.2.29 To allow continuous driving, applicants for licence renewals should allow at least eight weeks for the DBS check. Valid renewal applications (including a current DBS certificate) must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application.

Where applicants fail to submit a valid renewal application within this timescale, their licence may expire before the renewal is issued. Once a licence expires,

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is revoked (subject to statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive a Hackney Carriage or Private Hire Vehicle in these circumstances.

It is the driver's responsibility to notify the Council of any cautions, convictions, pending court cases and current or pending endorsements to their DVLA Driving licence received during the course of a licence period, in line with the driver conditions. Failure to notify the Council at the time of any caution, conviction, pending court case or current/pending endorsement to a DVLA driving licence may lead to a licence being referred to the General Licensing Sub-Committee to be determined. In these types of situation, the Council will not issue a licence for any interim period between the expiry of the current licence and the next available General Licensing Sub-Committee hearing.

3.2.30 Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new driver licence application which will be processed in accordance with the Council's new application procedures.

### **Production of documents**

3.2.31 The driver must, on request, produce for inspection their hackney carriage/private hire driver's licence immediately or within 7 days to either the Council office or a police station.

### **Driver badges and licences**

3.2.32 The badge must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible.

3.2.33 All drivers of vehicles licensed for hackney carriage purposes of which they are not the proprietor, must deposit their driver's licence (paper counterpart) with the proprietor **before** commencing driving the vehicle. The vehicle proprietor must retain the licence until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

3.2.34 On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the licence, the licence holder must return the badges and licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

### **Journeys**

3.2.35 Drivers must not unnecessarily prolong a journey, in distance or in time.

## **Vehicles**

3.2.36 Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes.

## **Driving Licensed Vehicles**

3.2.37 Only drivers who are licensed by the Council that licensed the vehicle are permitted to drive a licensed vehicle. The only exceptions to this are when the vehicle is undergoing an MOT test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation.

## **Smoking in vehicles**

3.2.38 Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes the use of electronic cigarette and/or vapourisers etc. If drivers are witnessed smoking/vaping, or allow a passenger to smoke/vape, in a licensed vehicle, then they may be served with a fixed penalty notice, issued with a warning and/or referred to the General Licensing Sub-Committee. Drivers smoking/vaping when their vehicle is parked/not hired must get out and step away from their vehicle.

## **Transporting children**

3.2.39 Drivers must inform parents/carers that the decision to permit children to travel in the vehicle without the correctly sized seat restraints (as permitted by relevant legislation) and with the obvious risks associated with such an action, remains with the parent/carer responsible for the children. Failure to use a child car seat or similar designed apparatus where available, will enable the driver to refuse the carriage of that child/young person. However once in the vehicle it is the driver's responsibility to ensure that passengers under 14 years old are correctly restrained.

## **Legal Requirements**

### **Touting**

3.2.40 A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose. This is an offence under the Criminal Justice and Public Order Act 1994, section 167.

### **Plying for Hire**

3.2.41 Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at appendix H and is based on relevant legislation and case law.

### **Refusing to convey passengers**

3.2.42 A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger without a reasonable excuse. E.g. if the person/s are severely intoxicated or being abusive to the driver.

### **Overcharging**

3.2.43 Drivers of hackney carriages must not charge more than is permitted under the current table of fares. Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commences must not charge more than that indicated on the taximeter or more than the current table of fares allows.

### **Persons riding without consent**

3.2.44 Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent of the person who is actually hiring the vehicle.

### **Unlicensed drivers**

3.2.45 Licensed drivers of hackney carriages must not allow persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate licence to do so.

### **Obstruction**

3.2.46 Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities, on a rank or other designated collection point.

### **National Register of Taxi and Private Hire Driver Licence Refusals and Revocations (NR3) Database**

3.2.47 Cheshire East Council has signed up the National Register of Taxi and Private Hire Drivers Licence Revocations and Refusals (NR3). This means that when an application for a drivers licence is refused, or when an existing driver's licence is revoked, that information will be placed upon the register.

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3.2.48 When an application for a new driver's licence, or renewal of an existing driver's licence is received, Cheshire East Council's Licensing Team will make a search of the NR3. This search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with these criteria. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

3.2.49 Cheshire East Council will make and retain a clear written record of every search that is made of the register.

This will details:

- The date of the search;
- The name or names searched;
- The reason for the search (new application or renewal);
- The results of the search; and
- The use made of the results of the search (this information will be entered to the register at a later date).

3.2.50 This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

3.2.51 Any information that is received for any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of the processing that application, making a decision, notifying the applicant of the outcome of that decision, the appeal process.

3.2.52 For avoidance of doubt any such data will be kept for a period of not more than 35 days from the date of the service of the written notification of the determination of the application.

3.2.53 Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned.

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- 3.2.54 Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.
- 3.2.55 The data will be held securely in accordance with Cheshire East Council's policy on the secure retention of personal data. At the end of the retention period the data will be erased and/or destroyed in accordance with Cheshire East Council's policy on the erasure and destruction of personal data.

### 3.3 Hackney Carriage Vehicle Licences

#### Summary

- 3.3.1 Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.3.2 Hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the Council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.
- 3.3.3 All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair, if designated as a Wheelchair Accessible Vehicle by the Council. Under section 167 of the Equality Act 2010 the Council may create a list of all licensed wheelchair accessible vehicles, placing the below duties on the driver:
- (a) To carry the passenger while in the wheelchair;
  - (b) Not to make any additional charge for doing so;
  - (c) If the passenger chooses to sit in a passenger seat, to carry the wheelchair;
  - (d) To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
  - (e) To give the passenger such mobility assistance as is reasonably required.
- 3.3.4 The Council will not licence a vehicle which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.
- 3.3.5 The Council does not limit the number of hackney carriage vehicle licences that it will issue.
- 3.3.6 The Council has absolute discretion over granting a hackney carriage vehicle licence. That means that it can refuse to grant a licence unless the vehicle meets or exceeds its requirements. It also means that the character of the vehicle owner can be taken into consideration, and again, the licence can be refused unless the vehicle owner also meets or exceeds the Council's requirements.

#### Insurance 'Write Off' Vehicles

- 3.3.7 Car insurance assessors use various categories of car insurance write off to rank the seriousness of accident damage. Two categories (A&B) represent very serious damage, but the remaining two categories (S&N) are for

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'economic write offs', where damage is expensive to fix but not necessarily dangerous. Vehicles that have been declared to be an insurance write off in category A & B will not be licensed. Vehicles that have been declared either a category S or N write off may be licensed providing the applicant provides an appropriate engineer's report verifying the standard of repairs.

### **Period of Licence**

3.3.8 Vehicle licences will be issued for a maximum of 12 months.

3.3.9 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/logbook.

### **Vehicles**

3.3.10 The Council requires all hackney carriage vehicles to comply with specifications and requirements set out in Appendix G and advises all applicants and current licence holders to familiarise themselves with this section.

3.3.11 Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time e.g. if the vehicle has X number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry X + 1 passenger. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

### **Vehicle Type and Age**

3.3.12 In order that a reliable hackney carriage service of an acceptable standard is provided within the Borough a person to be considered for a hackney carriage vehicle licence on first or subsequent occasions shall comply with the following suitability criteria:

### **Wheelchair Accessible Vehicle**

3.3.13 From [DATE] any vehicle presented for initial licensing as a hackney carriage must be a purpose built vehicle capable of carrying a wheelchair bound passenger (a 'wheelchair accessible vehicle') which complies with the current Greater London Authority Transport for London

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Conditions of Fitness' or it is an E7 2007 Model year only (currently such vehicles are FX4, TX1, TX2 or TX4, Metrocab, Mercedes Vito Taxi or E7 from 2007 model year only, but other vehicles that meet or exceed these specifications will be considered on a case by case basis). Such vehicles are referred to as WAV's ('wheelchair accessible vehicles').

3.3.14 If the vehicle does not comply with the London 'Conditions of Fitness' or is any other type of vehicle, the following additional specifications will apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have European Whole Vehicle Approval (M1) or Low Volume Type Approval Standards or Single Vehicle Type Approval, including an inspection certificate issued by D.V.S.A as a minimum standard. In all such cases, it will be at the discretion of the Council to grant or refuse the grant of a hackney carriage vehicle licence.
- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair.
- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry).
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair user.
- v. Have a minimum unobstructed height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3 point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have a suitable ramp(s) for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the

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commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.

- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers enter and egress the vehicle. The door entrance and any steps must be conspicuously marked to help visually impaired passengers.
- xi. All passenger door entrances must have grab handles or rails suitable located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- xii. To assist elderly and disabled passengers, at least one passenger seat must be of a 'swivel' or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements details below (paragraph 6) so far as they are not incompatible with the above.

### **Non Wheelchair Accessible Vehicles ('Saloon vehicles')**

3.3.15 A 'saloon vehicle' refers to any vehicle which is not wheelchair accessible. Any saloon vehicle that is currently licensed as a hackney carriage can remain as a saloon vehicle for the duration of the licence up to the maximum age of the vehicle which is 12 years, provided that the vehicle is continuously renewed. If the vehicle is transferred, the licence will not be renewed for a saloon vehicle, and on renewal a wheelchair accessible vehicle must be provided. If at any time an application for renewal of the licence (complete in every way) is not received before the expiry of the current vehicle licence, the vehicle licence will lapse and the right to use a saloon vehicle will end. A new licence application would then be required for a wheelchair accessible vehicle in accordance with the above paragraphs.

3.3.16 If the vehicle is to be licensed as a saloon (licensed pre-operative date) and is not a purpose built vehicle, it must be approved by the Council and comply with the following specification:

- i. Have a minimum of four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle. Each door must be adjacent to and allow direct access to and from the seats.
- ii. Have a minimum seating capacity for at least four adult passengers based on a seat width of not less than 400mm per person across the rear seat.

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- iii. Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply.
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and drivers seats, and 0.84 metres in relation to any other passenger seats.
- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding armrest).

### **Additional requirements for minibus and MPV type vehicles**

3.3.17 In order to be licensed, minibus and MPV type vehicles must be fitted, in addition to the front driver and passenger doors, with at least:

- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

### **Hackney Carriage Licences issued prior to [date of policy] – Grandfather Rights**

3.3.18 Vehicles which are licensed at the time this policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months (from the age of 7) The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent 6 month test the vehicle will be permitted one retest only. Once a vehicle fails a retest it will cease to be suitable for licensing.

3.3.19 Current holders of hackney carriage licences for non-wheelchair accessible vehicles i.e. saloons, hatchbacks and estates, will continue to benefit from existing grandfather rights allowing them to replace their current vehicle with, another non-wheelchair accessible vehicle either during the licence period or

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at the expiry of the licence. However, those rights will cease if the vehicle is transferred to another proprietor.

### Electric and Zero Emission capable Vehicles

3.3.20 The Council encourages and promotes the purchase of zero emission capable or hybrid vehicles to be licensed as hackney carriages. Where possible the Council will seek to implement a number of 'charge points' around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for such charge points. Hybrid vehicles will not be permitted as hackney carriages unless they also fulfil the wheelchair accessible vehicle requirements or are vehicles operating under Grandfather Rights.

### Application and Supporting Documentation

**The application process to licence a hackney carriage vehicle is the same for a new or renewal application.**

3.3.21 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted/valid until such time as all the information/documentation/fee is provided. The full fee for the licence is payable at the time application is submitted.

3.3.22 Any person wishing to licence a hackney carriage vehicle must submit:

- a) A completed application form;
- b) A Basic, Standard or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) A statutory declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent convictions';
- d) The appropriate licence fee (in full at the time of the application);
- e) A valid Certificate of Compliance (in accordance with the requirements set out at paragraph 3.3.27 below);
- f) A current vehicle fitness/garage test pass certificate (from the Council's Garage);
- g) A valid certificate of insurance for public hire. **This must remain valid for the period of the licence and must be produced on demand to an authorised officer of Cheshire East Council or police and in any case within 24 hours;**

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- h) The V5C registration certificate (or alternative interim measure outlined in paragraph 3.3.23 below);
- i) A valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements set out in Appendix G.

3.3.23 Where a vehicle has been modified, you will be required to submit a Voluntary IVA Certificate before you submit the application to licence the vehicle. It is the responsibility of the applicant to ensure they are providing the council with the correct information. To obtain the certificate, applicants will need to contact the DVSA or visit the [www.gov.uk](http://www.gov.uk) website. The council requires that the normal level of check is undertaken.

3.3.24 Where the vehicle is fitted with a mechanically operated ramp/lift, a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB the vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks every 6 months in accordance with these Regulations).

3.3.25 Where non-mechanical ramps are used, confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB The Council's Approved Testing Station garage will check that the provision of non-mechanical ramps is being maintained by the vehicle proprietor).

3.3.26 Where fittings are used to secure wheelchairs to the floor of the vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

### **Vehicle Testing Requirements**

#### **Certificate of Compliance**

3.3.27 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool Street, Macclesfield SK11 7NX.

3.3.27 Rules are in operation at the testing stations for the safety of applicants and the safety of the testers. Licence holders are expected to comply with the rules at all times

The vehicle test will be tested against a set of Hackney Carriage Vehicle Test Guidelines set down by the Licensing Team. See Cheshire East Council's website.

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- 3.3.28 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirement, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.
- 3.3.29 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.
- 3.3.30 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.
- 3.3.31 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

### **Vehicle Fitness/Inspection**

- 3.3.32 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an application for an initial Hackney Carriage vehicle licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.
- 3.3.33 The frequency of testing is once per year until the vehicle reaches its 5th anniversary when the vehicle will be required to be tested 6 months after the licence has been granted. If the vehicle fails that test the licence will be suspended using the powers contained in section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.
- 3.3.34 Where a vehicle licence is suspended, under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, as a result of an accident, a garage test will be required to confirm that its roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness certificate will be required before the suspension can be lifted.
- 3.3.35 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or it not resubmitted within 28 days then the vehicle will not be eligible for a retests and any licence in place will be suspended or will not be granted.
- 3.3.36 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected. In this situation the applicant/licence holder will need to re-book a test and pay an additional test fee.

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- 3.3.37 The licence holder/applicant may cancel a test appointment only if they provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council's Contact Centre.
- 3.3.38 If you fail to present a vehicle for a scheduled test, you will have to pay a test fee before a further test appointment will be allocated.
- 3.3.39 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Hackney Carriage, the officer may immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, which means the vehicle cannot be used as a hackney carriage. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence, will be conditional on the vehicle passing a further full test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance, a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

### **Vehicles not fit for the conveyance of passengers**

- 3.3.40 Where a proprietor has notified the Council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not, using the DVSA's "Categorisation of Vehicle Defects" document as a guide on how to deal proportionately with defects\*. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to them within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted.
- \*How vehicle defects are categorised in roadside checks and vehicle tests can be found on the Gov.uk website.

### **Plates and Identification of vehicle**

- 3.3.41 All hackney carriage vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (see appendix L). As the vehicle is a licensed hackney carriage, the plate and any identification signage must be

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displayed at all times and must never be removed or covered during the term of the licence.

3.3.42 In addition to the above, wheelchair accessible hackney carriages will be required to display wheelchair stickers at all times. Non-Wheelchair accessible hackney carriages will be required to display "No wheelchair" stickers at all times.

3.3.43 The identification stickers shall be displayed on:

- a) The inside of the lower near-side of the windscreen, so that the sticker is visible to passengers within the vehicle;
- ii) The top near-side rear window, facing outwards; and
- iii) The top off-side rear window, facing outwards.

3.3.44 One licence plate shall be securely affixed to the front of the vehicle and one licence plate shall be securely affixed to the rear of the vehicle. The plates should, at all times, be fitted to the vehicle using the fastenings and fittings issued by the Council. The fastening of plates with temporary removable or magnetic fixings will not be acceptable.

3.3.45 The plates (and any backing brackets) and stiller shall at all times remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.

3.3.46 If the vehicle plates or additional signage are lost or damaged, duplicates must be purchased from the Council within 7 days.

### Advertising

3.3.47 Advertisements may be displaying in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the Council has been obtained. All requests for permission to advertise on a vehicle must be made to the Licensing Team Leader **before** the advert is put on the vehicle.

3.3.48 Generally only **one** advert will be allowed to be applied to any vehicle. Any requests for further adverts must be made in writing and will be at the discretion of the Licensing Team Leader.

### Ranks

3.3.49 The Highways section of Cheshire East Council is primarily responsible for the creation of ranks and will work with the hackney carriage trade, Council and Cheshire Police to determine where ranks/stands ought to be situated.

3.3.50 Where a driver is plying for hire and is illegally parked or creating an obstruction or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location (this does not include a legitimate period of time where a hackney carriage has stopped to drop off or pick up a fare), the drivers licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

### **Hackney Carriage Fares/Taximeters**

3.3.50 All hackney carriage vehicles must be fitted with a calendar controlled and sealed meter that is approved by the Council, constructed, attached and maintained in compliance with the byelaws and must have been satisfactorily tested by an Authorised Officer of the Council or at any approved testing station before it is used.

3.3.51 The meter must be calibrated to the Council's current Hackney Carriage Table of Fares.

3.3.52 The meter must be accurate, be capable of showing that the vehicle is or is not hired, it must be fitted with a key or other device that, when turned, will operate the meter and display the word 'HIRED'. This key or device must be capable of locking the meter so it does not work and no fare is recorded on it.

3.3.53 When the meter is working, the fare must be clearly legible.

3.3.54 The word 'FARE' must be clearly printed on the meter so it clearly indicates the fare displayed.

3.3.55 The meter must be placed in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger. The letters and figures must therefore be illuminated when in use.

3.3.56 Alternatives to conventional meter displays (e.g. rear view mirror displays) separate displays etc must be approved by the Council and placed where they can be seen clearly by all passengers.

3.3.57 A notice showing the current Table of Fares must be displayed inside the vehicle in a position where any passenger can easily read it.

### **Signage**

3.3.58 The vehicle must be fitted with a sign with the word '**TAXI**' (minimum size 35cm wide and 10cm high) on its roof. The sign must be capable of being illuminated.

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3.3.59 The vehicle must be fitted with a '**FOR HIRE**' sign in a conspicuous position on the vehicle. This sign must be illuminated when it is dark when the vehicle is available for hire.

3.3.60 The proprietor must ensure that the '**TAXI**' and '**FOR HIRE**' signs switch off automatically when the meter is operating.

### **Changes/Transfers etc**

#### **Vehicle substitution**

3.3.61 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle;
- The proprietor must pay the stated fee for a 12 month period;
- The proprietor must surrender the original licence. No refund for the remaining term of the licence will be given;
- The new vehicle must be presented for test and subsequently pass;
- Written proof of consent to the change of vehicle must be provided from all interested parties;
- The proprietor must maintain and produce evidence of a continuous policy or insurance, which clearly states that the vehicle is to be used for hire or reward.

#### **Change of proprietor and/or driver**

3.3.62 The proprietor must give notice to the Council of any transfer in their interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for the proprietor.

3.3.63 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

#### **Change of address**

3.3.64 The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

#### **Letting/Leasing of vehicle**

3.3.65 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

**General requirements for all vehicles being presented for licensing as a Hackney Carriage**

- 3.3.66 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.
- 3.3.67 The vehicle must be wind and water-tight.
- 3.3.68 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.
- 3.3.69 The vehicle must have an adequate fully functioning internal light to facilitate the safety of a passengers entry/egress of the vehicle.
- 3.3.70 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage and rust (refer to test guidelines for more information).
- 3.3.71 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. spray can) will be acceptable.
- 3.3.72 The vehicle must be fitted with nearside and offside exterior rear view mirrors which must be maintained in a serviceable condition.
- 3.3.73 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- 3.3.74 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats in non-purpose built hackney carriages is not permitted.
- 3.3.75 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision, as follows:

**Front windows (windscreen and front side windows)**

- To transmit 75% light through the front windscreen,
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall conform to the above requirements.

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- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

### **Other windows (rear passenger windows/quarter light windows/rear windscreen)**

- To transmit 70% light through.
- Any subsequent replacement windows shall conform to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

3.3.76 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.

3.3.77 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the hackney carriage licence number painted on it. The fire extinguisher must have been properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency

3.3.78 The vehicle must be equipped with a first aid kit in a suitable container, with the licence number painted on it.

3.3.79 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council

3.3.80 Roof racks will be permitted. Any vehicle using a roof rack must be fitted with a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative.

### **Hackney Carriage Vehicle Emissions Policy**

3.3.81 With effect from [INSERT OPERATIVE DATE] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio-fuel or LPG conversions will not be accepted after this date.

3.3.82 By [+ 24 months from operative date] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

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- 3.3.83 The Council may approve conversions or adaptation systems for vehicles to comply with the requirements of the Council emissions standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be met by the Council.
- 3.3.84 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.
- 3.3.85 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements policy requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment. (See para 3.3.7).

### **Engine/Chassis Numbers**

- 3.3.86 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who may undertake checks.

### **Seating Arrangements**

- 3.3.87 Any alteration to the seating arrangement during the term of the licence (other than the manufacturers original specification or as approved by the Council) shall be a cause for the suspension of the licence.

### **Timescale for issuing a licence**

- 3.3.88 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the Council determining that a licence can be granted.

### **Licence Conditions**

- 3.3.89 The applicable conditions relevant to a hackney carriage vehicle licence are set out at Appendix G; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy. The Licensing Committee or its Sub-committee can attach any conditions to individual licences as they see fit.

## 3.4 Private Hire Vehicle Licence

### Summary

- 3.4.1 Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.
- 3.4.2 When considering whether a vehicle is a private hire vehicle by the nature of the work it does, the Council will have regard to the document – Private Hire Vehicle Licensing – A note for guidance from the Department for Transport (August 2011) and any other subsequent Government issued guidance.
- 3.4.3 The Council cannot limit the number of private hire vehicle licences it will issue.
- 3.4.4 The Council will not licence a vehicle for private hire which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.

### Period of Licence

- 3.4.6 Vehicle licences will be issued for a maximum of 12 months.
- 3.4.7 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/Logbook.

### Vehicles

- 3.4.8 The Local Government (Miscellaneous Provisions) Act 1976 section 48(1)(a)(ii) prevents a vehicle that resembles a hackney carriage from being licensed as a private hire vehicle. Accordingly, any vehicles that would meet Transport for London's Taxi & Private Hire Conditions of Fitness for Hackney Carriage Vehicles will not be licensed as a private hire vehicle in Cheshire East.
- 3.4.9 The Council requires all private hire vehicles to comply with specifications and requirements set out in Appendix J and advises all applicants and current licence holders to familiarise themselves with this section.

Proprietors are encouraged to have provisions for the legal transportation of a minimum of one wheelchair at all times (when a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be

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used at any one time e.g. if the vehicle has x number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry x + 1 passengers. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

### Vehicle Type and Age

**3.4.10 Wheelchair Accessible Vehicles** – if the vehicle is constructed or adapted to carry passenger(s) seated in wheelchair, the following specifications apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have, European Whole Body Type (M1) Approval, Low Volume Vehicle Producers Type Approval or Single Vehicle Type Approval including an inspection certificate by DVSA as a minimum standard.
- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.
- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry)
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair and user
- v. Have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement
- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and

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any steps must be conspicuously marked where appropriate, to help visually impaired passengers.

- xi. All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- xii. To assist elderly and disabled passengers, one passenger seat may be of a “swivel” or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements detailed above (so far as they are not incompatible with the above).

**3.4.11 Non Wheelchair Accessible Vehicles (Saloon Vehicles)** – A saloon vehicle refers to any vehicle which is not wheelchair accessible. If the vehicle is a saloon vehicle it must be approved by the Council and comply with the following specification:

- i. Have at least four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle.
- ii. have a minimum seating capacity for at least four adult passengers based on a width of not less than 400mm per person across the rear seat.
- iii. must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger’s luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any armrests).

**3.4.12 Additional requirements for minibus and MPV type vehicles** – in order to be licensed, an minibus/MPV type vehicle must be fitted, in addition to the front driver and passenger doors, with at least:

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- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

3.4.13 No vehicle shall be more than four years old when granted an initial licence as a private hire vehicle.

3.4.14 No vehicle more than eight years old will be relicensed as a private hire vehicle.

3.4.15 The age of the vehicle will be determined as follows:

- If not previously used on a road anywhere in the world: date of first registration with DVLA
- If previously used on a road anywhere in the world (e.g. an imported vehicle): the date of manufacture.

3.4.16 Applications for renewals must be made at least six weeks before the licence expires. If no application is made to renew the vehicle licence in time there may be a period when the vehicle cannot be used as a private hire vehicle. If the renewal application is not received before the expiry of the current licence, it will be treated as a new application rather than a renewal and the applicant will have to provide all the information that is required for a new application.

3.4.17 Renewals are generally dealt with by officers under delegated powers and can be processed reasonably quickly. However, if there have been any changes since the last grant of the licence (e.g. if the vehicle's age exceeds the policy or there have been complaints or concerns about the proprietors behaviour or the proprietor has been convicted of any crime) the renewal application may need to be considered by the General Licensing Sub-Committee or Licensing Committee. If the decision is not made before the expiry of the vehicle licence, the vehicle cannot be used until the new licence is granted.

3.4.18 The licence is issued to the proprietor and it can be transferred to another proprietor. If that occurs, the Council must be notified immediately on the transfer form available from the Councils website or the Customer Contact Centre and the fee must be paid.

3.4.19 Following any transfer of licence to another person, on expiry of that licence, renewal will be at the Council's discretion e.g. if the new proprietor does not satisfy the Council's requirements, the licence may not be renewed.

### **Grandfather Rights**

3.4.20 Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this policy is implemented, may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will

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be subject to a mechanical vehicle test every 12 months or 6 months depending on the age at first registration. The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent test will be permitted one retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

### **Electric and Zero Emission capable vehicles**

3.4.21 The Council encourages and promotes the purchase of zero emission or hybrid vehicles to be licensed as Private Hire Vehicles. Where possible the Council will seek to implement a number of 'charge-points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for charge-points within the Borough of Cheshire East.

### **Vehicle Emissions Policy**

3.4.22 With effect from [DATE] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio fuel or LPG conversions will not be accepted after this date.

3.4.23 By [+24 months] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

3.4.24 The Council may approve conversions or adaption systems for vehicles to comply with the requirements of the Council's emission standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be bet by the Council.

3.4.25 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.

3.4.26 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment.

### **Application and Supporting Documentation**

3.4.27 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting

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documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

3.4.28 Any person wishing to licence a private hire vehicle must submit:

- a) A completed application form;
- b) A Basic Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS Certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) Complete a Statutory Declaration detailing the complete history of any criminal or motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- d) The appropriate licence fee (in full at the time of application);
- e) A valid MOT (in accordance with the requirements set out at paragraph 3.4.34 below);
- f) A current vehicle fitness/garage test pass certificate (from the Council approved garage);
- g) A valid certificate of insurance for public hire. This must remain valid for the period of the licence and must be produced on demand to an authorised officer or police, and in any case within 24 hours;
- h) The V5 registration certificate (or alternative interim measure outlined in paragraph below);
- i) Where a taximeter is fitted – a valid certificate/report to confirm the vehicle taximeter is fitted in accordance with the requirements set out at Appendix J;
- j) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

3.4.29 Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulation 1998 (N.B. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks, which should be undertaken every 6 months, in accordance with the Regulations);

3.4.30 Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Use of Work Equipment Regulations 1998. (N.B. Council officers will check that the provisions of non-mechanical ramps is being maintained by the vehicle proprietor); and

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3.4.31 where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided that has been issued by an approved installer.

### **Vehicle Testing Requirements**

3.4.32 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich, CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool street, Macclesfield, SK11 7NX

3.4.33 Rules are in place at the testing stations for the safety of applicants and the safety of the testers and all licence holders should comply with the rules at all times.

The vehicle test will be tested against a set of Private Hire Vehicle Test Guidelines. Refer to Appendix ?

3.4.34 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirements, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.

3.4.35 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.

3.4.36 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.

3.4.37 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

### **Vehicle Fitness/Inspection**

3.4.38 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an application for an initial Private Hire Vehicle Licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.

3.4.39 The frequency of testing is once per year until the vehicle reaches its 5<sup>th</sup> anniversary when the vehicle will be required to be tested every 6 months after the licence has been granted. If the vehicle fails the test the licence will be suspended using the powers contained in Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.

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- 3.4.40 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.
- 3.4.41 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected.
- 3.4.42 The licence holder/applicant may cancel a test appointment only if the provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council Contact Centre.
- 3.4.43 If you fail to present the vehicle for a scheduled test, you may have to pay a test fee before a further test appointment will be allocated.
- 3.4.44 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Private Hire, the officer may immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provision) Act 1976 which means the vehicle cannot be used as a private hire. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence will be conditional on the vehicle passing a further test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

### **Vehicles not fit for the conveyance of passengers**

- 3.4.45 Where a proprietor has notified the council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the council will decide if the condition is such that the vehicle may continue in service or not. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to the within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted.

**Requirements for all vehicles****Plates and Identification of vehicle**

3.4.46 All private hire vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (See appendix M). As the vehicle is a licensed private hire vehicle, the plate and any identification signage must be displayed at all times during the currency of the licence.

3.4.47 If the licence plates or additional signage are lost or become damaged, the proprietor must report it to the Council and request duplicates within 7 days. The cost of duplicate plates/signage will be met by the proprietor.

3.4.48 In addition to the plates and signage provided by the Council, the following signage must be displayed, at the proprietor's own expense, on each side of a private hire vehicle (on the body panel and not on a window):

- I. The words "PRIVATE HIRE"
- II. The words "ADVANCED BOOKINGS ONLY"
- III. The telephone number or name of the vehicle operator

3.4.49 The wording "PRIVATE HIRE", "ADVANCED BOOKINGS ONLY" and the telephone number of the vehicle operator shall:

- i. Be clearly and permanently affixed and displayed in a clearly contrasting colour in letters and numbers not less than 65mm in height and not less than 8mm thickness; and
- ii. Be positioned together in a manner previously approved in writing by the Council.

For the avoidance of doubt the above wording shall not be deemed to be "permanently affixed and displayed" if they are so affixed and displayed by means of a demountable magnetic sign or by any other type of sign which is able to be removed and re-affixed to the vehicle.

3.4.50 The vehicle shall not display a roof sign whether illuminated or not.

3.4.51 The vehicle shall not display any illuminated signs on or from within the vehicle.

3.4.52 The vehicle shall, at all times, display identification stickers supplied by the Council. The stickers shall be displayed on:

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- i. The inside of the lower near-side windscreen, so that the sticker is visible to passengers within the vehicle;
- ii. The top near-side rear window, facing outwards; and
- iii. The top off-side window, facing outwards.

3.4.53 One licence plate shall be affixed the front of the vehicle and one licence plate shall be affixed to the rear of the vehicle. Both licence plates shall be displayed in a vertical position and firmly fixed to the outside of the vehicle using the fixing bracket provided for the purpose. Velcro or cable ties are not permitted to be used.

3.4.54 The plates and stickers, and any fixing brackets supplied by the Council shall, at all times, remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the licence plates to be altered, removed or obscured in any way.

### **Exemptions**

3.4.55 The Local Government (Miscellaneous Provisions) Act 1976 gives a Council the discretion to grant a proprietor of a private hire vehicle licence a dispensation from displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merit and in line with the 'Executive Plating' requirements set out at Appendix K.

### **Advertising**

3.4.56 Advertisements may be displayed in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the council has been obtained. All requests for permission to advertised on a vehicle must be made to the Licensing Team Leader, before the advert is put on the vehicle.

3.4.57 Generally only one advert will be allowed to be applied to any vehicle. Any request for further adverts must be made in writing, and will be at the discretion of the Licensing Team Leader.

### **Taximeters**

3.4.58 Private hire vehicles are not required to be fitted with a taximeter but if they do then they must comply with the specifications and requirements set out in Appendix J and the Council advises all applicants and current licence holders to familiarise themselves with this section.

## Seating

3.4.59 In any vehicle all exits must be easily accessible and not obstructed by another seat. Access to all doors must be free from obstruction. **Any seats that require passengers to move any part of another seat to gain access or egress will not be licensed for carrying passengers.** The seating configuration and number of passengers that can be carried is subject to the approval by the Council.

3.4.60 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats is not permitted.

## General requirements

3.4.61 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.

3.4.62 The vehicle must be wind and water-tight.

3.4.63 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.

3.4.64 The vehicle must have an adequate, fully functioning internal light to enable passengers to enter and exit the vehicle safely.

3.4.65 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage or rust (see the testing guidelines for further information).

3.4.66 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. temporary sealant repair kit) will be acceptable.

3.4.67 The vehicle must be fitted with a nearside and offside exterior rear view mirror which must be maintained in a serviceable condition.

3.4.68 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.

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3.4.69 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision as follows:

### **Front windows (windscreen and front side windows)**

- To transmit 75% through the front windscreen.
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

### **Other windows (rear passenger windows/quarter light windows/rear windscreen)**

- To transmit 70% light through.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

3.4.70 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.

3.4.71 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher provided to BS EN3: 1996, with the private hire licence number painted on it. The fire extinguisher must have been properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency.

3.4.72 The vehicle must be equipped with a first aid kit in a suitable container, which the licence number painted on it.

3.4.73 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they are approved by the Council.

3.4.74 Roof racks will be permitted. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box in an acceptable alternative.

**Changes/Transfers etc.**

**Vehicle substitution**

3.4.75 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle.
- The proprietor must pay the stated fee for a 12 month period.
- The proprietor must surrender the original licence. Any refund against a licence will be calculated by the Council, taking into consideration the period of time for which the licence has already been held and the administrative cost incurred, and shall be subject to a minimum level of £50, below which no refund will be made.
- The new vehicle must be presented for test and subsequently pass.
- Written proof of consent to the change of vehicle must be provided from all interested parties.
- The proprietor must maintain and produce evidence of a continuous policy of insurance, which clearly states that the vehicle is to be used for hire or reward.

**Change of proprietor and/or driver**

3.4.76 The proprietor must give notice to the Council of any transfer in their interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for the proprietor. Please refer to Appendix N for application process.

3.4.77 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

**Change of address**

3.4.78 The proprietor of a private hire vehicle must notify the Council in writing within 7 days of any change of their address.

**Letting/Leasing of vehicle**

4.3.79 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

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### **Temporary Replacement Vehicles in the event of an accident (Hackney Carriage and Private Hire)**

- 4.3.80 The proprietor of an existing licensed private hire vehicle must report, to the Licensing Team, within 72 hours, that the vehicle has been involved in an accident and their possible intention to licence a temporary replacement vehicle.
- 4.3.81 The temporary replacement vehicle must satisfy the standards for private hire vehicles adopted by Cheshire East Council before it is considered for licensing.
- 3.4.82 An application for a temporary replacement vehicle must be submitted to the Licensing Team together with the appropriate fee, the insurance document for the vehicle being presented for licensing, vehicle registration document for the vehicle being presented for licensing and a lease agreement/contract from the Insurance Company/Vehicle Supplier for the vehicle being presented for licensing. The existing vehicle licence plate will then be transferred to the replacement vehicle. Refer to Appendix P for the application process.
- 3.4.83 The temporary replacement vehicle must be mechanically tested, at the Council approved testing station prior to it becoming licensed.
- 3.4.84 Where a taximeter is fitted, this must be tested and sealed, by the Licensing Team, prior to it becoming licensed.
- 3.4.85 The temporary replacement vehicle will only be permitted for use for a period not exceeding 30 days. In exceptional circumstances, this period may be extended by a further 14 days, at the discretion of a Licensing Team Leader.
- 3.4.86 As soon as the proprietors' vehicle is repaired, an application to return the licence back to the original vehicle will be required.
- 3.4.87 If requested, the proprietor shall present the original vehicle for a further vehicle examination, at the Council approved testing station, before it becomes relicensed. This will be dependent on the damage sustained.

### **Closed Circuit Television (CCTV)**

- 3.4.88 Proprietors of private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. In addition to fitting CCTV signage to the vehicle the proprietor is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

**Engine/Chassis Numbers**

3.4.89 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the council will inform the police who may undertake checks.

**Timescale for issuing a licence**

3.4.90 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the decision that a licence can be granted being taken.

**Licence Conditions**

3.4.91 The applicable conditions relevant to a private hire vehicle licence are set out at Appendix J; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy.

## 3.5 Private Hire Operators Licence

### Summary

- 3.5.1 Operators licences are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle, must hold a private hire operator's licence.
- 3.5.2 Applications for Private Hire Operator Licences can be made by post or by email. Please see Appendix P for the application process.

### Pre- Application Requirements

- 3.5.3 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and will be informed that the application will not be accepted/valid until such time as all required information/documentation is submitted.
- 3.5.4 Before the licence expires, an application for renewal must be made if the operator wishes to continue operating. Any application for renewal must be made at least six weeks before the licence expires. If applicants do not apply to renew the licence in time there may be a period when you will be unable to operate as a private hire vehicle operator. If a situation arises where the application was made at least six weeks before expiry, but for reasons beyond the applicant's control (e.g. delay in the processing of, but not the application for, a DBS check), the licence application cannot be processed before the current licence expires, the Council will consider issuing a short term licence. This will be specifically without prejudice to any decision on the renewal application the Council may make. Any such decision will be wholly at the Council's discretion.
- 3.5.5 If a renewal application is not received before the expiry of the current licence, it will be treated as a new application, rather than a renewal, and there will be a requirement to provide all the information that is required for a new application (e.g. a new DBS etc.)
- 3.5.6 Once a licence is issued it cannot be transferred. The renewal of the licence will be at the Council's discretion.
- 3.5.7 In addition to submitting the application form and fee an applicant must:

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- Be over 21 years of age;
- Provide a full UK driving licence (or European equivalent) that has been held for at least 12 months. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the government for exchanging/applying for a DVLA licence;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 28 days or be Registered with the DBS update service with a relevant up to date certificate;
- Authorise the Council to access the relevant online record via the DBS Update Service;
- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK, in accordance with Home Office requirements;
- Confirm that you have read the HMRC guidance on tax requirements (New applicants)\*
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's local knowledge test;
- Pass Disability Equality Training approved by the Council (**the licensing team are liaising with other local authorities to establish what is currently being done elsewhere**);
- Provide a Safeguarding and Child Sexual Exploitation Awareness Training Certificate issued by the Council within the previous 3 months;
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered General Practitioner or a Medical Provider authorised by Cheshire East Council who confirms that they are medically fit to the DVLA Group 2 Standard within the previous 3 months. Medical examinations are required at the initial application and thereafter every other application (alternate) until the age of 60. All applicants aged 60 years and over must undertake a Group 2 medical examination on initial application and at every application thereafter. Applicants must produce the medical report to the Council at their earliest convenience;
- Provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver;

\*See paragraph 3.2.14 for further details on the new tax requirements

3.5.8 On renewal of an existing licence, applicants must:

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- Submit a completed application form;
- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 12 months;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS Update Service with a relevant up to date certificate;
- Authorise the Council to access the relevant online record via the DBS Update Service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- Provide a tax check code to the Licensing Team (from 4<sup>th</sup> April 2022)\*
- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements;
- Provide a Safeguarding and Child Exploitation Awareness Training certificate issued by the Council within the previous 3 months;
- Pass Disability Equality training approved by the Council (first renewal after policy implementation only);
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Provider authorised by Cheshire East Council who confirms that they are medically fit to the Group 2 Standards within the previous 3 months. Medical certificates are required on initial application and thereafter every other application (alternate) until the age of 60. All licensed drivers aged 60 years and over must undertake a Group 2 medical examination at every application and produce the report to the Council;
- Provide a DVLA online check code;

\* See paragraph 3.2.14

### **Period of Licence**

3.5.9 Operators licence will be issued for a maximum period of 5 years unless the Council has reasonable cause to issue for a shorter time period.

### **Operators Premises**

3.5.10 All applicants must have a base within the administrative area of Cheshire East in order to ensure that the Council can inspect the base and associated operator records to check compliance with licence conditions.

3.5.11 The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.

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3.5.12 The Council advises operators to have all necessary planning permissions for the operator base before a licence is granted. Proof of which may be requested as part of the application procedure.

3.5.13 Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all relevant legislation has been complied with, including the Equality Act 2010.

3.5.14 There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

### **Record Keeping**

3.5.15 Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a Police Officer.

3.5.16 Under the conditions, the operator is required to keep a number of different forms of records namely:

- Booking records (to include which member of staff took the booking when the booking was taken by a person and not a computerised method);
- Operator vehicle schedule;
- Operator driver schedule.

Each of these records must be kept up to date and retained by the operator for a period of at least 2 years (as per conditions of licence).

3.5.17 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence (including the cost of a DBS check and Safeguarding Training, where appropriate is payable at the time the application is submitted.

3.5.18 Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- i. A completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of

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- birth of all partners, directors/company secretaries, as appropriate). A check of the Companies House register may be undertaken to confirm these details;
- ii. A basic standard or enhanced DBS certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process); for each director, partner and company secretary;
  - iii. A Tax Check Code (see paragraph 3.2.14)
  - iv. A schedule of employees that are not CEC licensed drivers indicating those staff who take bookings and dispatch vehicles;
  - v. A Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
  - vi. A Safeguarding Training Certificate for each director, company secretary and employees that are not CEC licensed drivers;
  - vii. Details of the policy regarding the employment of ex-offenders;
  - viii. The appropriate licence fee
  - ix. A list of the vehicles and drivers which are/are to be operated under the operators licence; and
  - x. Any fleet insurance held with an accompanying schedule of vehicles and named drivers disclosed to the insurance company.

**Criminal Records Disclosure**

3.5.19 All applicants (including sole traders, partnerships and companies) for a private hire operator licence must prove that they are 'fit and proper' to hold an operator licence.

The applicant must also prove that all employees that work for them and who take bookings, dispatch vehicles, or have access to booking records are 'fit and proper' to be employed in such positions. They must provide evidence that they have seen a basic DBS for each employee who are not CEC licensed driver and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.

3.5.20 Where the applicant or employee already holds a valid dual driver licence issued by CEC (this will only apply to sole traders as individuals) a check will be made on the DBS update service. If the driver is not registered on the DBS update service then they will be required to submit a Basic DBS certificate. If the applicant is not a licensed driver then they will be required to submit a Basic DBS certificate.

3.5.21 For partnerships or companies, the above requirements will apply to all partners and directors/company secretaries.

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3.5.22 The Council adopts the same principles when determining whether an applicant is a 'fit and proper person' to hold a private hire operator licence as it does to persons applying for a drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at paragraph 3 of this policy.

3.5.23 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High commission. The certificate must be authenticated, translated and sealed by the embassy or High Commission.

### **Insurance**

3.5.24 Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.

3.5.25 If there is a requirement for the operator to have Employers Liability Indemnity then it must be for a minimum of £10,000,000.

3.5.26 For vehicle insurance, the Council will only generally accept original insurance documentation. The exception to that policy is that the Council will accept copy documentation where the Council itself receives an email confirmation of cover direct from the Insurance Company itself and the Council is entirely satisfied as to its validity.

3.5.27 Where the policy is a vehicle fleet policy, confirmation that the vehicle is included on the schedule of vehicles will also be required in addition to the insurance certificate.

### **Closed Circuit Television (CCTV)**

3.5.28 Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must prominently display signs indicating that CCTV is in use in the premises. In addition to fitting CCTV signage to the premises the operator is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

### **Complaints Procedure**

3.5.29 Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any

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investigation and/or actions taken as a result of a complaint. This information should be kept for a minimum of two years.

3.5.30 The complaints procedure and complaint records must be made available to an authorised officer of the Council or a Police Officer.

### **Licence Conditions**

3.5.31 Applicable conditions relevant to a private hire operator licence are set out at Appendix S. These conditions must be complied with at all times.

### **Contract**

3.5.32 Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle, not the operator who provided the vehicle.

### **Sub-Contracting**

3.5.33 Where a licensed operator accepts a booking and then is subsequently unable to honour that booking, or should the operator not have a vehicle immediately available, the booking may be sub-contracted to another operator, including an operator licensed by another local authority.

3.5.34 Where this is the case, the original operator must:

- a) keep a record of the initial booking details for audit purposes.
- b) contact the hirer and advise that the booking can no longer be honoured and seek guidance from the hirer as to whether or not they wish the booking to be sub-contracted to an alternative private hire operator.
- c) identify an alternative private hire operator and advise the original hirer of the details of that alternative operator details.
- d) provide full details of the booking to the alternative private hire operator and keep a record of the private hire operator to whom the booking was sub-contracted.
- e) keep a record of the alternative private hire operator's licence details as follows:
  - i) the name of the issuing authority for the private hire vehicle operator's licence.
  - ii) the licence number of the private hire vehicle operator's licence.
  - iii) the date the private hire vehicle operator's licence was granted by the issuing authority.
  - iv) the date the private hire vehicle operator's licence issued by the issuing authority is due to expire.

**Production of records/documents**

3.5.35 Any records required to be retained in accordance with the licence must be produced, on request, to any authorised officer of the council or to any police officer. The operator licence must also be produced if requested.

**Safeguarding Training**

3.5.36 Where the applicant or employee already holds a valid taxi driver licence (this will only apply to sole traders as individuals), no further checks will be undertaken by the Council and the current Safeguarding Training Certificate will be considered sufficient. However, if a valid taxi driver licence is not held, the applicant/employee must attend a Safeguarding Awareness Training prior to an operator licence being granted, including being renewed and employees being permitted to take bookings.

## **4. Compliance, Enforcement and Complaints**

### **4.1 Summary**

- 4.1.1 This part of the policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

### **Compliance and Enforcement**

- 4.1.2 The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Enforcement Policy and Regulatory Services and Health Enforcement Policy, which are available on the Council's website.

In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of the Council, other local authorities and the police. Obstructing Officers is an offence and the Council will consider enforcement action for such offences.

- 4.1.3 The Council will work closely with other enforcement authorities when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross border related issues.
- 4.1.4 Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their driver's licence.
- 4.1.5 Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Council's enforcement policy and will be referred to the duly authorised officer. Serious or repeated breaches of licence conditions will result in the matter being referred to the General Licensing Sub-Committee.

### **Complaints**

- 4.1.6 Where appropriate, complainants will be encouraged to raise complaints directly with the relevant licence holder or business concerned in the first instance. However, the Council will also respond to complaints in line with its Enforcement Policies and will use complaint information to assist in the determination of licensing decisions.
- 4.1.7 The Council will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual

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licence holders. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

**4.2 Enforcement - Policy Statement**

- 4.2.1 The Council has an Enforcement Policy which it will taken into account before taking any enforcement action.
- 4.2.2 The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.
- 4.2.3 Enforcement Officers will be authorised by the Council to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 4.2.4 Where there is a shared enforcement role with other agencies, e.g. the police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.
- 4.2.5 The Council will investigate all valid complaints with regards to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by a licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised Officer or the General Licensing Sub-Committee.
- 4.2.6 The authorised officer of the Council/General Licensing Sub-Committee will consider the history of all complaints made against the licence holder to assess any patterns. If a problem is inherent, then the Council will consider whether the licence holder is a 'fit and proper person' to continue to hold such a licence.
- 4.2.7 Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.
- 4.2.8 Hackney carriage and private hire and drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving. The Council expects all licence holders to adhere to the specifications set out in this policy and in any relevant legislation. Any complaints that relate to

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misconduct will be fully investigated and appropriate action will be taken where deemed necessary.

4.2.9 Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interview and vehicle inspections, and producing documentation upon request.

### 4.3 Enforcement Options

4.3.1 Licence applications and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the:

- Seriousness of any offences;
- Driver or operator's past history;
- Consequence of non-compliance;
- Likely effectiveness of the various enforcement options;
- Danger to the public.

Having considered all relevant information and evidence, the choices for action are:

#### Licensing Applications

- Grant licence subject to the Council's Standard Conditions;
- Grant licence subject to the Council's Standard Conditions and any other reasonable conditions specific to the case;
- Refuse to grant a licence;
- Grant for a limited time period.

#### Enforcement Action

- Take no action
- Take informal action
- Suspend a licence
- Revoke a licence
- Use simple cautions
- Prosecution

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the General Licensing Sub-Committee. The Council will have regard to the Convictions Guidelines at Appendix C

**Information Action**

4.3.2 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

4.3.3 Such information actions may be appropriate in any of the following circumstances:

- The act or omission is not serious enough to warrant more formal action;
- From the individual driver or operator's past history it can be reasonably expected that information action will achieve compliance;
- Confidence in the operator's management is generally high;
- The consequences of non-compliance will not pose a significant risk to the safety of the public;
- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability outlined in the policy.

Details of any information action will be recorded on the Council's records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 36-month rolling period, their licence will be referred to the General Licensing Sub-Committee to determine whether any further action is required.

**Appearance before the General Licensing Sub-Committee**

4.3.4 An offending individual or company may be summoned before the General Licensing Sub-Committee to answer allegations of breaches of relevant legislation, or Conditions attached to licences.

The Licensing Sub-Committee have the option of deciding the application on its merits and may:

- Take no action
- Give a formal written warning
- Require the production of driving licences or other specified documentation at the Council's office
- Suspend the licence for a period of time
- Revoke the licence
- Recommend prosecution action

Details of the appeals procedure will be sent out in the written notification of action sent by the Council.

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The General Licensing Sub-Committee will have regard to the guidance on convictions shown at Appendix C of this policy.

### **Suspension Notices under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976**

- 4.3.5 An authorised officer may serve notice, in writing, for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.
- 4.3.6 This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the Officer is satisfied with the condition of the vehicle.
- 4.3.7 This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle is not fit for use as a licensed vehicle.

### **Prosecutions**

- 4.3.8 The decision to prosecute is a significant one. Prosecutions will, in general be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and/or the public is put at serious risk. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner and be proportionate to the circumstances.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- Where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- When there appears to have been reckless disregard for the safety of passengers or other road users;
- Where there have been repeated breaches of legal requirements;
- Where a particular type of offence is prevalent;
- Where a particular contravention has caused serious public alarm.

Officers will take account of the Council's Enforcement Policy when circumstances have been identified which may warrant a prosecution.

## **Simple Cautions**

4.3.9 A simple caution may be used as an alternative to a prosecution in certain circumstances.

## **5. Table of Fares**

5.1 Cheshire East Council will keep the Table of Fares under review. The Council will respond to reasonable requests to change the table of fares from the hackney carriage trade.

## **6. Policy Consultation**

6.1 Members of the public were invited to put forward their comments to the proposed policy document during a series of consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Hackney carriage and private hire operators, drivers and proprietors
- Members of Cheshire East Council's Licensing Committee
- Officers of Cheshire East Council's Legal Services
- Officers of Cheshire East Council's Licensing and Environmental Services
- Cheshire East Council's Garage Vehicle Inspectors
- Cheshire East Council's Partnership team
- Cheshire East Council's Transport Services Team (TSS)
- Cheshire East Council's Safeguarding Children and Adult Safeguarding Services
- Cheshire Police
- Cheshire Fire & Rescue Services
- Guide dogs for the blind

# **APPENDICES**

## **SAFEGUARDING**

### **CHILD SEXUAL EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE**

#### **Introduction**

Set out below is information for hackney carriage and private hire vehicle drivers and operators to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons, particularly as it relates to child sexual exploitation, county lines and trafficking.

#### **General Information**

The Borough of Cheshire East's Licensing Service is helping to tackle child exploitation and trafficking by working together with key partners particularly Cheshire Police, Children and Adult Services within the Council, the Cheshire East Safeguarding Children Board, and the Cheshire East Safeguarding Adults Board.

Through partnership working and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with Cheshire Police and the Safeguarding Boards helps to protect young people and vulnerable adults from harm. Safeguarding people is everyone's business and everyone's responsibility.

Sexual exploitation of children and young people involves exploitative situations, context and relationships where young people (or a third person or persons) receive something e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money etc as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

#### **The grooming process**

Child sexual exploitation involves perpetrators gaining control and using their powers to sexually abuse, this can be in person, via mobile or online. At first this control may take the guise of 'romance' or 'friendship' but once a child does something small – that they know might get them 'into trouble' for, they become vulnerable to blackmail. As the exploitation gets worse, terrifying threats and violence may be used to keep children compliant and they may be sexually exploited not just by the original perpetrator but often many other abusers.

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### **How hackney carriage and private hire vehicle drivers and private hire operators can help tackle child sexual exploitation.**

Drivers of hackney carriage and private hire vehicles as well as private hire operators are in a good position to help identify victims of sexual exploitation because, through the transport services they provide, drivers and operator regularly come into contact with children and young people. This means that licensed drivers and private hire operators are in an ideal position to help protect young people.

In particular, drivers should ask themselves the following questions when picking up a fare:

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think they are under the influence of alcohol or drugs?
- Are you taking them to a hotel, party or secluded location? If so, ask yourself why?
- Are children/young people being taken regularly to the same localities? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported.

If you have reason to suspect that a child is being abused or at risk of abuse, it is your responsibility to report your concerns to and share information with Cheshire Police (Tel: 101) and Cheshire East Consultation Service at Cheshire East Borough Council on 0300 123 5012 (8.30am till 5.00pm) out of office and in an emergency on 0300 123 5022.

Further information about Cheshire East's Safeguarding Children Board can be found at:

<https://www.cescp.org.uk/homepage.aspx>

Further information about Cheshire's Safeguarding Adults Board can be found at:

<http://www.stopadultabuse.org.uk/home.aspx>

**Driver code of conduct relating to individuals issued a joint hackney carriage and private hire driver licence**

Drivers issued a joint driver licence by Cheshire East Council under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 must abide by this Code of Conduct.

It sets out the way in which the licence holder must act whilst acting as a licensed driver in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal plying for hire.

It does not set out the detail as to what steps are required to become a licensed driver and it does not set out what factors are taken into account in deciding whether a person is a 'fit and proper person' to be a driver. This is set out in the specifications elsewhere in the policy.

**Breach of the code of conduct may lead to the suspension or revocation of a licence or other enforcement action including prosecution.**

The code of conduct requires drivers to:

**Notification requirements**

1. **Change of Name and/or Address** – The licence holder (driver) must notify the Licensing Service, in writing, within 7 days of changing name and/or address.
2. **Medical circumstances** – The driver must notify the Council, immediately in writing (if possible), or as soon as practicable of any serious illness, injury, medication or severe physical deterioration which could affect their ability to meet the DVLA's Group II medical standards and therefore drive a licensed vehicle.
3. **Damage to vehicle** – The driver must inform the operator of any licensed vehicle in his custody of any damage occurring to that vehicle within 24 hours of the damage occurring. The driver must also notify the Council in writing within 72 hours of the damage occurring.
4. **Cautions, warnings, motoring convictions and fixed penalties** – The driver must notify the Council in writing within 7 days of any issue of a formal caution, warning, motoring convictions, or issue of a fixed penalty notice by the police or a local authority. **The 7 day period begins on the day of the caution or conviction, or the warning being received. For a Fixed Penalty Notice it begins on the day that the driver accepts liability for the offence.**

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5. **Charges, Questioning, Interview under caution, Arrests and Convictions** – The driver must inform the Council in writing, within 48 hours, if they are questioned, arrested and released, interviewed voluntarily under caution, charged by the Police or convicted of a criminal offence regarding harassment, sexual offences, violent offences, dishonesty or fraud.
6. When questioned by the police or appearance in Court, the driver must inform the police/court that they are a licensed driver.
7. The driver must also notify the Council, in writing within 72 hours, of any other enforcement action taken by any other local authority under the 1976 Act or the Town Police Clauses Act 1847.
8. Where the driver is required to notify the Council, in writing, under sections 4, 5, 6 or 7, they shall provide the Council with details of:
  - The offence/behaviour complained of
  - Whether the offence occurred in a licensed vehicle and/or if they were working
  - The date of conviction/enforcement action
  - The sanction imposed
9. Where the licence holder identified or suspect that someone may be engaged in illegal terrorist related activity, the licence holder must refer such person or activity to the police.
10. Where the licence holder amends or changes their insurance policy for the vehicle they are driving then they must produce their amended/new insurance certificate to the Licensing Service within 7 days.
11. Where the licence holder changes the operator they work for they must notify the Council in writing within 7 days of that change with details of which operator they work for.

### **Child Sexual Exploitation & Safeguarding Training**

12. Licence holders must report any concerns they have to the relevant bodies as outlined in Appendix A.

### **Drivers' Badge/Licence**

13. **Wearing/displaying of badges** – The driver must wear the badge issued by the Council to them so that it is clearly and distinctly visible whenever he/she is acting as a hackney carriage or private hire driver.

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14. **Licences given to Operator** – The driver must provide a copy of the driver licence issued to them by the Council to their operator when they have made themselves available for private hire work for that operator. They must also give them a copy of their DVLA driver's licence.
15. **Return of badge/licence** – In the event of expiry of the licence or where the driver ceases to operate as a licensed private hire driver he/she must immediately return his/her badge and licence plates to the Council and otherwise upon any request by an Authorised Officer of the Council.

### Conduct

16. **Punctuality** – The driver shall attend punctually when hired and shall provide reasonable assistance with the loading and unloading of luggage.
17. **Appearance** – The driver shall wear respectable and appropriate clothing at all times and appropriate footwear for driving.
18. **Language** – The driver must be capable of understanding instructions in the English language from customers and being understood in the English language by anyone hiring the vehicle.
19. **Route** – The driver must, unless otherwise requested by the hirer proceed to the destination by the shortest route in time or distance.
20. **Receipts** – The driver must, if requested, provide the hirer with a full written receipt for the fare paid.
21. **Number of passengers** – The driver must not allow the vehicle to be used for more than the number of passengers the vehicle is licensed to carry.
22. **Other passengers** – The driver must not, without the express consent of the hirer, allow another person to be carried in the vehicle.
23. **Front seat** – The Driver must not convey more persons in the front of the vehicle than the vehicle is designed to carry and must not convey any child below the age of fourteen years in a front seat. All lone passengers should be encouraged to sit in the rear to the vehicle.
24. **Music/Radio** – The driver must comply with any request by the hirer to turn down or turn off any radio, music or other sounds in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle. The driver must obtain the relevant licence to play music in their vehicle when passengers are present (e.g. PRS licence).

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25. **Behaviour** – The driver must behave in a civil and orderly manner. The driver must not use any offensive, abusive, profane or insulting language or behaviour. At all times the behaviour of the driver should be professional. The driver must take all reasonable precautions to ensure the health and safety of persons conveyed in or entering or alighting from the vehicle they are in charge of driving.
26. **Assistance** – The driver must offer reasonable assistance to customers with belongings upon request. This includes assistance with carrying shopping and luggage and lifting it into and out of the vehicle.
27. **Check for lost property** – The driver must at the end of each hiring search the vehicle for any lost property, which may have been left. Any property found must be handed to the owner, the nearest police station or the base operator.
28. **Offer to hire vehicle** – The driver must not, whilst driving or in charge of a private hire vehicle, accept an offer for the hire of any private hire vehicle whilst the holder of that vehicle is on the road or other public place except where such an offer is first communicated to the driver by telephone, radio or other communication method by a licensed operator or their booking office staff.
29. **Agreed fare** – Where the fee is agreed in advance, the driver shall ensure that no more than the agreed fare is paid.
30. **Smoking/Vaping** – The driver must not smoke in any form, including using e-cigarettes and vaping, at any time they are in a licensed vehicle. This includes when driving the vehicle for private use and when working but not carrying passengers.
31. **Data Protection** – The driver must not use any personal data received during the course of their duty for any other purpose than that it was originally intended.
32. **Rest periods** – The driver must ensure that they are properly rested between shifts, and do not work excessive number of hours in accordance with the existing GB Domestic Drivers Hours Rules for Passenger-carrying Vehicles. [www.gov.uk/drivers-hours/gb-domestic-rules](http://www.gov.uk/drivers-hours/gb-domestic-rules)

### Medicals

33. **Medical report** – Group II shows that the applicant meets the required medical standard. The intervals for medical assessments are set out within the driver conditions.
34. **Medical reports where required by the Council** – Any driver must at their own cost, where required to by the Council, undergo a medical assessment with their own General Practitioner or other medical provider authorised by Cheshire East Council. Such medical assessment must be completed using the standard form

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supplied by the Council. The Council will only exercise this power where such a medical is required to assist in the determination of whether a driver is fit and proper, for example where the driver has been seriously ill or an assessment has been recommended by a medical practitioner.

### **Maintenance check**

35. The driver must, before the start of any shift, carry out a basis safety check to make sure that the vehicle is in a roadworthy condition e.g. checking lights, oil and water levels, condition of tyres, looking for obvious defects on the vehicles. Details of the checks must be recorded in writing, retained for at least 12 months and available for authorised officers of the Council and Police Constables within 72 hours of any request. Any issues with the vehicle must be reported immediately to the operator/proprietor as relevant.

### **Animals**

36. The driver must not convey in the vehicle any animal except one belonging to a passenger.
37. The driver may carry any animal belonging to a passenger at his/her own discretion and it is the responsibility of the driver to ensure that the animal is suitably restrained in order it will not cause a distraction, or cause injury to the passenger or themselves if there is a need to stop quickly. N.B. if the animal is being carried in the front of the vehicle, it must be carried in the footwell as the vehicle has an airbag fitted.
38. Paragraph 37 does not in any way remove or reduce the duty placed on the driver of the vehicle to carry assistance dogs in the passenger compartment with the dogs' owner under the Equality Act 2010 without charge unless the driver has a valid exempt certificate issued by this authority under that Act (section 168 and 169 apply to hackney carriage drivers; section 170 and 171 apply to private hire drivers). When plying for hire or attending a booked fare and the passenger has an assistance dog with them, the driver must stop to carry them. Failure to do so will be treated as an illegal refusal.

### **Other requirements**

39. Licence holders must comply with all other relevant statutory requirement. The most common statutory requirements are sent out in the Councils guidance and policy statement (including conditions attached to licences) accompanying this Code.
40. Licence holders must comply with any reasonable request from an authorised officer of another local authority.

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**The licence holder must comply with this code of conduct at all times. Failure to comply may lead to enforcement action being taken against your licence.**

**I acknowledge receipt of this code of conduct.**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Printed:** \_\_\_\_\_

**CRIMINAL CONVICTIONS POLICY****1. Introduction**

- 1.1 The principal legislation covering hackney carriage and private hire licensing is the Town Police Clauses Act 1847 ('the 1847 Act') and the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act'). In addition to the legislation, the Council is entitled to create a policy.
- 1.2 This policy provides an overview of the criteria which the Council (acting through the licensing committee, sub committees and officers) will take into account when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a joint Hackney Carriage and Private Hire Driver's Licence, a Private Hire Operators Licence or a Hackney Carriage or Private Hire Vehicle (Proprietors) Licence.
- 1.3 In determining any matter, the overriding consideration that the Council will take into account is the safety of the public. The circumstances and situation of the applicant/licensee, and any financial hardship that may result as a consequence of an application being refused or a licence being suspended or revoked is not a matter that can or will be taken into consideration<sup>1</sup>. Public protection is paramount.
- 1.4 The criteria for each licence is different: a driver or an operator must be a fit and proper person<sup>2</sup>; in relation to a proprietor the council has an absolute discretion as to whether or not to grant a licence and can therefore consider the suitability of the applicant.
- 1.5 The term 'fit and proper' means 'safe and suitable'. The driver or operator must be a person who is safe and suitable to be placed in the position of trust that either role encompasses.
- 1.6 Hackney carriage and private hire drivers should be people with good driving skills and high standards of personal integrity. They are completely responsible for their passengers when they are driving the vehicle, and must maintain a professional, competent and honest approach in every aspect of their lives (whether driving a licensed vehicle or not). In relation to a driver, the High Court has stated<sup>3</sup> that the purpose of the legislation (and therefore the test of fitness and propriety) is:

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<sup>1</sup> See *Leeds City Council v Hussain* [2003] R.T.R. 13 and *Cherwell DC v Anwar* [2012] R.T.R. 15

<sup>2</sup> See the 1976 Act s51 in relation to private hire drivers, s59 in relation to hackney carriage drivers; s55 in relation to private hire operators; s48 in relation to private hire vehicles and the 1847 Act s37 in relation to hackney carriage vehicles

<sup>3</sup> Lord Chief Justice Bingham in *McCool v Rushcliffe Borough Council* [1998] 3 All ER 889

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“to ensure so far as possible that those licensed to drive private hire vehicles [or hackney carriages] are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers.”

- 1.7 The test that this Council uses is based on that but is expressed in slightly simpler terms:

“Would you (as a member of the licensing committee or other person charged with the ability to grant a joint hackney carriage and private hire driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

- 1.8 Private hire operators do not have the same degree of direct responsibility for passengers as a driver does, but they are in possession of significant amounts of information relating to the whereabouts and movement of people. They must also be people with high standards of personal integrity and the test of safety and suitability for an operator used by this council is as follows:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a private hire operators licence) be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?’

- 1.9 As stated above, there is no specific test for vehicle proprietors, but as hackney carriages and private hire vehicles travel throughout the country at all times of the day night, and are ideal vehicles for moving any form of contraband without attracting suspicion, it is important that proprietors are also persons with high standards of integrity. The test this council applies in relation to proprietors is as follows:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage or private hire proprietors licence) be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes?’

- 1.10 Whilst criminal convictions will play a significant part in the Council’s determination on whether an individual is fit and proper or not, the Council will

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also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and other police information etc.

- 1.11 If the answer to the question relating to the particular licence is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether a licence should be granted to that person.
- 1.12 This policy will be immediately applied to all current licences, in addition to being considered at the time of renewal and grant of a licence.
- 1.13 It is the responsibility of Cheshire East Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the 1847 Act and the 1976 Act. In exercising this duty the Council will consider the need to ensure the safety of the public as its primary consideration. Licences will not be issued unless the person is considered to be fit and proper.
- 1.14 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
  - That a person is a safe and suitable person
  - That the person does not pose any threat to the public
  - That the public are safeguarded from dishonest, violent, abusive persons, and from persons who abuse alcohol and drugs
  - The safety of children, young persons, vulnerable adults and society generally
- 1.15 In order to assess the suitability of an applicant (and to inform decision makers when answering the questions above), the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the council will consider all relevant factors including, but not limited to:
  - Criminality
  - Period of holding a licence (if an existing or previous licensee)
  - Number of endorsed driving licence penalty points
  - Right to work
  - Medical fitness
  - Standard of driving/driving ability
  - The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
  - The previous licensing history of existing/former licence holders
- 1.16 In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies.

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- 1.17 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for a driver's licence, an operator licence or a vehicle licence
  - Existing licensees whose licences are being reviewed
  - Licensing officers
  - Members of the licensing committee/sub-committee
  - Magistrates and Judges hearing appeals against local authority decisions
- 1.18 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the committee may depart from the guidelines. Where the committee do depart from policy, the reasons for doing so must be clearly explained in their decision notice.
- 1.19 In this policy the words 'conviction' and 'offence' are to be defined as including convictions, cautions, warnings, reprimands, fixed penalty notices (whether for criminal or civil matters) and other relevant information. As a caution or fixed penalty can only be imposed if the person admits their guilt (or accepts their guilt in the case of a fixed penalty), these will be regarded as convictions for that particular offence.
- 1.20 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the Court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years' imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a Court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 1.21 In this policy the word applicant refers to either new applicants, existing licence holder who are seeking renewal and existing licensees that are the subject of periodic auditing or having their licence reviewed by the Council as part of the policy implementation process. It also includes existing licence holders whose licences are being considered by the Council by virtue of criminal or other unacceptable activity having recently come to light.
- 1.22 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

## 2. General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- i. Remain free of conviction for an appropriate period as detailed below; and

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- ii. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.2 The standards and criteria set out below are those that would normally be applied to applications and licences. The Council may depart from this criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

### 3. Appeals

3.1 Any applicant refused a licence, or who has their licence suspended or revoked has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal<sup>4</sup>. Details of the appeal mechanism will always be provided with the decision notice.

### 4. Powers

4.1 Section 61 of the 1976 Act allows the Council to suspend, revoke or refuse to renew a driver licence if the applicant/licensee has, since the grant of the licence, been convicted of an offence involving dishonesty, indecency, violence; been convicted of an offence under or has failed to comply with the provisions of the 1847 Act or 1976 Act; or for any other reasonable cause.

4.2 A suspension or revocation of a driver licence takes effect at the end of a period of 21 days beginning with the day on which the notice is given. If it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement to this effect and an explanation why, the suspension or revocation takes effect when the notice is given to the driver (S61(2B)) of the 1976 Act.

4.2 Section 62 of the 1976 Act allows the Council to suspend, revoke or refuse to renew a private hire operator licence if the applicant/licensee: has been convicted of an offence or other non-compliance with the 1976 Act; conducted themselves as an operator in a way which makes him unfit to hold an operator's licence; any material change in the circumstances of the operator; or any other reasonable cause.

4.3 Section 60 of the 1976 Act allows the council to suspend, revoke or refuse to renew a hackney carriage or private hire vehicle (proprietors) licence if: the vehicle is unfit for use as a hackney carriage or private hire vehicle; if the driver or operator of the vehicle has committed any offence or non-compliance with the provisions of the 1847 Act or 1976 Act or any other reasonable cause.

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<sup>4</sup> The Local Government (Miscellaneous Provisions) Act 1976 covers all appeals except for a refusal to grant a hackney carriage proprietors licence where the appeal lies directly to the Crown Court, again within 21 days.

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- 4.4 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (in respect of hackney carriage and private hire drivers) and the ruling in *Adamson v Waveney District Council*<sup>5</sup>, (in respect of private hire operators and hackney carriage and private hire vehicle licence holders (proprietors)) allow the Council to take into account all convictions recorded against an applicant or a licence holder, whether spent or not. Therefore, the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.5 Under the provisions of the 1976 Act, the Council is required to ensure that an applicant for the grant or renewal of a combined Hackney Carriage and Private Hire Vehicle driver's licence, or a private hire operator licence is a 'fit and proper' person to hold such a licence. The Council will also consider the suitability of any applicant for the grant or renewal of a hackney carriage or private hire vehicle licence. If an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:
- How relevant the offence(s) are to the licence being applied for
  - The seriousness of the offence(s)
  - When the offence(s) were committed
  - The date of the conviction, warning, caution etc.
  - Circumstances of the individual concerned
  - Any sentence imposed by the court
  - The applicant's age at the time of offence/incident leading to the conviction, warning, caution etc.
  - Whether they form part of a pattern of offending
  - Any other character check considered reasonable (e.g. personal references)
  - Any other factors that might be relevant, for example:
    - The previous conduct of an existing or former licence holder,
    - Whether the applicant has intentionally misled the council or lied as part of the application process,
    - Information provided by other agencies/council departments.
- 4.6 Any orders or other matters (e.g. Binding over Order, Anti-Social Behaviour Order, Banning Order, Restraining Order, Civil Injunction, Community Protection Notices or anything similar) will also be taken into account and must be declared by an applicant. A licence will not be granted whilst such a matter remains in force and within 1 year of the order or notice ending.
- 4.7 Existing licence holders are required to notify the Council in writing **within seven days** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council **within three working days** of their

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<sup>5</sup> [1997] 2 All ER 898

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arrest for any matter (whether subsequently charged or not) and any driving offences where it takes the DVLA licence holder to more than 9 points on their licence. To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent application or any decision about the person's licence.

- 4.8 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Licensing Team for advice.
- 4.9 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to supply an enhanced/banned list disclosure from the Disclosure and Barring Service (DBS) obtained at their expense, this includes any fees payable to the DBS. Applicants must maintain subscription to the DBS Update Service and the Authority is to have access to it for the duration of the licence.
- 4.10 Applicants for private hire operators licences are required to obtain a Basic DBS Disclosure at their own expense.
- 4.11 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Licensing Authorities, and information disclosed by the Police under the Common Law Police Disclosure Scheme or other similar arrangements (including specific data sharing agreements). Examples of such information sources that may be used include social care information, benefits payments etc.
- 4.12 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence<sup>6</sup>. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 4.13 Any offences or behaviour not covered by this Policy will not prevent the Council from taking into account those offences or behaviours.
- 4.14 In the interest of public safety, the Licensing Authority will not issue a licence to any individual that appears on either the Children or Adult Banned Lists. Should the Licensing Authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a banned list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.

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<sup>6</sup> See s57 of the 1976 Act.

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### **5 Applicants with periods of residency outside the UK**

- 5.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the Council will expect to see evidence of a criminal record check from the country/countries visited covering the period.
- 5.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the Council will require a certificate of good conduct authenticated by the relevant embassy.
- 5.3 There are a number of countries that cannot provide this type of information. Where this is the case the Council will need to consider whether or not the absence of information confirming an applicant has not committed any offences gives them cause to doubt if the applicant is a fit and proper person. This will depend on the specific circumstances of the applicant, how old they were during this period, and how long ago this period outside of the UK was.

### **6 Outstanding Charges or Summonses**

- 6.1 If the individual is the subject of an outstanding charge or summons their application may be suspended until the matter is resolved, this decision will be made on a case by case basis.

### **7 Non-conviction information**

- 7.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of the information, including where applicable both the witness/complainant and the licence holder will be taken into account.
- 7.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration will be given to refusing the application. Such offences would include violent and/or sexual offences.
- 7.3 In assessing the action to take, the safety of the travelling public will be the paramount concern.

## 8 Options when determining an application/licence

8.1 When determining an application or reviewing an existing licence the Council have the following options:

- approve the application or take no further action
- refuse the application, revoke the licence or suspend the licence
- issue a warning which may include the use of enforcement penalty points (where such a system is used)

9.1 The following guidelines generally relate to single offences. Wherever there are convictions from more than one offence (whether the offence is the same as previous offences or different) the Council will look at the applicant/licence holder's entire history. The Council is particularly concerned about repeat offending and patterns of offending and in those circumstances the timescales containing these guidelines will be modified accordingly, and in many cases the application will be refused/ or have their licence revoked.

### 9.2 **Considerations to be taken into account when considering an application for or action against a joint hackney carriage and private hire driver licence.**

9.3 **Licensed drivers are in positions of trust and are responsible for the safety of their passengers and other road users. They will often encounter vulnerable people, and people in various states of inebriation, distress, confusion and other emotional states. The public must have confidence in the persons that hold joint hackney carriage and private hire driver licences.**

## 10 Serious offences involving violence

10.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will be refused if the applicant has a conviction for a violent offence that involved the loss of life.

10.2 An application will be refused where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.3 Consideration may only be given to the granting/issuing of a licence if at least 10 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

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- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault on a Police Officer, prison officer, doctor, nurse or any other public official
- Violent disorder
- Resisting arrest
- Any racially aggravated offence against a person or property
- Common assault
- Affray
- Any offence that may be categorised as domestic violence
- Any Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.4 Consideration will only be given to the granting/issuing of a licence if at least 5 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

10.5 A licence will not be granted if an applicant has more than one conviction for an offence of a violent nature.

### **11 Possession of a weapon**

11.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

11.2 Depending on the circumstances of the offence, at least 5 years must have passed since the completion of the sentence, before a licence will be granted.

11.3 A licence will not be granted if an applicant has more than one conviction for an offence of possession of a weapon

### **12 Sexual and indecency offences**

12.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders

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with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will be refused a licence. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and/or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene/indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above

12.2 In addition to the above the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other similar register. A period of 10 years must have elapsed since they person's name was removed from the Sex Offenders Register before licence will be granted.

12.3 A licence will not be granted if an applicant has more than one conviction for an offence of a sexual or indecent nature.

### **13 Dishonesty**

13.1 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

13.2 In general, a minimum period of 5 years free of conviction or at least 5 years have passed since the completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception

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- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

The above list is not exhaustive.

- 13.3 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.
- 13.4 A licence will not be granted if an applicant has more than one conviction for an offence of a dishonest nature.
- 13.5 Failure to declare/omit or misrepresent any of the facts or details requested by the Council, will cause the Council to question if the application can be regarded as fit and proper. An applicant's failure to read and/or understand any questions or requests will not be accepted as mitigation.
- 13.6 Applicants who do provide false information or omit information are liable to prosecuted.

#### **14 Alcohol and Drugs**

- 14.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully.
- 14.2 As licence holders are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 5 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be granted. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be granted.
- 14.3 Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply/cultivation/manufacture of illegal or controlled drugs.
- 14.4 A licence will not be granted where the applicant has a conviction for offences related to the possession of illegal/controlled drugs until at least 10 years have passed since the completion of any sentence and/or licence period, and only

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then after full consideration of the nature of the offence and the quantity/type of drugs involved.

- 14.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.

### **15 Driving offences involving the loss of life or life changing injuries**

- 15.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life or life changing injuries. A licence will not be granted if an applicant has a conviction for:

- dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above or result in the victim receiving life changing injuries.

### **16 Other traffic offences**

- 16.1 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal. However, they will be subject to consideration as part of the Points Enforcement Policy. For existing drivers who have accumulated 9 or more points on their DVLA driving licence, their driver's licence will normally be subject to review by the Council's Licensing Committee or General Licensing Sub Committee.

- 16.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a Court rather than a fixed penalty), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 3 years free of such convictions. For applicants with more than one offence this should normally be increased to five years.

- 16.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above will commence from the date of the restoration of the licence.

- 16.4 Licences will not be granted or will be revoked where an applicant/licence holder has 12 or more on their DVLA licence, because this clearly

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demonstrates a disregard for motoring law and the safety of other road users. The fact that the Magistrates allowed the person to retain a licence because of hardship is not a relevant factor for hackney carriage and private hire licensing<sup>7</sup>.

- 16.5 At least three years free of further conviction should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire driver licence.

### **17 Rude or aggressive Behaviour**

- 17.1 In less serious cases a written warning in relation to future conduct may be given and/or penalty points awarded. However, if the nature or level of aggression leads the Licensing Authority to be concerned about public safety, this may result in the refusal to renew, suspension, or revocation of a licence.
- 17.2 Where action is taken against a licence in such circumstances, a period of at least one year must have elapsed from the date of the action being taken before a licence will be granted.

### **18 Smoking in Vehicle**

- 18.1 A serious view will be taken where an applicant/licence holder is convicted of, or received a fixed penalty for, smoking in a vehicle or permitting smoking in a vehicle as this demonstrates a clear disregard for the law and public safety. In any such case a driver's licence will be suspended for at least three months and in the case of repeated offences the licence will be revoked.
- 18.2 Where action is taken against a licence in such circumstances, a period of at least one year must have elapsed from the date of the action being taken before a licence will be granted.

### **19 Licensing Offences**

- 19.1 Offences under taxi legislation such as (but not limited to) plying for hire, overcharging and refusing to carry disabled persons or assistance dogs will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.
- 19.2 Offences relating to other licensing contraventions (not taxi or private hire but including for example licensing act, street trading, PSV in heavy goods licensing etc) will be considered as part of the overall determination of the suitability of the applicant/licence holder.

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<sup>7</sup> See *Leeds City Council v Hussain* [2003] R.T.R. 13 and *Cherwell DC v Anwar* [2012] R.T.R. 15

## 20 Insurance Offences

- 20.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided s/he has been free of conviction for 3 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 20.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his Operator's Licence revoked and will not be permitted to hold a licence for a period of at least three years.

**21.1 Considerations to be taken into account when considering an application for, or action against a private hire operator licence. Licensed operators hold sensitive and confidential information about their clients and have to manage their staff. They are in a position of trust and have control over the drivers working for them. The public must have confidence in the persons (and partnerships and limited companies) that hold private hire operator licences. In relation to operators, these criteria apply to all partners in a partnership and to all directors and company secretaries in a limited company.**

## 22 Summary – All licences

- 22.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (the period of time depending on the crime committed, as detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Committee needs to be mindful of the need to protect the public and caution should be exercised. In such cases applicants should expect their application to be refused.
- 22.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously, some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 22.3 A suspension or revocation of a drivers, operator or proprietor licence takes effect at the end of the period of 21 days beginning with the day on which notice is given to the licence holder.

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- 22.4 In relation to drivers, if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.
- 22.5 In both cases, an appeal can be lodged at the Magistrates' Court and details of the appeal process will be contained in the decision the notice

## **CRITERIA TO BECOME A DRIVER**

1. Any person who drives a hackney carriage must hold the appropriate vehicle driver licence. Hackney Carriage driver licences are issued in accordance with Section 46 of the Town Police Clauses Act 1847.
2. Any person who drives a private hire vehicle must hold the appropriate vehicle driver licence. Private Hire driver licences are issued in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
3. The Council will issue a joint driver licence, this will permit the licence holder to drive both hackney carriage and private hire vehicles.

### **Fit and proper person**

4. The Council will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they meet all criteria to be deemed a fit and proper person.
5. In considering the fit and proper person test all applicants on initial application and renewal must:
  - Provide a current and satisfactory enhanced Disclosure and Barring Service (DBS) check which will include a check against the Adult and Child Barring Lists;
  - Undergo a medical examination to the DVLA Group 2 standard completed by your own GP or other medical provider authorised by Cheshire East Council that can confirm that you are medically fit to the DVLA Group 2 Medical Standards. All licensed drivers must undertake a medical examination every 6 years at the time of renewal and produce the report to the Council;
  - Produce a document providing their right to work in the UK in line with the Home Office requirements for taxi drivers;
  - Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
  - Complete a Statutory Declaration confirming they have read and understood the HMRC guidance on tax requirements (New applicants from 4<sup>th</sup> April 2022)
  - Provide a tax check code to the Licensing Team (Renewals from 4<sup>th</sup> April 2022)The Council may also make additional enquiries through Cheshire Police (and other relevant police forces, where appropriate), other relevant local authorities (particularly if a driver has been previously licensed by another authority) and any other appropriate organisation, agency or person

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in order to ensure the Council is in a position to make as accurate an assessment of the applicant's fitness to hold a licence as is reasonably practicable. The Council will consult the NR3 database which records details of existing drivers who have been suspended or revoked by a different Council.

6. New applicants for driver licences will need to provide:
  - The certificate proving that they have successfully completed the Level 2 BTEC/NVQ (or equivalent) in the professional role of a Taxi/Private Hire Driver;
  - The certificate proving that they have attended a satisfactory Safeguarding Training course within the last 3 months;
  - The certificate proving that they have successfully completed the Council's in-house knowledge test.
7. With specific reference to existing licence holders, where there is any cause for a licence to be reviewed, the Council may require the licence holder to complete a further enhanced DBS check, the cost of which would lie with the licence holder. Where a licence holder refuses, this will be taken into consideration in determining their continuing fitness to hold a licence. Drivers with convictions may have their licences reviewed in line with the Convictions Guidelines at Appendix B, and where they have fallen within the previous policy it may result in them being referred to an authorised officer or the General Licensing Sub-Committee to determine if they will be considered fit and proper. Their licence may be suspended or revoked.
8. When assessing the fitness of an applicant to hold a driver licence, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, compliance with licence conditions and willingness to co-operate with licensing officers) whilst holding a licence from the Council or any other authority. Particular attention will be given to patterns of behaviour, irrespective of the timescale over which they have occurred, both in terms of proven criminal offences and other behaviour or conduct that may indicate that the applicant could put the safety and welfare of the public at risk.
9. It must also be recognised that the Council will consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst drivers were directly engaged in hackney carriage or private hire work at the time or whether they occurred during the driver's own personal time.
10. In addition, an important element associated with the fitness to hold a licence is the appearance and behaviour of a licensed driver. Consequently, the Council requires all licensed drivers to maintain a reasonable standards of appearance and behaviour when in contact and dealing with other road users, pedestrians, customers, the general public, other licensed operator and drivers of hackney

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carriage and private hire vehicles, Council officers and elected members at all times. Applicants and licensed drivers must also co-operate with any reasonable requests made by an authorised officer of the Council or any police officer.

### **Criminal Record Disclosure**

11. Hackney carriage and private hire drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) Check and due to the nature of the occupation such drivers are deemed to be an exempt occupation under the provisions of the Rehabilitation of Offenders Act 1974 (by virtue of the amended Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975).
12. The effect of this, in relation to hackney carriage and private hire drivers, is to render the Rehabilitation of Offenders Act 1974 not applicable and therefore convictions are never regarded as 'spent'. As a result, all convictions (including cautions), will be taken into account when considering a person's suitability to hold a driver licence.  
  
**Applicants are required to provide details of ALL convictions and cautions, including driving endorsements and disqualification periods relating to traffic offences.**
13. Although cautions are generally considered not as serious as convictions, they require an admission of guilt before they can be issued and therefore will be treated in the same way. They are a useful indication of an applicant's character and whether they are a fit and proper person to hold or be granted a licence.
14. A criminal record does not automatically prevent or bar an applicant from holding a driver licence. However, it will be a significant factor when determining whether a licence should be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out in Appendix C. However, the principal consideration will be to ensure the safety and welfare of the public.
15. Applicants who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. Guidance can be found at – <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Such a certificate must be authenticated, translated and sealed by the Embassy or High Commission. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided.

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Proof of a right to work in the United Kingdom will also be required. For further details please see the Home Office Guidance issued to Local Authorities – <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Officer (FCO) on the Gov.UK website at <https://gov.uk/government/world>

The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London SW1A 2AH.

### **Non-Conviction Information**

16. In addition to the information regarding convictions/cautions applicants are expected to provide details of:
- All warnings, driving endorsements/disqualification periods relating to traffic offences, fixed penalties, penalty charge notices and any other similar sanctions;
  - Any charges or arrests that they were or are the subject of in connection with criminal offences, whether or not actually charged with the offence; and
  - Details of any allegations of involvement in criminal activity or where they have been questioned in connection with any alleged criminal activity or inappropriate/unacceptable behaviour or other relevant pending matter.

For existing licence holders, this information must be notified to the Council within 72 hours, in writing.

17. Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed. However, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings. Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character, then the application is likely to be refused.
18. Where there is evidence and/or information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a fit and proper person, the Council will give serious consideration to refusing an application or revoking an existing licence.

**DVLA and other relevant driving licence**

19. A person applying for a drivers licence must be a minimum of 21 years old and have held a full DVLA/EC/EEA category B driving licence for at least 12 months at the time of application. This includes European Union (EU), European Economic Area (EEA) and Northern Irish licences. These requirements apply only to applications received on or after the date of this Policy comes into force.
20. Throughout the currency of the driver licence, the driver must possess a full driving licence in accordance with the above requirements. Where a driver has received a ban from driving under their DVLA licence they must return their joint driver licence to the Council within 7 days.
21. Applicants are required to produce their original driving licence, whether it is a photocard or old style paper licence. Copies will not be accepted. A holder of a DVLA driver licence must also provide a valid code to enable the Council to carry out an online check of their driving history.
22. All applicants holding driving licences issued by countries other than the UK or those within the EU/EEA must produce a certificate to show a driving record from the country of issue. If the driving licence was not issued in the UK or EU/EEA then they must comply with the Government requirements on exchanging/applying for a DVLA licence.

**Knowledge test**

23. All new applicants are required to pass the Council's written test before the Council will grant them a driver's licence. The test must be passed before an application can be made. The test will be carried out in English.

The test comprises an exam covering the following areas:

- The highway code
- Taxi legislation
- The Council's vehicle conditions and driver Code of Conduct
- Local area knowledge
- Working out fares and giving change
- The understanding of and testing of written English

All sections must be passed at the same time and failure to answer certain questions correctly will result in automatic failure. The Council's guidance for knowledge tests is a separate document setting out the conduct of the test and the mark marks required in each section. This document should be read and understood prior to an applicant booking onto a test session. The test guidelines and pass marks can be varied at any time by an authorised officer.

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Applicants can book a test by using the online booking facility on the Council's website. Test sessions are not transferable and not refundable. The fee for the test will be set by the Licensing Committee.

If an applicant passes the test, this result will be valid for a period 12 months from the date of the pass notification email or letter. If an applicant has not made their application within 12 months of this date, they will need to resit and pass the test at their own expense.

There is no limit on the number of attempts that can be made at the test.

If any applicant has any particular needs as a result of a disability or otherwise he/she should let the Licensing Team know and suitable arrangements can be made to facilitate the test. An authorised officer can agree reasonable adjustments to the test to allow for such needs.

24. Normal examination conditions will apply during the knowledge test. Any person found to be using unfair means during the test will be excluded from the test and will be required to take a fresh test and pay the appropriate fee. This behaviour will be considered as cheating and therefore dishonest. It may also affect their fitness and propriety to be granted a licence.
25. The holder of a driver's licence may be required to satisfactorily undertake a further knowledge test or resits at the discretion/request of an authorised officer of the Council or the General Licensing Sub-Committee. This may be used where there is a concern that the driver's knowledge has fallen below the standard expected. This may be identified as a result of complaints or officer concerns.
26. Failure to submit to or pass any knowledge test will permit the Council to refuse to grant or renew a driver's licence or to revoke or suspend the licence as required. This decision can be taken by authorised officers or the Licensing Committee and its sub-committee.

### **Safeguarding and Child Sexual Exploitation Awareness**

27. The Council requires all licensed drivers to attend Safeguarding and Child Sexual Exploitation Awareness training. For new driver applications, this must be completed before a licence is issued for the first time.

Applicants for renewal of an existing driver licence must have completed the awareness training before their first licence renewal after this policy comes into force. All drivers will be expected to renew/refresh this training at intervals decided by the Council.

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The Council requires all licensed drivers to abide by the Council's Code of Conduct, a copy of which can be found at Appendix B and will be available on the Council's website.

### Medical requirements

28. The Council is permitted to satisfy itself that an applicant for a licence is mentally and physically fit and remains so during the currency of any licence. Consequently, all applicants for a joint hackney carriage and private hire driver licence are required to undertake a medical examination on initial application, at defined intervals thereafter and at any other such time as the Council require to ensure their fitness to drive.

The standards required are set out in the DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to Drive'. The standards are amended from time to time and can be found online at: <https://www.gov.uk/government/publications/at-a-glance>

The standard required is the Group 2 Entitlement

29. All new applicants must undertake the medical examination and provide a satisfactory medical certificate before a licence is issued for the first time and then every other application (alternate) until the age of 60 years. All applicants aged 60 and over must undertake a medical examination annually and produce the report to the Council. Failure to do so may result in the licence being suspended or revoked.
30. The Council may also require drivers to undertake more regular medicals if their medical condition warrants it. The medical cannot be more than 3 months old at the time the application is made. It is therefore advisable to wait until the rest of the application process is complete before making arrangements for your medical.
31. The Council will not grant or renew, any driver's licence unless the medical examination requirements are complied with and the driver can demonstrate that they are medically fit to hold a driver licence.
32. In particular, applicants must consider the medical conditions listed in the current DVLA publication 'At a Glance Guide to the Current Medical Standards of Fitness to drive', as the Council may refuse to grant an application or revoke an existing licence where an applicant is unable to meet the nationally recommended guidelines in respect of the listed medical conditions.
33. If, once licensed, the driver's medical circumstances change during the licence period, the driver must inform the Council within 7 days. The Council may require the driver to immediately undertake a further medical examination and provide an

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approved medical certificate confirming the outcome of this examination and the driver's fitness (or otherwise) to continue as a licensed driver.

34. Should an authorised officer of the Council have reason to believe that a licensed hackney carriage or private hire driver has a medical condition that renders them unfit to drive, a further medical examination will be requested. The cost of the further medical examination will be met by the licensed driver.
35. The medical must be filled out on the Council's medical application form. The medical must be carried out either by the applicant's/driver's own GP or by a medical practitioner that can gain access to that individual's full medical history. Any other medical will not be accepted.
36. With respect to current licence holders, if it is deemed necessary to do so, a licence may be revoked or suspended in the interest of protecting the public until a further medical examination(s) has/have been carried out or if the licence holder is unable to demonstrate that they are medically fit to hold a driver's licence. This decision can be taken by an authorised officer or by the Licensing Committee or its sub-committee.

### **Medical Exemptions**

37. Medical exemptions involving the carriage of disabled persons (including wheelchair users) and assistance dogs may apply to new applicants or licensed drivers who suffer from certain medical conditions. Where this is the case, the applicant/licensed driver must provide sufficient proof from their GP, or independent medical specialist, confirming that the exemption is required in order for the driver to carry out their duties. The Council reserves the right to refuse to grant a licence if sufficient medical proof is not provided and it is deemed appropriate to do so. Examples of sufficient proof include results of blood tests, skin tests and evidence of the individual's clinical history. Drivers issued with medical exemption certificates will also receive a tactile exemption card in order that visually impaired customers can confirm the validity of the exemption.

### **English speaking**

38. Applicants must be able to converse orally and in writing in English to a standard that would be reasonably expected of a person undertaking a role as a hackney carriage or private hire driver. This will be tested as part of the knowledge test and the BTEC/NVQ qualification. If an applicant cannot satisfy the authorised officers of the Council that their standard of English is suitable then the application may be referred to the General Licensing Sub-Committee or authorised officer for consideration.

**Code of Conduct**

39. All joint drivers licence holders must comply with the Code of Conduct set out at Appendix B. The Code of Conduct is in addition to any matters set out within the main body of the policy.

### **Joint Hackney Carriage and Private Hire Drivers Licence Conditions**

1. You have been issued with 2 copies of your drivers badge [and a coloured armband]. You must wear one drivers badge in the card holder provided at all times when you are driving or working with a hackney carriage or private hire vehicle and failure to do so is a criminal offence [byelaw No 13 when using a hackney carriage and s54 of the 1976 Act when using a private hire vehicle]. You must display the second copy of your badge in a position, which is plainly and clearly visible to your passengers at all times whilst you are working as a taxi driver.
2. You must return your licence and badge to the Licensing Team of the Council immediately if:
  - (a) The licence expires, is suspended or revoked
  - (b) You wish to surrender your Taxi Driver Licence
  - (c) When you are required to do so by an 'Authorised Officer of the Council'.
3. You must inform the Licensing Team of the Council in writing, within **seven days** if you change your address, and return your driving licence to the Council at the same time for alteration and re-issue.
4. In the event of the loss of your licence or badge you must report the loss to the Licensing Team of the Council immediately.

### **Deposit of Drivers' Licence**

5. You must give your taxi Driver's Licence to the operator of the Private Hire Vehicle, or proprietor of the Hackney carriage which you will be using. They will keep your licence while you are driving for them.

### **Production of Documents**

6. If an Authorised Officer of the Council asks you, you must produce:
  - (a) Your driving licence and an access code for DVLA to enable the Council to check your licence
  - (b) Your taxi Driver Licence (you must ask the operator/proprietor to return it to you for this purpose, and you must return it to them immediately afterwards – see para 5 above)
  - (c) The vehicle registration document
  - (d) The valid certificate of insurance

Within **five days** of the request being made.

**Medical Condition**

7. You must notify the Council, in writing within 7 days of any change in your medical condition that may adversely affect your ability to drive private hire or hackney carriage vehicles. This includes temporary medical conditions as well as long term or permanent medical conditions.

**Declaration of conviction/caution/penalty**

8. You must declare all convictions, cautions, fixed penalty notices, ASBOs (Anti-Social Behaviour Orders), DBOs (Drinking Banning Orders), civil injunctions, CPNs (Community Protection Notices), restraining orders or injunctions to Cheshire East Council on your initial application form.
9. If you are convicted of any offence, or accept a formal caution for an offence, or receive a fixed penalty notice for any offence or receive and accept an endorsable fixed penalty notice, or are made the subject of an ASBO or DBO, you receive a CPN, are made the subject of any form of injunction or restraining order or you are arrested for any matter, you must give the Council details, in writing and within **seven days** of the event.

**Conduct**

10. If the hirer requests, you must provide a written receipt for the fare paid for the hiring, including the amount of VAT (if applicable) shown separately if so requested. You must also provide details of the journey including the date, fare, vehicle, operator and driver. You must then sign the receipt.
11. You must not cause or allow noise emitted by any radio or sound equipment in the vehicle which you are driving to be a source of nuisance or annoyance to any person or persons, whether inside or outside the vehicle.
12. If a passenger objects, you must not play any radio or sound reproducing instrument or equipment in the vehicle.
13. You must not sound your vehicle horn –
  - Unnecessarily i.e. unless in an emergency or to let other road users or pedestrians know you are there
  - When your vehicle is stationary on a road, at any time, other than at times of danger due to another moving vehicle on or near the road
  - On any road in a built up area between 11.30pm and 7.00am.

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14. You must at all times treat passengers or any potential passenger with courtesy and respect. You must not discriminate against any person because of their race, colour, creed, age, gender or disability.
15. You must always be clean and respectable in your dress (as a **minimum standard** long legged trousers, or knee length style shorts, skirt or dress and tee shirts which have a full body and short sleeves).
16. You must behave in a civil and reasonable manner at all times and must comply with any reasonable request made by the hirer.
17. You must always assist your passengers with their luggage. This includes picking it up from the point of booking, removing it from your vehicle at the end of the journey and, if requested, setting it down at the passenger's request.
18. You must always pick up your passengers on time unless unavoidably delayed.
19. You must not demand a fare greater than previously agreed with your passenger and operator, or shown on the meter for a hackney carriage journey within the Borough.
20. Private hire vehicles and hackney carriages are smoke free vehicles at all times under sections 6, 7 and 8 of the Health Act 2006 and The Smoke-free (Exemptions and Vehicles) Regulations 2007 SI 2007/765. It is a criminal offence to smoke in a licensed vehicle at any time or to allow a person to smoke in a licensed vehicle and you can be prosecuted for either or both offences. In addition, the use of any electronic cigarette, cigar or pipe is prohibited. In any case where smoking or the use of electronic cigarette, cigar or pipe is observed being used in a hackney carriage or private hire vehicle, the Council may require the vehicle to be valeted to remove any residual smell at the expense of the driver or proprietor (as agreed between the driver and proprietor). The vehicle licence may be suspended until that valet has been completed to the satisfaction of the Council.
21. You must not eat in the vehicle at any time, or allow passengers to eat in the vehicle at any time.
22. Animals must not be carried in private hire vehicles or hackney carriages other than those belonging to or in the care of passengers. You may refuse to carry a hirer's animal at your discretion. However you must not refuse to carry an assistance dog, unless you have a valid Exemption Certificate issued by the Council. Any animal must be kept under the hirer's control, and must be carried in the rear of the vehicle. No animals can be carried in the luggage compartment of an vehicle unless the vehicle is an estate car or hatchback, the animal can be seen from outside the vehicle through a window, and the owner or carer agrees

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to such carriage. This does not apply to assistance dogs which must always be carried within the passenger compartment.

23. You must not carry any additional passengers not already accompanying the hirer in the vehicle without the hirer's permission.
24. You must not carry any child below the age of ten years in the front of the vehicle.
25. You must not carry more than one person in the front seat unless the vehicle is furnished with manufacturer fitted seats or more than one passenger in the front of the vehicle and provided with seat belts for all front seat passengers. In this case no more than 2 passengers may be carried.
26. When carrying any child passenger who is over 135 cm in height (approximately 4ft 5 inches or 12 years old) you must inform them that they must wear a seat belt.
27. For children under 135 cm in height (approximately 4 ft 5 inches or 12 years old), if the correct child restraints (i.e. child seats or harnesses) are not available you must inform their parent or guardian or some other adult responsible for their care and welfare that they can travel without wearing an adult seatbelt but this will be at the discretion of the adult mentioned.
28. You must stop the engine of the vehicle at all times when the vehicle is stationary otherwise than through the necessities of traffic.
29. It is a criminal offence to hold a use a mobile phone whilst driving. (Road Vehicles (Construction & Use) Amendment (no4) Regulations 2003, Statutory Instrument 2695)

### **Licence Plate**

30. Every time you commence driving the vehicle you must ensure that the rear identification plate, supplied by the Council, is securely fixed to the outermost rear of the vehicle, so that it can be clearly read by pedestrians and other road users. You must also ensure that all other identifying information supplied by the council is correctly and securely attached to the vehicle.
31. You must not offer or accept any hire of the vehicle except where the hiring is pre-booked with the Private Hire Operator [does not apply to Hackney carriages].

### **Lost Property**

32. After a hiring, you must ensure the vehicle is checked for any misplaced or lost property.

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33. If any property is found or handed to you, you must, unless it is claimed, take it to a Police Station within 48 hours. Following agreement with the owner of any lost property (and you must take reasonable steps to ensure the person concerned is the rightful owner) you may agree to return the property personally to the owner, and charge the metered fare to an agreed meeting point, or £10.00, whichever shall be greater.

**Taximeters in Private Hire Vehicles [taximeter use in hackney carriages is governed by the byelaws]**

34. You may use a meter in the private hire vehicle only if it is constructed, attached and maintained in compliance with the Private Hire Vehicle Conditions.
35. Unless the fare is agreed in advance, you must switch the meter on at the point the hirer's journey commences and keep the meter working until the termination of the hiring.
36. You must not cancel or conceal the fare recorded until the hirer has had a reasonable opportunity of examining it and has paid the fare (unless a lesser fare has been agreed).
37. You must ensure that the fare charged does not exceed the fare displayed on the meter at the end of the journey.
38. You must ensure that when the vehicle is not hired the key is to be locked and the machinery kept inactive and the meter shown show no fare at any time.
39. You must ensure that the meter is sufficiently illuminated when in use and is visible to passengers.
40. You must not (nor may you allow anyone else) to tamper with the meter or any seal on the meter without lawful excuse, or alter any meter with the intent to mislead.

**Plying for hire [does not apply to hackney carriages]**

41. You must not pick up any passenger who has not pre-booked with your operator.
42. You must not offer or accept any offer for the immediate hire of a vehicle while it is being used in a public place.
43. You must not park or wait on or near any Hackney Carriage Rank, or drop passengers off on a hackney carriage rank.

**LEGAL REQUIREMENTS (contained in national legislation) when driving a Hackney carriage**

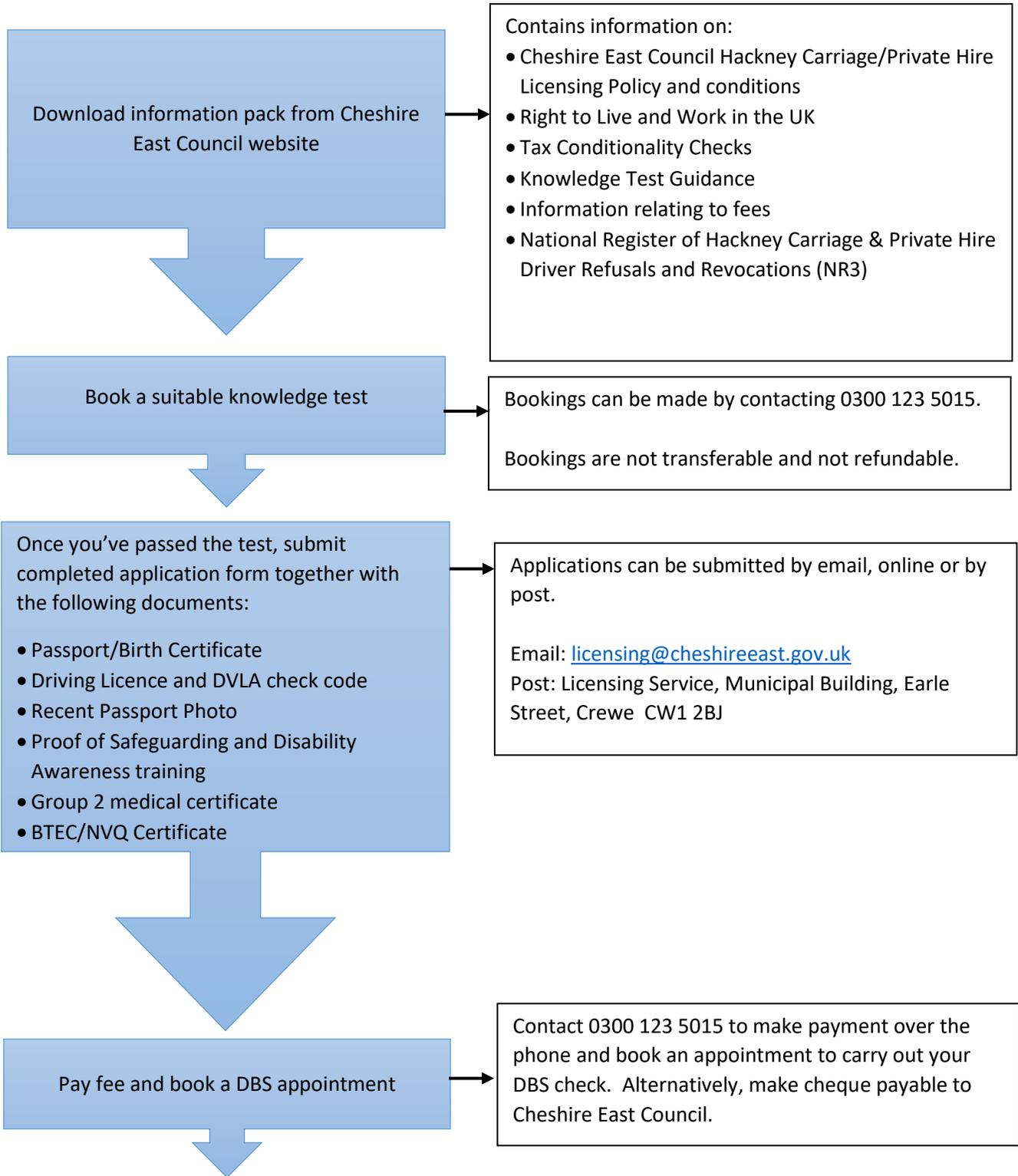
**Your Driver Licence and Badge**

See Paragraph 1 above

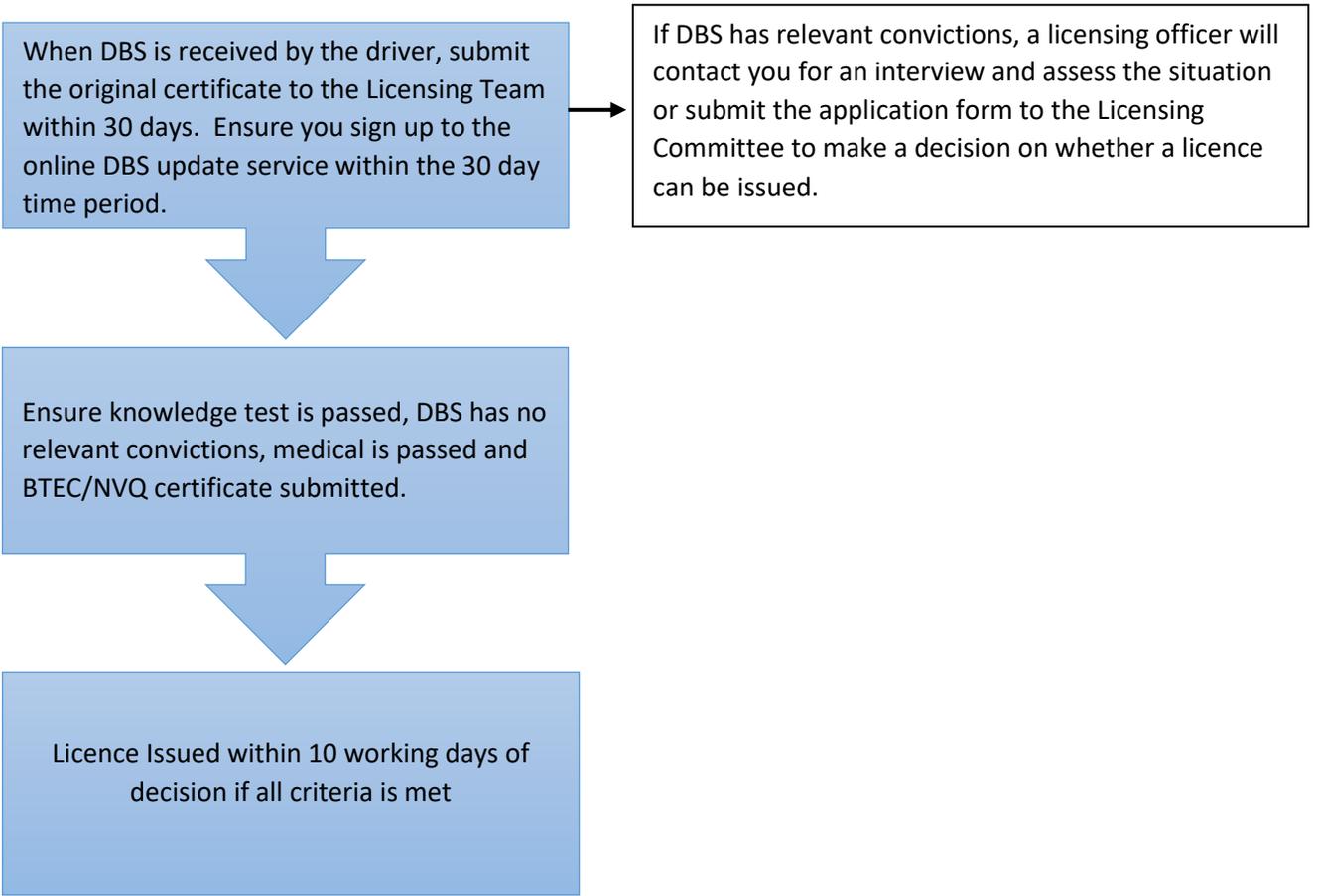
**Conduct**

2. You must take a hiring from a hackney carriage stand (taxi rank) for a journey within the hackney carriage zone i.e. the former district of Macclesfield, Congleton or Crewe & Nantwich unless you have a 'reasonable excuse' to refuse (s53 1847 Act)
3. You must not charge more than the fare shown on the meter of a Hackney carriage for a journey wholly within the zone, irrespective of how the journey was arranged (s55 1847 Act)
4. You must not charge more than the fare shown on the meter of a hackney carriage for a journey that ends outside the zone, unless a different fare was agreed in advance (s66 1976 Act)
5. You must not carry any additional passengers in a hackney carriage not already accompanying the hirer in the vehicle without the hirer's permission (s59 1847 Act).
6. You must use the shortest and/or quickest available reasonable route for all journeys by Hackney carriage i.e. route that will lead to the cheapest fare for the passenger subject to any directions given by the hirer. (Section 69 1976 Act)
7. You must produce your taxi drivers licence if requested to do so by an authorised officer of the Council or a police constable (s53(3) 1976 Act)

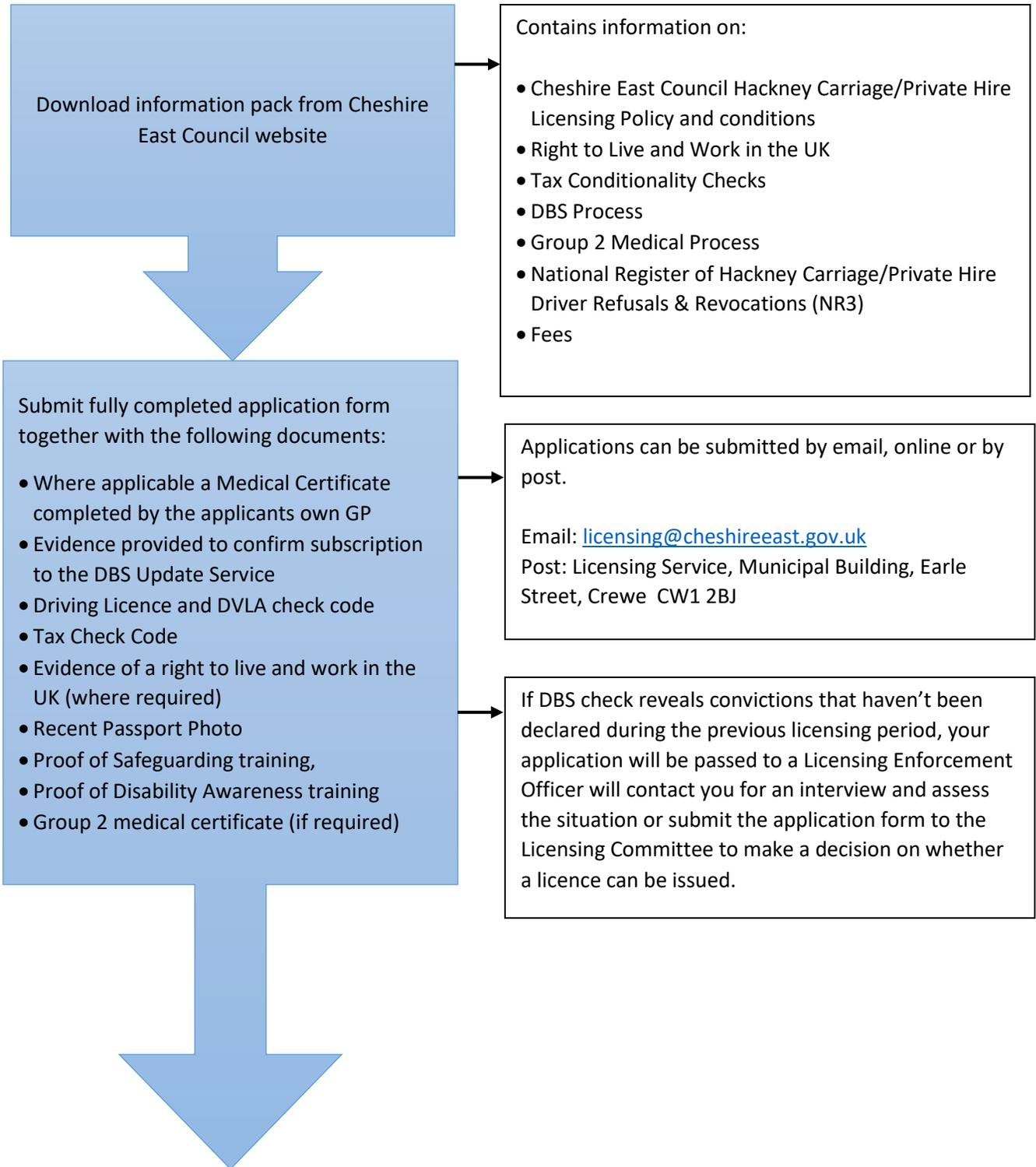
**JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS  
NEW DRIVER APPLICATION PROCESS**



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**JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS  
RENEWAL DRIVER APPLICATION PROCESS**



Licence Issued within 10 working days of decision if all criteria is met

You will not be able to continue to drive licensed vehicles if your Joint Hackney Carriage/Private Hire Drivers Licence hasn't been issued.

## HACKNEY CARRIAGE VEHICLE CONDITIONS

These conditions are attached to the licences issued by Cheshire East Borough Council under sections 47 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

**The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

The conditions attached to the licence are as follows:

### 1 Licence and Plate

- 1.1 The Proprietor must return his/her licence (and the Plate and additional signage if requested by the Council) to the Council immediately if:
  - i. The Proprietor changes home or business address
  - ii. If the licence expires, or is suspended or revoked
  - iii. If the Proprietor wishes to surrender his/her Hackney Carriage Licence
  - iv. When required to do so by an Authorised Officer of the Council.
- 1.2 The licence plates and any additional signage remain the property of the Council at all times and must be returned to the Council whenever the vehicle is not licensed as a Hackney Carriage.
- 1.3 The Proprietor must secure and display the exterior licence plates permanently to the outmost front and rear part of the vehicle using the fittings issued by the Council. The method of fixing must prevent the plate being removed without the need for tools. The plate(s) must at all times must be displayed so that it/they can be clearly and fully read by pedestrians and road users. The licence plates must not be displayed in any window of the vehicle. The use of temporary, removable or magnetic fittings is not permitted.
- 1.4 The Proprietor must display the three internal licence numbers issued by the Council inside the vehicle so that they are visible to front and rear passengers at all times. One must be affixed to the inside of each rear passenger door and one affixed to the front windscreen so it is visible to passengers in the front and rear seats
- 1.5 The Proprietor must report the theft or loss of the licence plate, internal licence numbers or Wheelchair or non-wheelchair stickers to the Police immediately and as soon as possible, and in any event within 24 hours of becoming aware

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of the theft or loss, to the Council in writing. The Proprietor must obtain a duplicate licence plate, internal licence numbers or Wheelchair or non-wheelchair stickers (as required) for which a charge will be made.

- 1.6 The Proprietor shall not wilfully or negligently cause or suffer any plate or Hackney Carriage door crests on the vehicle to be concealed from public view at any time.

### **2 Retention of Driver Licence**

- 2.1 Before the Proprietor allows anyone to drive a Hackney Carriage they must ask that person for their hackney carriage and private hire joint driver licence and keep it in their possession while that person drives the vehicle.

**Note - No person may drive a Hackney Carriage, unless they hold a hackney carriage and private hire joint Driver Licence issued by Cheshire East Council. Anyone found driving a Hackney Carriage without a hackney carriage and private hire combined Driver Licence commits an offence and may be prosecuted.**

### **3 Insurance**

- 3.1 The Proprietor must ensure that any persons who drive the Hackney Carriage are covered by a valid policy of insurance to drive that vehicle.
- 3.2 When licensing or re-licensing a vehicle, the insurance cover produced must cover the vehicle for public hire (i.e. hackney carriage use) which will include pre-booked work, and must include the names of the persons who will be driving for Public hire/hackney carriage purposes.

### **4 Production of Documents**

- 4.1 Before or on the date of expiry of any certificate the proprietor is required to have in relation to the hackney carriage vehicle licence, each existing certificate shall be produced together with the relevant renewal certificate to a specified Officer of the Council.
- 4.2 If an Authorised Officer of the Council or a police constable asks, the proprietor must produce:
  - The hackney carriage vehicle licence
  - The hackney carriage and private hire combined Driver Licence of any person authorised to drive the Hackney Carriage
  - The vehicle registration document for the hackney carriage
  - A valid certificate of insurance for the hackney carriage

within **five days** of the request being made.

### **5 Employment and Use of Drivers**

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5.1 Before the Proprietor allows any licensed person to drive the Hackney Carriage s/he must ensure that the person who drives the licensed vehicle understands and observes the law, byelaws and Code of Conduct that regulate their conduct and the conditions attached to the vehicle licence.

5.2 If a driver leaves the Proprietor's employment (in the case of an employed driver) or the Proprietor no longer permits them to drive the hackney carriage under any lawful arrangement (in the case of any self-employed driver) the Proprietor must notify the Licensing Section in writing, within 48 hours.

### **6 Vehicle inspection**

6.1 The Proprietor must allow an Authorised Officer of the Council, or Police Officer, to inspect the vehicle at any reasonable time.

6.2 The Proprietor must ensure the vehicle is presented for test in accordance with instructions from the Council

### **7 Specification for a Hackney Carriage**

7.1 No change in the specification, design, condition or appearance, or modification, conversion or alteration of the vehicle may be made at any time unless prior written approval has been given by the Council.

7.2 If the vehicle is involved in an accident or its safety or appearance is affected or may be considered to be affected for any reason, the Proprietor must inform the Council immediately and then provide written details within three days. If the Proprietor is in any doubt as to whether the vehicle is affected he/she must advise the Council.

### **8 Use of the vehicle**

8.1 The vehicle must fully comply with all relevant Road Traffic legislation and in addition must comply with all the requirements of the Councils policy as detailed in section 3.3above, together with the following requirements:

- i. Luggage must be properly secured inside a vehicle that does not have a separate and self-contained boot
- ii. The vehicle and all fixtures and fittings must be maintained in a clean, comfortable, safe, and mechanically sound condition internally and externally and be in every way suitable for public service
- iii. Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments

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- iv. The floor covering must be in good repair with no holes or tears.
- v. The internal light (to enable passengers to enter and leave the vehicle safely) must be functioning correctly at all times.
- vi. The vehicle's bodywork and paintwork must be maintained to an acceptable standard free of dents or rust.
- vii. The vehicle must carry a spare wheel to fit the vehicle, and the wheel must be securely stored. There must also be carried equipment to change the wheel including a spare wheel and tyre, jack and wheel brace unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. repair kit) will be acceptable.
- viii. The nearside and offside exterior rear view mirrors must be in a serviceable condition
- ix. All seats belts must be working correctly. The use of folding seats in non-purpose built hackney carriages is not permitted.
- x. The side windows must be able to be opened and closed
- xi. In any convertible vehicle the driver must raise roof and side windows at the request of any passenger.
- xii. The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Councils vehicle test. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass
- xiii. The vehicle's power output must not be less than the power output when the vehicle passed the Councils vehicle test
- xiv. At all times the vehicle must carry a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the licence number painted on it. The fire extinguisher must be properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency
- xv. At all times the vehicle must carry a first aid kit in a suitable container, with the licence number painted on it
- xvi. The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council

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- xvii. The use of roof racks, will be permitted. Any vehicle using a roof rack must be fitted with and display a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative, subject to the signage requirements above.

### **9 Additional Conditions for wheelchair accessible Hackney Carriages**

- 9.1 The vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.
- 9.2 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement
- 9.3 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.
- 9.4 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

### **10 Sliding doors**

- 10.1 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

### **11 Lost property**

- 11.1 Any lost property found in the vehicle must be safely stored by the vehicle licensee for 3 months, and reasonable steps must be taken to identify and contact the owner where there is some form of identification on the property. After that time the vehicle licensee may take whatever action he/she feels appropriate in relation to the property.

### **12 The meter / table of fares**

- 12.1 The vehicle must, at all times, be fitted the meter which was fitted when the vehicle was tested by the Council.
- 12.2 The meter must only be brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey. In a wheelchair accessible vehicle, the meter must not be started until any wheelchair seated passenger has been securely seated and restrained within

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the vehicle, the ramps or lift have been properly stowed and secured, and the driver is in a position to start moving the vehicle. At the end of the journey, the meter must be stopped when the vehicle stops moving, and before the passenger is unloaded.

- 12.3 If the meter fails or does not comply with the conditions, the vehicle cannot be used as a hackney carriage.

### **13 Change of engine**

- 13.1 In addition to informing the DVLA of the change of engine, the Proprietor must inform the Council, in writing, within 48 hours of the change including full details of the replacement engine including the chassis number and the source of the replacement unit. Any replacement engine must be of the emission standard as the engine it is replacing.

### **14 Signage and Advertisements**

- 14.1 No signs apart from the vehicle plate and permissible signs allowed under the hackney carriage vehicle policy can be displayed on or from the vehicle unless it is required by law, or has been agreed by the Council in writing.

### **15 Cleanliness**

- 15.1 The proprietor must ensure that the Hackney Carriage is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

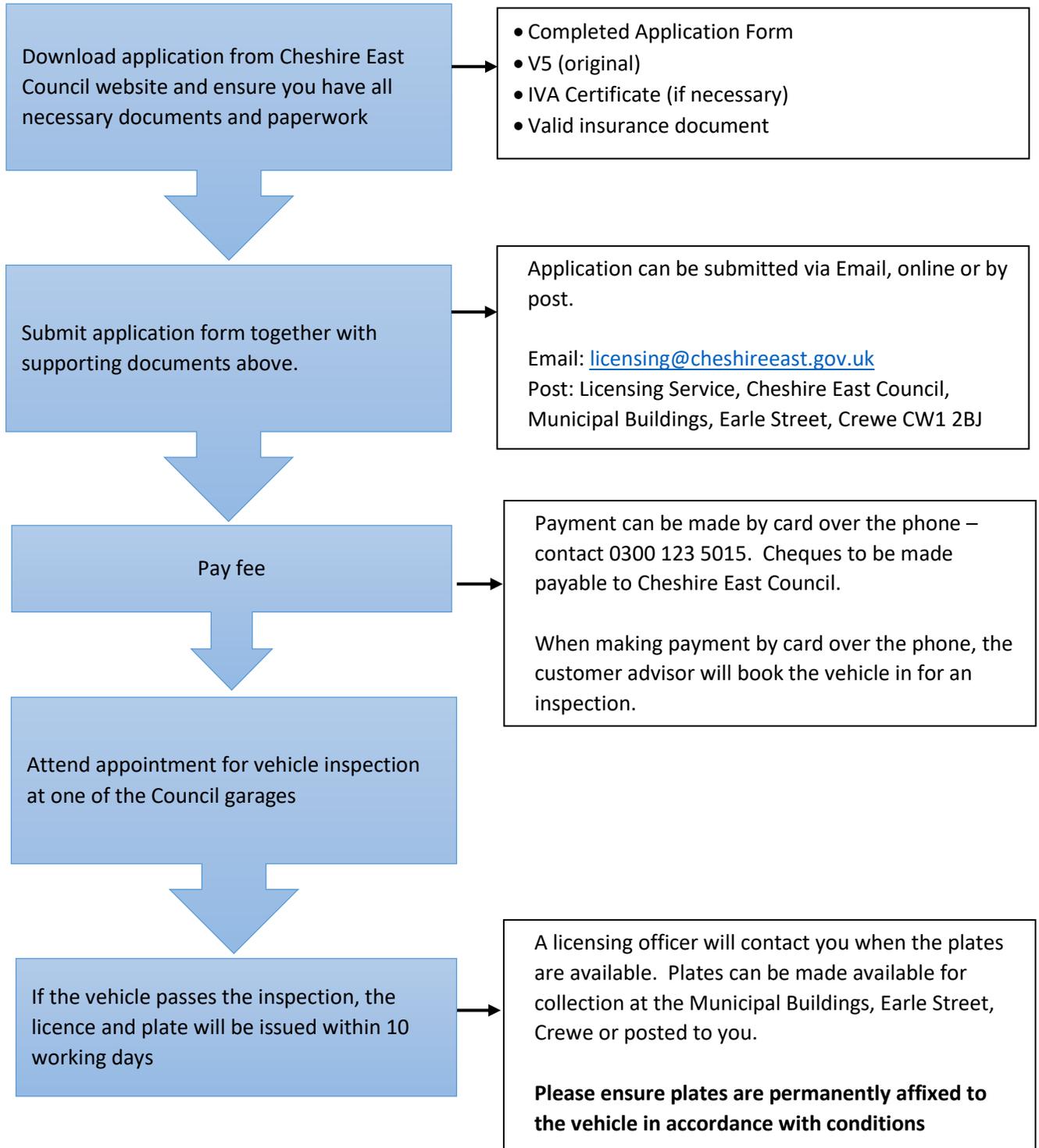
## **PLYING FOR HIRE**

1. Only licensed hackney carriages are permitted to ply for hire and only in the administrative area of the Borough Council with which they are licensed. It is illegal for a private hire vehicle to ply for hire. This means:
  - a) Private hire vehicles **MUST NOT** carry passengers if the journey has not been pre-booked with a private hire operator by the passenger.
  - b) All private hire vehicle journeys **MUST** be pre-booked through a licensed private hire operator.
  - c) All bookings **MUST** be made by prospective passengers with a private hire operator who will despatch the vehicle. Prospective passengers may instruct a third party, e.g. a restaurant manager or bus station marshal, to make a booking on their behalf but this third party **MUST NOT** be the private hire vehicle driver.
  - d) A driver of a private hire vehicle is **NOT** permitted to make the booking on behalf of a prospective passenger, e.g. via their radio or mobile telephone or other device.
  - e) Private hire operators **MUST NOT** accept any booking made by a driver on behalf of a passenger.
  - f) Private hire vehicle drivers are **NOT** permitted to make their vehicles available for immediate hire. This means that private hire vehicles **MUST NOT** physically position their vehicles in such a way as to be waiting in any area that is on view to the public to invite custom e.g. allowing prospective customers to approach the vehicle and ask 'Are you free?'
  - g) In most cases, the vehicle will not be insured during a journey that has not been correctly pre-booked.
  - h) Private hire vehicles **MUST NOT** wait at any taxi rank/stand.
  - i) Private hire vehicles **MUST NOT** be hailed in the street.
2. Other circumstances may constitute unlawful 'plying for hire' accordingly each case of allegedly unlawful 'plying for hire' will be judged on its own facts. Nevertheless, attention is drawn to the council's position as set out above.

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3. Further information about the relevant legislation is available in the Town Police Clauses Act 1847, in particular Section 45, and in Part II of the Local Government (Miscellaneous Provisions) Act 1976, in particular Section 64.

**HACKNEY CARRIAGE VEHICLE LICENCE  
NEW/RENEWAL VEHICLE APPLICATION PROCESS**



## PRIVATE HIRE VEHICLE CONDITIONS

These conditions are attached to the licences issued by Cheshire East Borough Council under sections 48 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

**The licence holder (the owner of the vehicle) must meet all the conditions of this licence. Breach of these conditions may lead to the immediate suspension of the vehicle and consideration of revocation of the licence or prosecution.**

The conditions attached to the licence are as follows:

### 1. Licence and Plate

- 1.1 The Proprietor must return his/her licence (and the Plates if requested by the Council) to the Council immediately if:
  - i. The Proprietor changes home or business address
  - ii. If the licence expires, or is suspended or revoked
  - iii. If the Proprietor wishes to surrender his/her private hire vehicle Licence
  - iv. When required to do so by an Authorised Officer of the Council.
- 1.2 The licence plates and any additional signage remain the property of the Council at all times and must be returned to the Council whenever the vehicle is not licensed as a private hire vehicle.
- 1.3 The Proprietor must secure and display the exterior licence plate(s) permanently to the outmost rear part of the vehicle. The method of fixing must prevent the plate being removed without the need for tools. The plate must at all times must be displayed so that it can be clearly read by pedestrians and road users. The licence plate must not be displayed in any window of the vehicle. The use of temporary, removable or magnetic fittings is not permitted.
- 1.4 The Proprietor must display the three internal licence numbers issued by the Council inside the vehicle so that they are visible to passengers at all times. These plates should be displayed in the front of the vehicle and on each side of the vehicle.
- 1.5 The proprietor must permanently affix the additional signage to the sides of the vehicle and ensure that it remains in place and unobstructed at all times.
- 1.6 The Proprietor must report the theft or loss of the licence plate or internal licence numbers to the Police immediately and as soon as possible, and in any

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event within 24 hours of becoming aware of the theft or loss, to the Council in writing. The Proprietor must obtain a duplicate licence plate and/or internal licence numbers (as required) for which a charge will be made.

- 1.7 The Proprietor shall not wilfully or negligently cause or suffer any plate on the vehicle to be concealed from public view at any time.

### 2 Retention of Driver Licence

- 2.1 Before the Proprietor allows anyone to drive a private hire vehicle they must ask that person for his/her hackney carriage and private hire combined Driver Licence and keep it in their possession while that person drives your vehicle.

**2.2 Note - No person may drive a private hire vehicle, unless they hold a hackney carriage and private hire combined Driver Licence issued by Cheshire East Council. Anyone found driving a Hackney Carriage without a hackney carriage and private hire combined Driver Licence commits an offence and may be prosecuted.**

### 2.3 Insurance

- 2.3.1 The Proprietor must ensure that any persons who drive the private hire vehicle are covered by a valid policy of insurance to drive that vehicle.
- 2.3.2 When licensing or re-licensing a vehicle, the insurance cover produced must cover the vehicle for private hire use and must include the names of the persons who will be driving for private hire purposes.

### 2.4 Production of Documents

- 2.4.1 Before or on the date of expiry of any certificate the Proprietor is required to have in relation to the private hire vehicle licence, each existing certificate shall be produced together with the relevant renewal certificate to a specified Officer of the Council.
- 2.4.2 If an Authorised Officer of the Council or a police constable asks, The Proprietor must produce:
  - i. The private hire vehicle licence
  - ii. The hackney carriage and private hire combined Driver Licence of any person authorised to drive the Hackney Carriage
  - iii. The vehicle registration document for the private hire vehicle
  - iv. A valid certificate of insurance for the private hire vehicle

within **five days** of the request being made.

### 2.5 Employment and Use of Drivers

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2.5.1 Before the Proprietor allows any licensed person to drive the private hire vehicle he/she must ensure that the person who drives the licensed vehicle understands and observes the law, conditions and Code of Conduct that regulate their conduct and the conditions attached to the vehicle licence.

2.5.2 If a driver leaves the Proprietor's employment (in the case of an employed driver) or the Proprietor no longer permits them to drive the private hire vehicle under any lawful arrangement (in the case of any self-employed driver) the Proprietor must notify the Licensing Section in writing, using the Council's approved forms, within 48 hours.

### **2.6 Vehicle inspection**

2.6.1 The Proprietor must allow an Authorised Officer of the Council, or Police Officer, to inspect the vehicle at any reasonable time.

2.6.2 The Proprietor must ensure the vehicle is presented for test in accordance with instructions from the Council

2.6.3 The Proprietor must produce the vehicle registration document (or the last certificate of compliance if the vehicle has been previously tested) to the Council Officer at the test.

### **2.7 Specification for a private hire vehicle**

2.7.1 No change in the specification, design, condition or appearance, or modification, conversion or alteration of the vehicle may be made at any time unless prior written approval has been given by the Council.

2.7.2 If the vehicle is involved in an accident or its safety or appearance is affected or may be considered to be affected for any reason, the Proprietor must inform the Council immediately and then provide written details within three days. If the Proprietor is in any doubt as to whether the vehicle is affected he/she must advise the Council.

### **2.8 Use of the vehicle**

2.8.1 The vehicle must fully comply with all relevant Road Traffic legislation and in addition must comply with the requirements of the Council's policy as detailed in section 3.4 above, together with the following requirements:

- i. Luggage must be properly secured inside a vehicle that does not have a separate and self-contained boot
- ii. The vehicle and all fixtures and fittings must be maintained in a clean, comfortable, safe, and mechanically sound condition internally and externally and be in every way suitable for public service

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- iii. Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments
- iv. The floor covering must be in good repair with no holes or tears.
- v. The internal light (to enable passengers to enter and leave the vehicle safely) must be functioning correctly at all times.
- vi. The vehicle's bodywork and paintwork must be maintained to an acceptable standard free of dents or rust.
- vii. The vehicle must carry a spare wheel to fit the vehicle, and the wheel must be securely stored. There must also be carried equipment to change the wheel including a spare wheel and tyre, jack and wheel brace unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. spray can) will be acceptable.
- viii. The nearside and offside exterior rear view mirrors must be in a serviceable condition
- ix. All seats belts must be working correctly. The use of folding seats is not permitted.
- x. The side windows must be able to be opened and closed
- xi. In any convertible vehicle the driver must raise roof and side windows at the request of any passenger.
- xii. The glass in the vehicle must not be replaced with glass that is different from the glass fitted when the vehicle passed the Councils vehicle test. No unapproved self-adhesive material (tinted or clear) shall be affixed to any part of the glass
- xiii. The vehicle's power output must not be less than the power output when the vehicle passed the Councils vehicle test
- xiv. At all times the vehicle must carry a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the licence number painted on it. The fire extinguisher must be properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency
- xv. At all times the vehicle must carry a first aid kit in a suitable container, with the licence number painted on it

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- xvi. The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council
- xvii. The use of roof racks, will be permitted. Any vehicle using a roof rack must be fitted with and display a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof-rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative, subject to the signage requirements above..

### **2.9 Additional Conditions for wheelchair accessible private hire vehicles**

- 2.9.1 The vehicle must carry in a safe, usable condition suitable ramps for a wheelchair user. If the alternative tail lift or some other mechanical means of access is fitted it must be maintained in a safe, functioning condition.
- 2.9.2 The driver must ensure before the commencement of the journey that the passenger is correctly seated and the wheelchair is correctly secured and the passenger is correctly restrained, and at the end of the journey must ensure that the passenger is delivered safely onto the pavement.
- 2.9.3 The door entrance and any steps must always be conspicuously marked where appropriate, to help visually impaired passengers.
- 2.9.4 All grab handles or rails must always be conspicuously marked to help visually impaired passengers.

### **2.10 Sliding doors**

- 2.10.1 Where sliding doors are an integral part of a vehicle and a locking device has not been fitted, the child locking systems must be engaged by the driver at all times when the vehicle is in motion and carrying passengers.

### **2.11 Lost property**

- 2.11.1 Any lost property found in the vehicle must be safely stored by the vehicle licensee for 3 months, and reasonable steps must be taken to identify and contact the owner where there is some form of identification on the property. After that time the vehicle licensee may take whatever action he/she feels appropriate in relation to the property.

### **2.12 Any meter**

- 2.12.1 If the vehicle is fitted with a meter that meter must have been fitted when the vehicle was tested by the Council.

### **2.13 Change of engine**

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2.13.1 In addition to informing the DVLA of the change of engine, the Proprietor must inform the Council, in writing, within 48 hours of the change including full details of the replacement engine including the chassis number and the source of the replacement unit. Any replacement engine must be of the same or greater power output as the engine it is replacing.

### **2.14 Signage and Advertisements**

2.14.1 No signs apart from the vehicle plate and mandatory signs required under the private hire vehicle policy can be displayed on or from the vehicle unless it is required by law, or has been agreed by the Council in writing.

### **2.15 Cleanliness**

2.15.1 The proprietor must ensure that the private hire vehicle is in a safe, clean and tidy condition both inside and out to ensure the safety and comfort of passengers.

### **2.16 Letting/leasing of vehicles**

2.16.1 The proprietor must not lease or let or hire a licensed private hire vehicle to any other person, other than a fare paying passenger, without first notifying the Council in writing.

2.16.2 The proprietor must notify the Council in writing of anyone no longer having an interest in the vehicle.

## **EXECUTIVE PLATING**

### **1. Introduction**

- 1.1 It is clear that all 'private hire vehicles' within the meaning of section 80 of the Local Government (Miscellaneous Provisions) Act 1976 must be licensed with the relevant Licensing Authority.
- 1.2 The display of identification plates and badges is important in terms of protecting the public and the taxi trade. However, it is recognised that there are limited occasions, such as the operation of chauffeured, executive and limousine vehicles, where identification of the vehicle may have a negative effect both in terms of customer safety and commercial considerations.
- 1.3 This guidance is issued to set out the Council's position in relation to executive plating and to assist operators of 'executive' type vehicles who wish to make application for 'executive plates.'

### **2. Legal background**

- 2.1 Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council upon the vehicle at all times that the vehicle is being used for the purposes of the licence.
- 2.2 Section 54(2)(a) of the Act requires the driver of a private hire vehicle to wear (display) the licence identification badge issued by the Council when acting in accordance with the requirements of the licence.
- 2.3 However, section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council.
- 2.4 Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

### **3.1 Procedure**

- 3.1.1 The Council considers that this exemption will not be applicable to all private hire vehicles, but rather to a minority of high marquee vehicles operated as chauffeured, executive and limousine vehicles. Each application will be judged on its own merits. However, it is considered that this system is appropriate for those vehicles fulfilling the requirements set out below:

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3.1.2 Exempt Vehicles are subject to the same criteria as with all licensed private hire vehicles which can only be driven by a Private Hire Driver who is licensed by the same authority from which the Exempt Vehicle Licence and Private Hire Operators Licence were issued.

### 3.2 Requirements

3.2.1 To be considered appropriate for executive plating, it is considered that the following criteria should be met:

- All drivers of the vehicle must hold a private hire drivers licence granted by Cheshire East Borough Council
- The vehicle is of a high quality both in terms of brand and condition
- The vehicle will meet the Council's age requirements in relation to vehicle set out within the private hire vehicle policy and conditions
- The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim
- All internal fabrics will be in excellent condition
- Any operators providing a mixed use with the vehicle, ie a mixture of normal private hire work and executive work, will not be granted the exemption
- Evidence of the service being provided must be supplied to justify the exemption

### 3.3 Application

3.3.1 Applicants must submit a business plan for the use of the vehicle to satisfy the Council that the exemption is appropriate.

A business plan may include, for example, the following factors:

- Target groups/clients
- Types of journey to be undertaken
- Method of advertising
- Method of payment
- The type of vehicle itself
- Whether the type of vehicle itself is the reason for hiring it (eg, stretched limousine)
- Vehicle modifications
- Additional facilities provided
- Special driver qualifications or requirements (eg Chauffeur's uniform)

3.3.2 The vehicle must be operated **exclusively** as set out in the business plan. If a vehicle is found to be operated in breach of the approved business plan will lose their exemption until such time as the operation of the vehicle reverts to the business plan.

3.3.3 Applications must be accompanied by the prescribed fee (which will be the same as that currently levied by the Council for private hire and hackney carriage vehicles) together with the business plan.

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3.3.4 If all the requirements are met and the vehicle passes the Council's inspection then an Exemption Notice will be issued. If the requirements are not met then the application will be refused. In the event of a refusal, applicants will have the choice to convert their application to a standard application for a private hire vehicle licence. The vehicle will need to be represented for a test (at an additional cost) with such signage as to comply with the Council's private hire vehicle policy and conditions. No further fees will be payable and the application fee will also be transferred.

### 3.4 Notice

3.4.1 If the application is granted, the Licensing Authority will issue a formal notification of exemption (the Exemption Notice) to the applicant.

3.4.2 The Exemption Notice will not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

### 3.5 Identification Badge

3.5.1 The Council will issue the proprietor with an identification badge to include the following information:

- The private hire vehicle licence number
- The registration number of the vehicle
- The number of persons the vehicle is licensed to carry
- The expiry date of the licence

3.5.2 The identification badge must be displayed within the vehicle in line with the standard Cheshire East Borough Council private hire vehicle conditions.

### 3.6 Conditions

3.6.1 The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard Cheshire East Borough Council private hire vehicle conditions and the approved business plan. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice referred to as special licence condition number 10 see paragraph 3.8 below.

3.6.2 The conditions for executive plated vehicles will include condition 10 of the Cheshire East private hire vehicle conditions (as set out in italics below).

## 10. ***SPECIAL CONDITION for EXECUTIVE LIMOUSINES***

10.1 *When Condition number 10 is attached to the licence Conditions numbers 1.3 and 1.5 shall not apply. [Condition 1.3 relates to Licence Plates. Condition 1.5 relates to signs and notices.] Condition number 10 will only be applied to a licence at the discretion of the Council and may be withdrawn at any time if*

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*the Council is not satisfied that the vehicle is being used or operated in accordance with the plan submitted to the Council in support of an application made for it to be subject to Special Condition number 10.*

10.2 *The notice of the grant of special licence condition number 10 shall be carried in the vehicle at all times.*

### 10.3 *Windscreen Sign*

*The vehicle shall display at all times in the lower near side of the windscreen and visible from the outside of the vehicle a private hire vehicle identification badge supplied by the Council. The form and content of the badge shall be prescribed by the Council.*

10.4 *The identification badge shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the badge to be altered, removed or obscured in any way.*

### 10.5 *Interior Sign*

*The vehicle shall display at all times a private hire vehicle identification sign supplied by the Council and be visible to passengers from within the vehicle. The form and content of the sign shall be visible shall be prescribed by the Council.*

10.6 *No other advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council.*

10.7 *Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word "taxi" or "cab" whether in the singular or plural or any word of similar meaning or appearance, whether alone or as part of another word and shall not suggest that the vehicle is a Hackney Carriage.*

10.8 *The types and makes of vehicle manufactured by London Taxis International and Metrocab now or from time to time operating as a taxi within the Metropolitan Police District and the City of London and licensed as such by the Public Carriage Office of Transport for London, Panton Street, London shall not be used as a private hire vehicle.*

**3.7** The conditions for executive plated vehicles will include the following:

- The Exemption Notice issued by the Licensing Authority in respect of the licensed private hire vehicle must be carried with the vehicle at all times and must be presented for inspection at the request of an Authorised Officer of the Council, a Police Constable or the hirer.
- The Proprietor shall ensure that the private hire identification badge issued by the Council shall be carried with the vehicle at all times and must be presented for inspection at the request of an Authorised Officer of the Council, a Police Constable or the hirer.

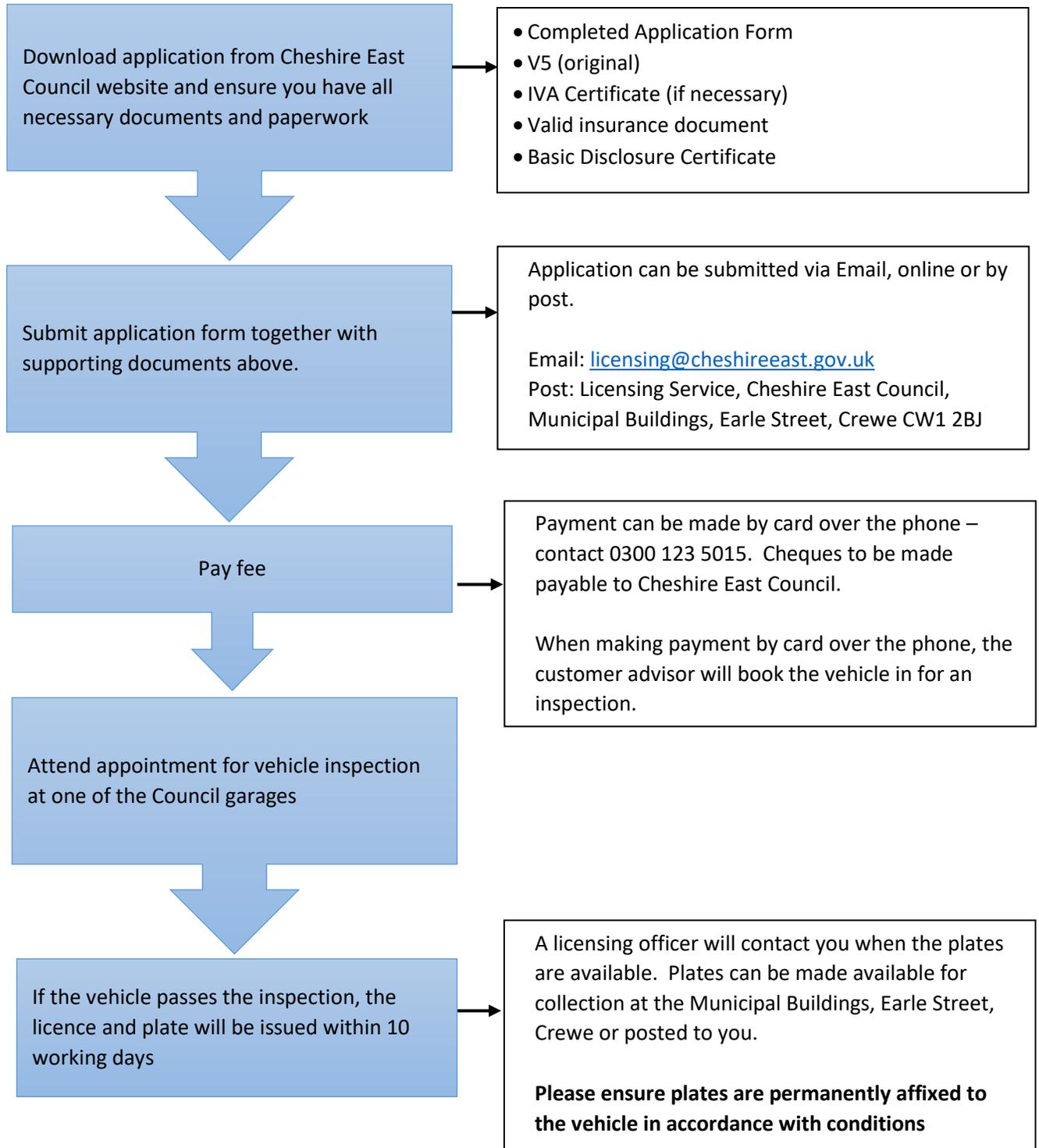
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- The Proprietor shall ensure that the private hire vehicle licence identification disc issued by the Council is displayed at the nearside of the front windscreen at all times.

### **3.8 Withdrawal of Exemption Notice**

3.8.1 The exemption notice will be withdrawn from the licence if the Council is not satisfied that the vehicle is being or has been operated exclusively in accordance with the business plan, then the vehicle will become fully subject to the Cheshire East Borough Council private hire vehicle licence conditions requiring the display of licence plates and private hire signs.

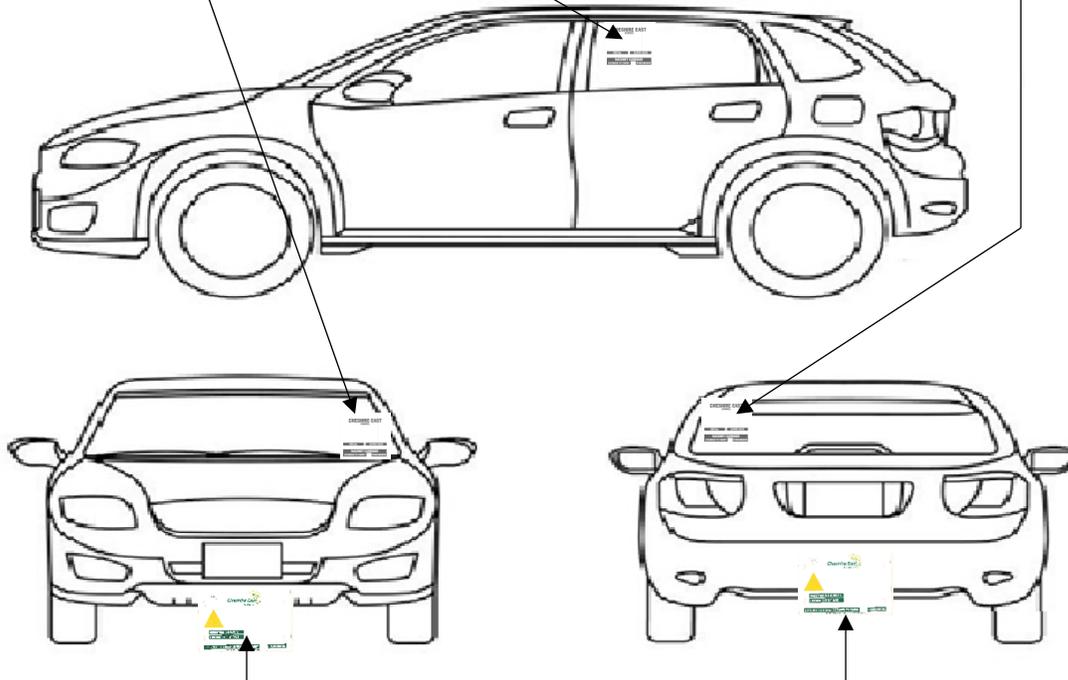
3.8.2 If the exemption notice is withdrawn, the costs in relation to the production of the licence plates and a vehicle test to ensure compliance will be borne by the operator concerned.

**PRIVATE HIRE VEHICLE LICENCE  
NEW/RENEWAL VEHICLE APPLICATION PROCESS**

**GUIDANCE ON POSITIONING OF LICENCE PLATE AND LICENCE NUMBER IDENTIFICATION CARD FOR BOTH HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

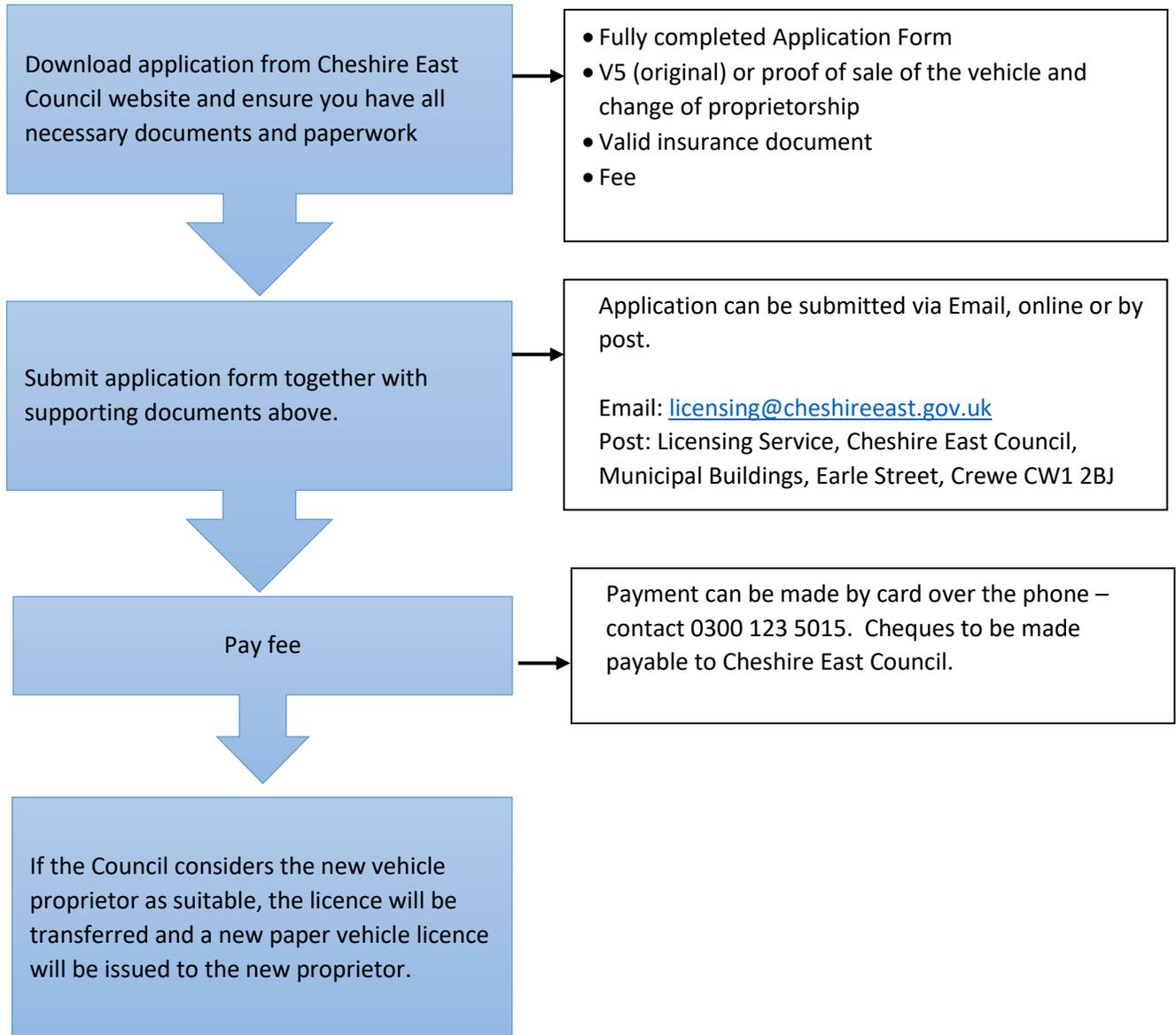
Licence number identity cards to be displayed:

- a) in the vehicle on the lower nearside of the windscreen so that the sticker is visible to passengers within the vehicle
- b) in the top near-side of the rear window facing outwards; and
- c) in the top off-side rear window, facing outwards

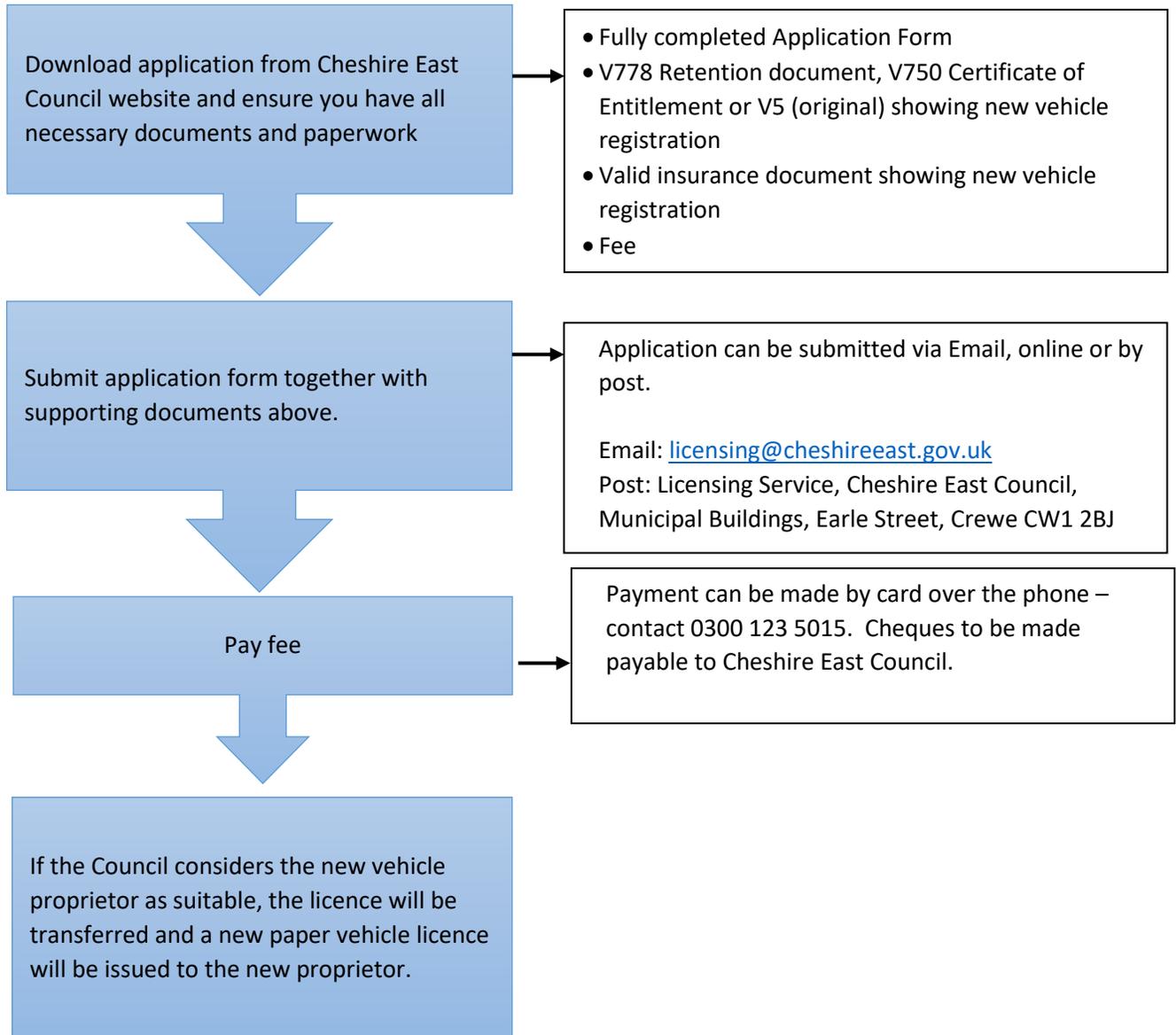


Licence plates to be displayed in a vertical position and firmly fixed to the outside of the vehicle at the front and rear, using the fixing bracket provided for the purpose. Velcro or cable ties are not permitted to be used

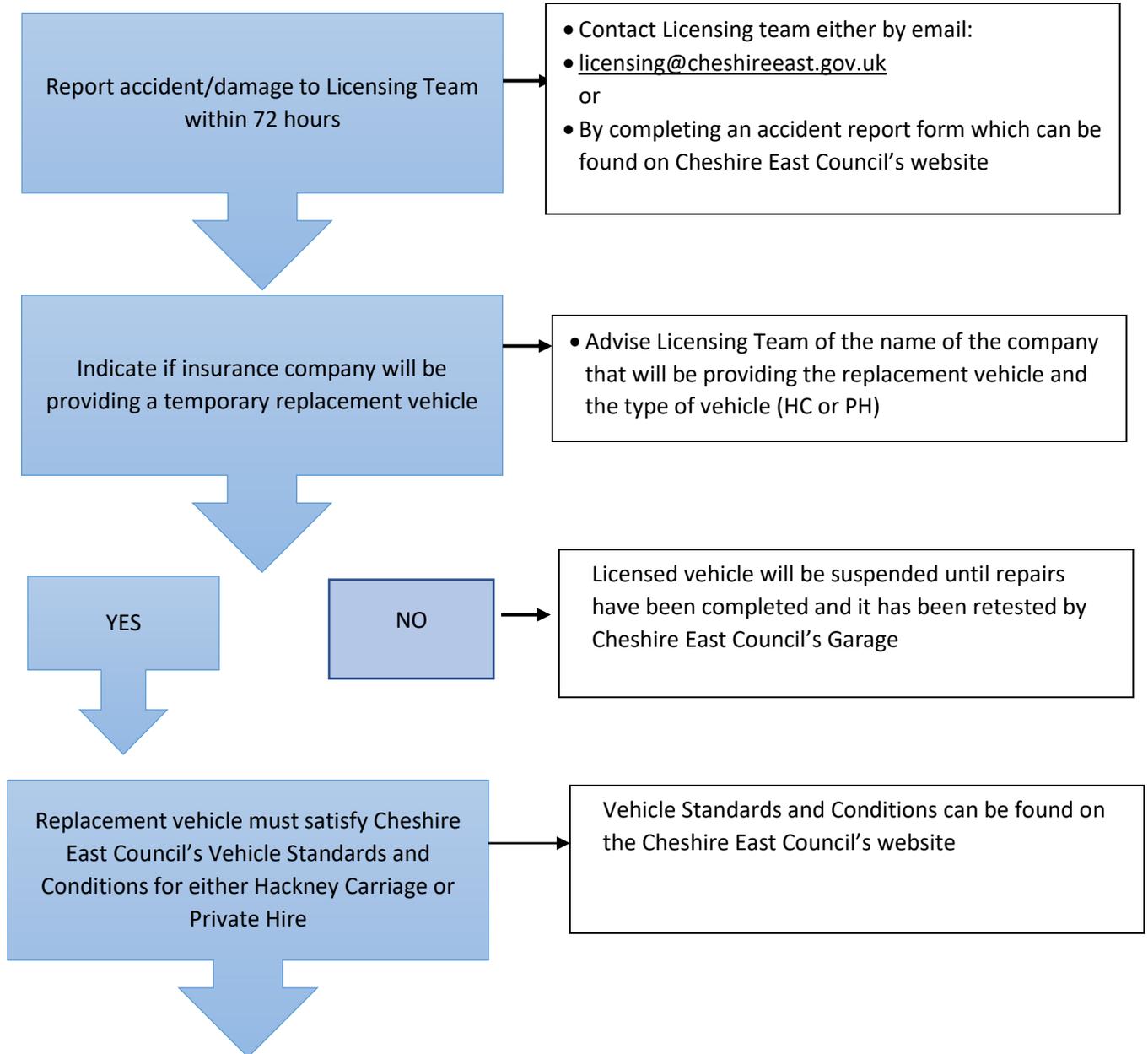
**APPLICATION PROCESS TO TRANSFER A HACKNEY CARRIAGE OR  
PRIVATE HIRE VEHICLE LICENCE**



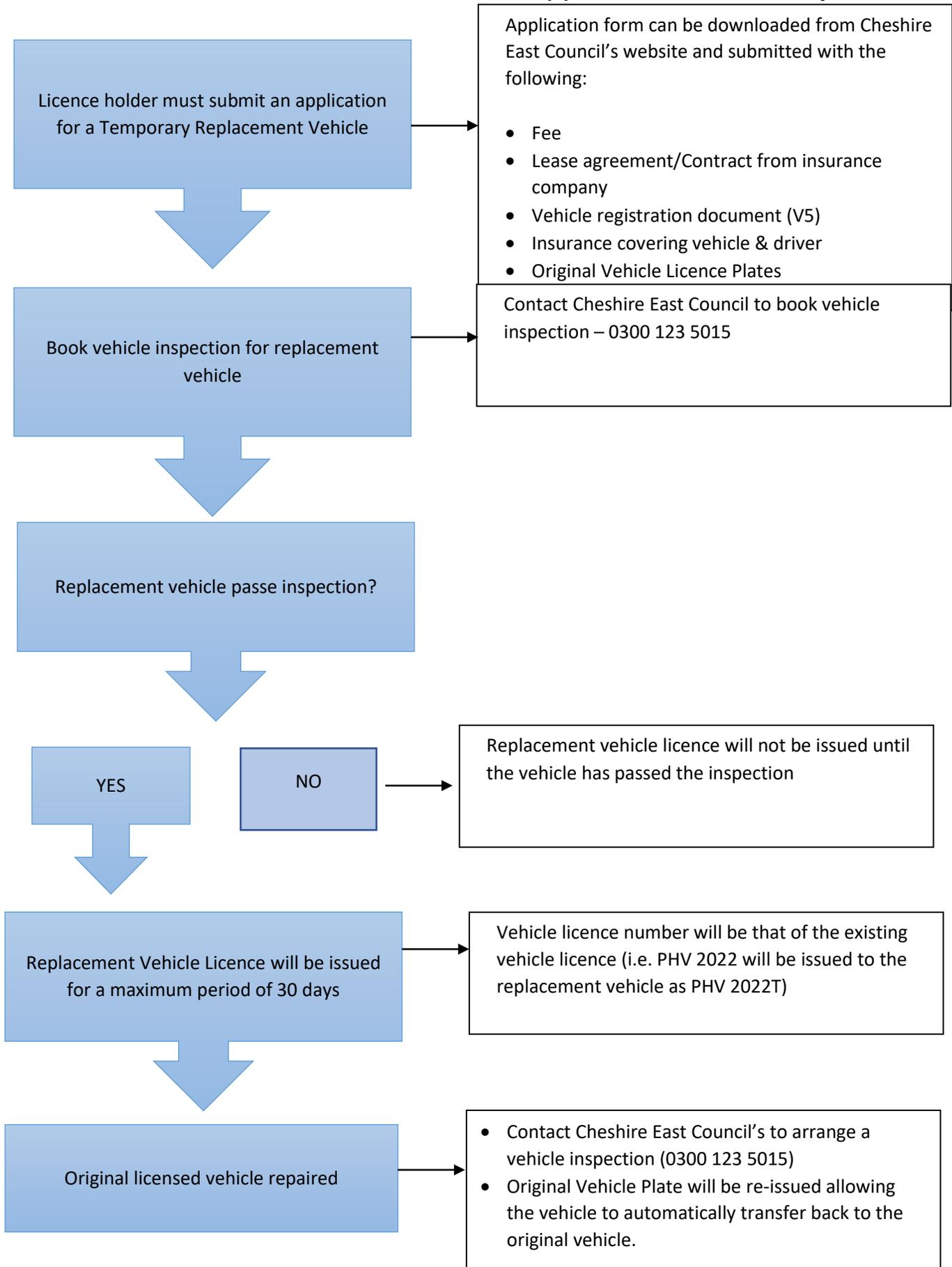
**APPLICATION PROCESS TO CHANGE A VEHICLE REGISTRATION NUMBER  
ON A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE LICENCE**



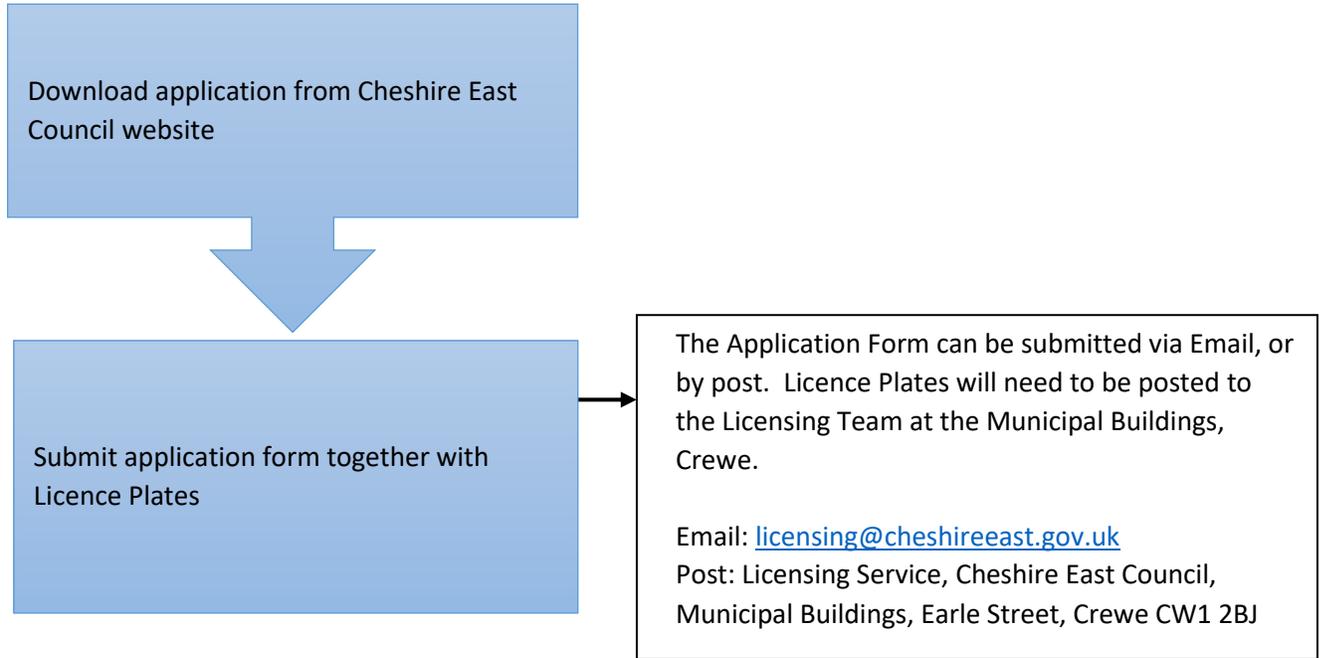
**APPLICATION PROCESS FOR DEALING WITH TEMPORARY REPLACEMENT VEHICLES IN THE EVENT OF AN ACCIDENT**



### Appendix 1 Draft Policy



**APPLICATION PROCESS TO SURRENDER A HACKNEY CARRIAGE OR  
PRIVATE HIRE VEHICLE LICENCE**



## **Hackney Carriage and Private Hire Licensing Penalty Point Policy**

### **Contents**

- 1 Introduction
- 2 Issuing of Penalty Points
- 3 Penalty Points Tariff
- 4 Appeals
- 5 Delegation of Function
- 6 General
- 7 Consultation
- 8 Review
- 9 Contacts

**1 Introduction**

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- 1.1 Those licensed as Hackney Carriage drivers and proprietors and Private Hire drivers, operators, and vehicle owners are principally governed by the Town and Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, the and the Council's own byelaws conditions, and policies set by the Licensing Committee.
- 1.2 Should operators, drivers or vehicle proprietors commit an offence or breach those rules, regulations, or conditions the Council's Licensing Team will conduct an investigation. This may include a taped interview and compilation of witness statements.
- 1.3 There are a number of options available following an investigation, including:
- No further action
  - Formal warning
  - Issuing penalty points in accordance with this policy
  - Referral to the General Licensing Sub-Committee
  - Prosecution (or the offering of a Caution)
- 1.4 The outcome of an investigation will depend on the facts of the case and the severity of any breach. In all instances a record of the matter will be kept on the driver's file. This would include cases where no further action was taken.
- 1.5 The penalty points scheme is designed to work in conjunction with other enforcement options. Its purpose is to record misdemeanours and to act as a record of a driver's behaviour and conduct.
- 1.6 The primary objective of this scheme is to raise standards and improve compliance with licensing regulations and requirements. The ultimate aim of the Licensing regime is to protect the public and the Council is committed to ensuring that those licensed are fit and proper persons.

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**2 Issuing of Penalty Points**

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- 2.1 Complaints from the public concerning any breaches of conduct will be subject to investigation by Officers. These investigations may be dealt with by way of issuing penalty points under this scheme or in serious cases automatic referral to the General Licensing Sub-Committee.
- 2.2 Where a licence holder accumulates 12 or more penalty points in a 12 month rolling period (a period of 12 consecutive months determined on a rolling basis with a new 12 month period beginning each day) or in respect of drivers 18 during the course of a licence the matter will be referred to the Council's General Licensing Sub-Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
- i. Take no action
  - ii. Issue a warning
  - iii. Issue additional penalty points
  - iv. Suspend a licence as a punitive sanction
  - v. Suspend a licence to correct a fault, defect, or breach
  - vi. Revoke or refuse to renew a licence
- 2.3 Periods of suspension will be determined by the Sub-Committee and will depend on the nature of the offence, breach, or misdemeanour and the individual's compliance history. A determination will

## Appendix 1 Draft Policy

also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

- 2.4 Where a driver, proprietor or operator reaches the tariff of 12/18 points and is referred to the Sub-Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 12/18 point tariff will be a referral trigger.
- 2.5 Any points issued by an Officer or the Committee will be confirmed in writing within 14 days of their issue. Acceptance of the points issued should be completed within 21 days of notification.
- 2.6 As the scheme is designed to raise standards through compliance the licence holder will be offered penalty points as an alternative to other enforcement action. The licence holder will be given the option of accepting the penalty points offered. The acceptance of points will be considered as having been sufficient to deal with the matter and no further action will be taken nor will the licence holder be able to ask for the matter to be re-examined at any later stage e.g. if referred to the Licensing Sub-Committee on accumulation of 12 or more points
- 2.7 If penalty points are offered and refused the Council will consider taking alternative action. This may include the instigation of prosecution proceedings or referral to the Council's General Licensing Sub-Committee depending on the circumstances. A record of the refusal will kept on the relevant file.

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### **3 Penalty Points Tariff**

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- 3.1 The penalty points scheme will cover a range of offences, breaches, and misdemeanours.
- 3.2 The full list together with the number of points to be applied is set out at Appendix A. Where a range of points are available (ie 3-6), the number of points given will depend on the individual circumstances.
- 3.3 Where there is a range of points available and a subsequent offence of the same nature is committed, the maximum number of points will automatically be applied.
- 3.4 The form used to apply points is set out at Appendix B.

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### **4 Appeals**

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- 4.1 In respect of suspension, revocations, and refusals to renew licences the aggrieved person has a right of appeal within 21 days by way of complaint to the Magistrates' Court.
- 4.2 When a decision has been taken against a driver's licence on the grounds of safety the decision will have immediate effect. There will be no right to continue driving during any appeal period.
- 4.3 Where a decision against a driver's licence has not been taken on the grounds of public safety, the driver will preserve the right to drive a licensed vehicle until the end of the 21 day appeal period.

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Where an appeal has been made the driver will preserve the right to drive until disposal of the appeal.

- 4.4 There is no right of appeal against the acceptance of penalty points issued in accordance with this policy.

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### **5 Delegation of Functions**

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5.1 The Licensing Team Leader is given delegated authority to issue penalty points in accordance with this policy.

5.2 The Licensing Team Leader is authorised to delegate this authority to any other officer.

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### **6 General**

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6.1 At all times, each investigation will be determined on its own merit. As a result, any case may be referred directly to the General Licensing Sub-Committee without the imposition of penalty points.

## Appendix 1 Draft Policy

Appendix A

	<b>Offence/Breach/Misdemeanour</b>	<b>Points</b>	<b>Driver</b>	<b>Op/ Prop</b>
1	Unsatisfactory condition of a vehicle (interior or exterior)	1 - 6	✓	✓
2	Refusal to accept hiring without reasonable cause	1 - 6	✓	
3	Unsatisfactory behaviour or conduct of a driver	1 – 9	✓	
4	Use/Cause/Permit a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) (per defect)	1 - 9	✓	✓
5	Failure to wear driver's badge	3	✓	
6	Failure to notify the Council, in writing, of a change of address within 7 working days	3	✓	✓
7	Displaying unsuitable, inappropriate or unauthorised signs or advertisements in or on a vehicle	3	✓	✓
8	Using a private hire vehicle with an appearance that might suggest it is a hackney carriage	3	✓	✓
9	Failure to give assistance with loading/unloading luggage	3	✓	
10	Failure observe rank discipline or etiquette	3	✓	
11	Failure to maintain proper records of private vehicle(s)	3		✓
12	Failure to carry a fire extinguisher, first aid kit, warning triangle, or fluorescent jacket (per item)	3 - 6	✓	✓
13	Unsatisfactory appearance of a driver	3 - 6	✓	
14	Failing to ensure the safety of a passenger entering, alighting or conveyed in a vehicle	3 - 6	✓	
15	Failure to produce relevant documents when requested by an Authorised Officer	4	✓	✓
16	Failure to display current vehicle excise licence	4	✓	✓
17	Failure to report an accident or damage to a licensed vehicle (in writing and within 72 hours)	4	✓	✓
18	Failure to display external/internal licence plate or signs as required	4	✓	✓
19	Failure to notify transfer of a Private Hire or Hackney Carriage vehicle licence	4		✓
20	Failure to maintain records in a suitable form	4		✓

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21	Failure to produce records of drivers work activity when requested	4		✓
22	Failure to attend punctually at appointed time and place without reasonable cause	4	✓	✓
23	Failure to carry Driver/Vehicle Conditions in vehicle	6	✓	✓
24	Failure to display fare card	6	✓	✓
25	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7 working days	6	✓	✓
26	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6	✓	
27	Failure to provide proof of insurance when requested	6	✓	✓
28	Failure to produce a DVLA Licence when requested	6	✓	
29	Smoking or evidence of smoking in a vehicle	6	✓	✓
30	Failure to return a vehicle licence plate within 7 days after request	6		✓
31	Providing false or misleading information on a an application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	6 - 9	✓	✓
32	Charging hackney carriage passenger more than the metered or agreed fare	6 - 9	✓	
33	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour)	6 - 12	✓	✓
34	Using insulting or threatening words or behaviour towards any Officer of the Council	6 - 12	✓	✓
35	Plying for hire by Private Hire Drivers	9	✓	
36	Driving while using a mobile phone or any other driving offence (whether convicted or received FPN or penalty points or not)	9	✓	
37	Failure to undergo the 6 monthly vehicle test	9		✓
38	Failure to produce a Hackney Carriage or Private Hire vehicle for testing	9		✓
39	Failure to return any licence on suspension or revocation	9	✓	✓
40	Presenting a vehicle for testing in an unsafe or dangerous condition	9		✓
41	Collusion or interfering with evidence, victims or witnesses, when Officers of the Council are carrying out an investigation	9	✓	✓
42	Physical abuse towards any person	9 - 12	✓	✓

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43	Carrying an offensive weapon in the vehicle	9 - 12	✓	
44	Carrying more passengers than stated on the vehicle licence	12	✓	
45	Using or allowing a vehicle to be used subject to a suspension issued by an Authorised Officer or Police Officer	12	✓	✓
46	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
47	Using an unlicensed vehicle or licensed vehicle without insurance	12	✓	✓
48	Driver not holding a current or valid DVLA licence	12	✓	
49	Failure to carry an assistance dog without an exemption notice	12	✓	
50	Using a non-approved or non-calibrated taximeter	12	✓	✓
51	Any other offence/breach/misdemeanour not specifically covered in this scheme	1 - 12	✓	✓
52	Failure to comply with any other condition or by-law	3 - 6	✓	✓
53	Failure to comply with any other legislation	6 - 12	✓	✓
54	Obstructing an authorised officer or police officer	12	✓	✓

<b>Penalty Points Form</b> <b>Hackney Carriage and Private Hire</b> <b>Licensing</b>	<b>Append</b> 
--	--

<b>Name</b>	
-------------	--

<b>Licence Number (s)</b>	
---------------------------	--

<b>Offence/breach/misdemeanour (including date):</b>
--

<b>Number of points issued</b>	
--------------------------------	--

<b>Declaration</b>  I _____ hereby accept the above penalty points in accordance with Cheshire East Council's Hackney Carriage and Private Hire Licensing Penalty Points Policy for the the offence/breach/misdemeanour set out above. I understand that by signing this form the Council undertakes not to commence any enforcement action against me in respect of this offence/breach/misdemeanour. I also understand that if I reach the tariff of 12 penalty points in a 12 month rolling period (or in respect of drivers 18 during the course of the licence) my licence(s) will be referred to the Council's General Licensing Sub-Committee for it to determine whether I remain a fit and proper person.
--

<b>Signed</b>		<b>Date</b>	
---------------	--	-------------	--

<b>Issuing officer</b>		<b>Designation</b>	
------------------------	--	--------------------	--

<b>Signed</b>		<b>Date</b>	
---------------	--	-------------	--

**General**

Where there is a range in points available the Licensing Officer has the discretion to award the number of points according to the severity of the breach. Unless a subsequent offence of the same nature is committed when the maximum number of points will automatically be applied.

**Drivers/Operators/Proprietors**

On accumulation of 12 or more points in a rolling 12 month period or 18 points during the course of the licence, the subject will be referred to the General Licensing Sub-Committee

**Suspension/Revocation**

All suspensions and revocations will be determined by the General Licensing Sub-Committee

Any driver or operator subject to suspension or revocation has a right to appeal to the Magistrates Court within 21 days of the decision

Suspensions and revocations will not be implemented until the 21 day appeals period has elapsed. However, driver suspensions on public safety grounds will take immediate effect

**PRIVATE HIRE OPERATOR CONDITIONS**

These conditions are attached to the licence issued by Cheshire East Borough Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

Cheshire East Council has carefully considered the following conditions and has decided that they are reasonably necessary.

These conditions set out the way in which the licence holder must act whilst acting as a private hire operator, in addition to the existing legal requirements. They do not set out the existing legal requirements such as prohibition of illegal plying for hire.

These conditions do not set out the detail as to what steps are required to become and remain an operator and they do not set out what factors are taken into account in deciding whether a person is a fit and proper person to be a driver. Information on these issues is set out in the policy document.

**Breach of these conditions may lead to the suspension of the licence and consideration of revocation of the licence or prosecution.**

The conditions attached to the licence are as follows:

- 1 All vehicles operated by you must use the same rate of fares, detailed in a table. A copy of that table must be deposited with the Council before your licence is issued. Any changes to that table must be notified to, and a copy deposited with, the licensing office a minimum of 7 days before the changes come into effect.
- 2 You must return your licence to the Licensing Team of the Council immediately if:
  - i. You change your home or business address
  - ii. If the licence expires, is suspended, revoked
  - iii. You wish to surrender your Private Hire Operator Licence
  - iv. When required to do so by an 'Authorised Officer of the Council'
- 3 You must inform the Licensing Section of the Council in writing, at least **seven days** before you change your address. If you do not, and a new licence showing the new address has not been issue before your move, you **WILL NOT BE LICENSED** at the new address, and continued operation as a private hire operator will be a criminal offence.

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- 4 At all times you must maintain your operating base (the address of your business, or main address if you have more than one operating base identified in your licence) as a functioning, occupied location where your records are either stored (if physical documents or computer storage e.g. cd's, memory sticks, memory drives etc) or where the records can be accessed (if stored on a computer, or a cloud based system. If the office is not permanently staffed (and it is recognised that small operators may not have the resources to staff an office continuously) you must meet authorised officers or police officers when appointments are made.

**Equipment**

5. You must maintain all telephones, radios or computer equipment in full working condition and have any defects repaired as soon as possible. Any failure in any equipment used to record booking details that cannot be rectified within 24 hours must be reported to the Council within 24 hours of the failure occurring by email to [licensing@cheshireeast.gov.uk](mailto:licensing@cheshireeast.gov.uk). During any such failure suitable alternative methods of recording all bookings must be used and those records retained.

**Booking**

6. When you accept a booking for attendance at an appointment time and place, you must allow sufficient time for the vehicle to attend punctually unless there is an unavoidable reason.
7. If you are unable to provide a vehicle to meet the passenger's requirements you can accept the booking if you are certain that the booking can be sub-contracted to another licensed private hire operator - preferably licensed by Cheshire East, but any other licensed private hire operator in England, Wales or Scotland is acceptable (excluding those licensed by Plymouth City Council). You must also inform the passenger of the situation. If the passenger does not agree then you must not accept the booking.
8. In the case of any booking that is the consequence of a referral made by a private hire operator licensed by a Council other than Cheshire East, it must only be accepted if:
  - the potential customer has been notified (either verbally or by automated message) of:
    - the operator's intention to refer their enquiry to an operator licensed in a different district;
    - that the proposed operator is based in Cheshire East; and
    - that if they proceed with their booking, a vehicle and driver licensed by Cheshire East will be dispatched; and
  - the customer has agreed to the said referral (such acceptance may be verbal, by means of a keystroke where the notification is by automated message, or any other means of indicating and recording positive assent).

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9. Bookings as a result of any such referral can only be accepted if you ensure that all incoming booking requests are audio recorded by digital means and those recordings are retained for not less than 2 years and are available to a authorised officer of the Council on request.
10. You must not accept any booking for a vehicle to carry more passengers than the number of passengers the vehicle is licensed to carry.
11. As part of the booking process you must establish:
  - how many passengers there will be
  - how many will be children
  - that the parents/guardians/other adult responsible for their care accept that the correct child seats may/will not be available and that they accept the risks associated with such a lack of correct restraints
  - how much luggage is to be carried
  - whether any specific route is to be taken
  - any other needs of customers e.g. disabled, elderly, infirm, very old, unaccompanied children, assistance dogs etc
  - Whether any pick up charge will be levied
  - Whether any additional charges over and above the deposited table of fares will be levied
  - Inform the customer if the vehicle to be utilised is something other than a private hire vehicle e.g. a hackney carriage or public service vehicle (PSV)
12. If a fare is pre-agreed (or a fixed fare is agreed) then that must be the maximum fare that the passenger is charged. If there is any departure from this (e.g. additional charges for congestion or waiting) that must be expressly agreed at the time of booking and confirmed in writing (email or text is acceptable).
13. In light of the information received under 8 or 9 above, you must ensure that a suitable vehicle is dispatched and the driver is informed of the relevant matters.

**Booking records**

14. You must keep booking records for at least two year and produce them for examination at the request of an Authorised Officer of the Council or Police Officer.
15. When a booking is made you must ensure the following information is recorded:
  - The time and date of each booking
  - Where the journey is from and where the journey is to
  - The name of the hirer
  - The agreed pick-up time
  - The plate number of the vehicle given the booking

- The driver's badge number
16. Manual booking record pages must be numbered consecutively and you must ensure entries are made as soon as possible. Computer records (including remote server and cloud based systems) must be capable of displaying records and printing the records out in a form which is similar to a manual written record.

### **Vehicles and drivers**

17. At your premises, you must maintain a record of all vehicles operated by you, and include the following information:
- The licence plate number
  - The registration number
  - The make of the vehicle
  - The name and address of the proprietor
  - The names, and addresses of the drivers of the vehicles and the numbers on their badges
  - The date you first operated each vehicle
  - A record of any driver's or vehicle call sign.
18. These records must be available for any Authorised Officer of the Council, or Police Officer, who requests to see them.
19. You must request and then hold the licences of all private hire vehicles and drivers operated by you. You must not use a vehicle or driver who cannot or has not deposited the licence with you.
20. You must only operate private hire vehicles licensed by Cheshire East Council.
21. You must not allow a Hackney Carriage to be used in the Borough of Cheshire East under a pre booked contract except at a rate no higher than the current Hackney Carriage Fares Scale fixed by Cheshire East Council from time to time. When a hackney carriage is used, the fare must be calculated from the point in the district at which the hirer's journey commences.
22. If meters are used in any Private Hire Vehicle you operate, you must ensure a copy of the table of maximum fares is deposited with the Council before the vehicle is operated by you, and that all such meters are set to that table of fares. You should also ensure that these meters are sealed.
23. You must ensure that any person employed, contracted or used by you in any capacity to drive Private Hire Vehicles holds a valid Private Hire Vehicle Driver Licence issued by Cheshire East Council.

### **Conduct**

24. You must ensure that you, and anyone else concerned in carrying out your business, behaves in a civil manner at all times and does not discriminate

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against any person because of their race, colour, creed, age, gender or disability.

### Complaints

25. You must keep a record of any complaints relating to any contract or alleged contract for private hire vehicle services (including any hackney carriages you may operate for pre-booked work) relating to your business, and any action you have taken or propose to take. This record must be maintained for at least 12 months from the date of the complaint and must be made available to a police constable or authorised officer on request.

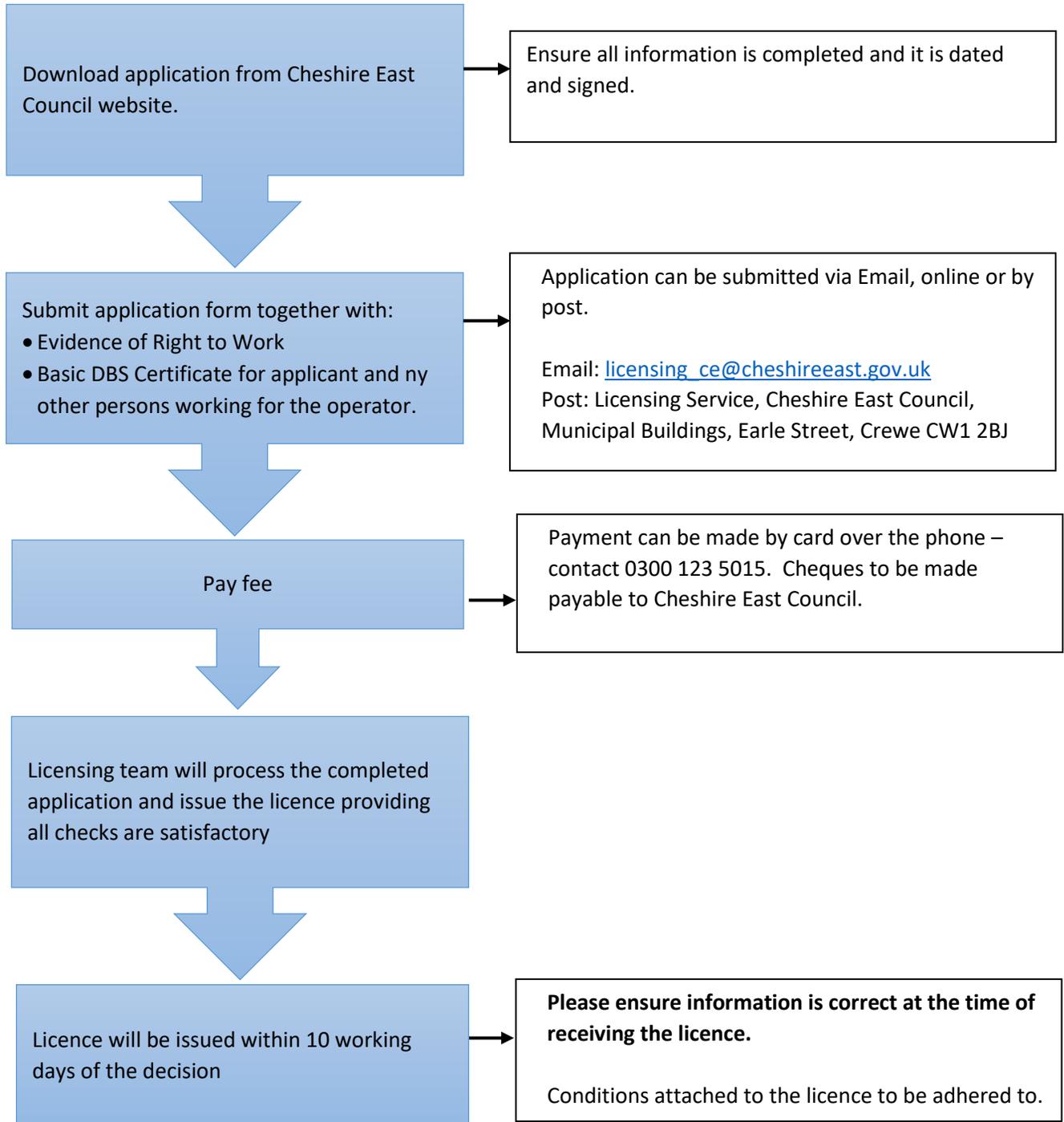
### Public Areas

26. You must keep any public area clean, tidy, adequately heated, ventilated and lit. Any waiting area must have adequate seating.
27. Work places including both private and public areas of private hire operators premises are smoke free premises at all times under sections 6, 7 and 8 of the Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 SI 2006/3368. It is a criminal offence to smoke in a private hire operators premises at any time (section 7) or to allow a person to smoke in a private hire operators premises (section 8) and you can be prosecuted for either or both offences.

### Declaration of conviction/caution/penalty

28. If you are convicted of any offence, or accept a formal caution for an offence, or receive and accept an fixed penalty notice or are made the subject of an ASBO or DBO, or you are arrested for any matter, you must give the Council details, in writing and within **seven days** of the arrest, conviction, acceptance of the fixed penalty or imposition of the order. (If the operator is a company or partnership, this condition applies to all of the directors or partners.)

**PRIVATE HIRE OPERATORS LICENCE  
NEW/RENEWAL OPERATORS APPLICATION PROCESS**



**SUGGESTED QUESTIONS FOR PRIVATE HIRE OPERATOR CONTROLLERS  
AND LICENSED DRIVERS TO ASK WHEN RECEIVING A BOOKING OR  
REQUEST FOR HIRE**

Question	Notes of explanation
1. How many people are intending to travel, and are you all from the same household?	This is so that you can establish whether the vehicle being used to carry out the journey is suitable for the number of people in the group.
2. What is the purpose of your journey?	This is so that you can establish whether the vehicle needs additional luggage space.
3. How many of the travelling group are under the age of 18 years?	This is so you can establish an appropriate adult when dropping off.
4. Do you, or any people in your travelling party, have any access or assistance requirements (such as needing a WAV or needing support to enter or exit the vehicle)?	The wording of this question asks for 'access or assistance requirements'. These are very broad words and this means that customers will be able to think broadly about their requirements which could include anything from needing a WAV to a customer with a visual impairment needing assistance putting their seatbelt on. Knowing this information will allow you to prepare properly.
5. Will you have any luggage and if so, are you able to lift any luggage into the vehicle boot area yourself without assistance?	If customers are unable to assist themselves you should ensure you are able to assist them.

**TABLE OF GRANDFATHER RIGHTS FOR EXISTING LICENCE HOLDERS**

<b>Policy / Condition</b>	<b>Summary of changes</b>	<b>Grandfather Rights</b>
Paragraph 3.4.10	Age Limits	Existing licence holders can continue to benefit from renewals during the course of that vehicle's life with no upper age limit. The vehicle must continue to pass the Council's mechanical test and inspections and must remain in exceptional condition both interior and exterior (to be determined by Licensing Officers). The grandfather rights will apply to any existing holder of a vehicle licence and will expire if the vehicle is transferred to another proprietor. In respect of these licences any changes of vehicle on existing licence must comply with the new policy and will not benefit from grandfather rights.
Paragraphs 3.3.13 & 3.3.18	Wheelchair Accessible Vehicles (Macclesfield Zone)	Existing licence holders can continue to benefit from renewals during the course of that vehicles life. The grandfather rights will apply to any existing holder of a vehicle licence and will expire if the vehicle is transferred to another proprietor. Changes of vehicle on existing plate will benefit from grandfather rights and the licence can continue to relate to non wheelchair accessible vehicles.

**CODE OF CONDUCT WHEN WORKING WITH VULNERABLE PERSONS**

A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be, for example, a child or elderly person or somebody with learning difficulties. In addition, an individual should be considered vulnerable if they do not fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol or drugs).

This code of conduct aims to promote good safeguarding practices for drivers and staff working with vulnerable passengers in the hackney carriage and private hire trade. The following safeguarding principles should be embedded into driver working practices.

- Drivers must carry photo ID at all times and wear it in accordance with the conditions of licence.
- A vulnerable passenger must not be transported in the front passenger seat of the vehicle unless the booking being carried out is under a Cheshire East Council, or other relevant body, contract for carrying vulnerable persons, in which case the vulnerable passenger may be carried in the front passenger compartment of the vehicle.
- The driver/operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver/operator is responsible for the provision of appropriate measures. However, if appropriate measures are not in place then the driver/operator must not undertake the journey.
- When making a journey with vulnerable passengers and there is a carer/responsible person present, then photo-identification should be produced to the driver by the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is not chaperone.
- If a vulnerable passenger is refused service a responsible person, such as their carer, family member, parent or guardian should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the council.

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- Drivers should always ask if a vulnerable passenger needs assistance and should not make assumptions.
- Drivers must remain professional at all times and should not:
  - Touch a person inappropriately
  - Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
  - Behave in a way that may make a passenger feel intimidated or threatened
  - Attempt to misuse personal details obtained via the business about a person

These standards are equally applicable when working with vulnerable and non-vulnerable passengers.

- A log should be maintained by drivers when a service has been provided to a vulnerable passenger including the details of any incidents/actions taken or refusals of service.
- Drivers and operators must remain alert to issues around the safeguarding of children and adults at risk. If a driver/operator is concerned about the safety, welfare or behaviour of a vulnerable person, they should report this to the police.
- If a driver or operator is concerned about someone else's conduct, they should report such concerns to the police using the 101 number (if it is not an emergency) or to the relevant safeguarding board at the Council.



**A summary of responses to Cheshire East Council's**

# **Draft Hackney Carriage and Private Hire Licensing Policy Consultation**

# Introduction

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## Purpose of the survey

Between October and December 2021, a consultation was conducted about the 'Draft Hackney Carriage and Private Licensing Policy'. This is a follow-on from the pre-engagement that was conducted in July 2021.

The purpose of the consultation was to seek views on a number of changes being considered in relation to the 'Drivers, Vehicles and Operators Licences' to reflect the publication of the statutory Taxi & Private Hire Vehicle Standards which local authorities have to have regard to.

Relevant stakeholders were given notice of the consultation both through email invites to take part and a written paper invitation to those who email details were not held for. These stakeholders included council officers, local businesses, and existing license holders.

## Survey responses

A total of 234 responses were received to the consultation:

- 100 responses from members of Cheshire East's Digital Influence Panel (DIP)
- 104 responses from existing or previous license holders
- 30 responses from other sources (see Appendix A for full breakdown)

This report presents a summary of all responses received and is divided in five sections as below:

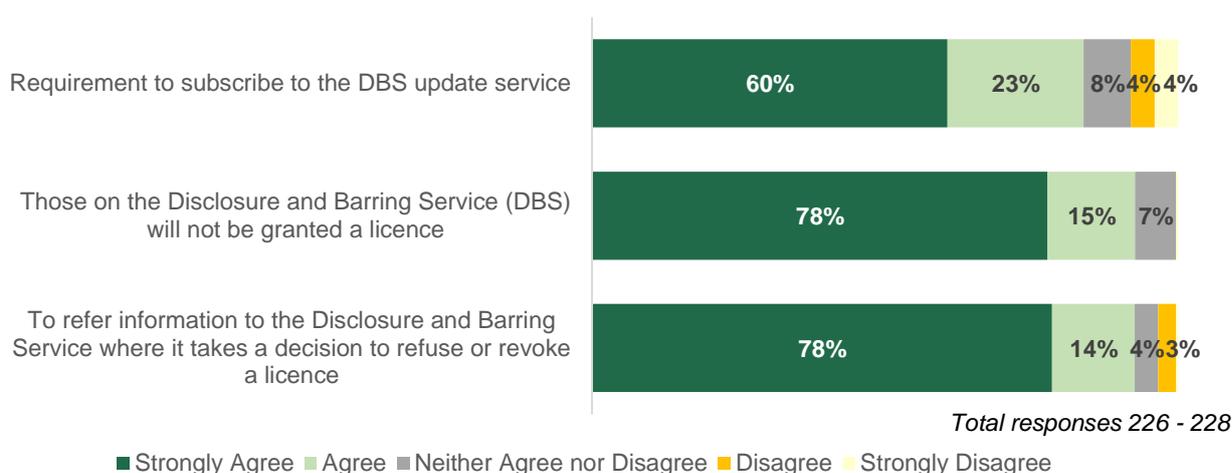
1. National Standards
2. Additional Standards
3. Private Hire Operators
4. Zoning
5. Conclusions

Report produced January 2022 by the Research and Consultation Team, Cheshire East Council. Email [RandC@cheshireeast.gov.uk](mailto:RandC@cheshireeast.gov.uk) for further information. Please note due to rounding percentages in visuals will not always sum to 100% and that comments can generate multiple references meaning total number of references in open comment sections may not sum to total comments received.

## Section 1: National Standards

Respondents were asked how strongly they agreed or disagreed with several aspects around DBS checks and policy implementation. These included: a requirement to subscribe to the DBS update service, those on the barred lists maintained by the Disclosure and Barring Service (DBS) not being granted a licence, and to refer information to the Disclosure and Barring Service where it takes a decision to refuse or revoke a licence and where the individual is thought to present a risk of harm to children or vulnerable adults. Figure 1 below presents a summary of responses to these items.

Figure 1: DBS Policy Items



Respondents expressed high agreement with all three items. The item with the highest agreement was those on the DBS list to not be granted a license (93% 'strongly agree' or 'agree', 212 of 228).

Respondents left a total of 78 comments to these three items which were split in those expressing support for them (33 references) mainly due to safety benefits (13 references). However, a number of respondents raised concerns or queries about them such as:

- Who covers the cost of the DBS checks (17 references)
- Discretion was needed for referrals to the barring service, transparent process needed, honest mistakes (8 references)
- How to handle out of area drivers (6 references)
- Checks were too frequent and how would this affect the 3-year renewal (5 references)

*Para 4.14 is contradictory: it states that no licence will be issued, but then goes on to provide an "exceptional circumstances" exception, and that these "should be" - not "will be" - recorded!*

Respondents were asked three further questions around national standards which included: mandatory safeguarding training for all drivers, the use of the National Register of Revocation and Refusals (NR3) before issuing a licence and the implementation of guidelines on the assessment of previous convictions. Figure 2 below presents a summary of results.

**Figure 2: National Standards**



Respondents again expressed a high level of agreement with these items. The highest level of agreement received was to the use of the NR3 (90% 'strongly agree' or 'agree', 204 of 227).

Respondents left a total of 62 comments to these three items which were split in those expressing support for them (25 references) mainly due to safety benefits (5 references). However, a number of respondents raised concerns or queries about them such as:

- Who covers the cost of the safeguarding training (6 references)
- Experience drivers would not need training, those driving for school transport already have training, course content needs to be tailored (9 references)
- How to deal with out of area drivers (6 references)
- A transparent process is needed in regard to NR3, room for appeals (5 references)
- More information on guidelines needed (3 comments)

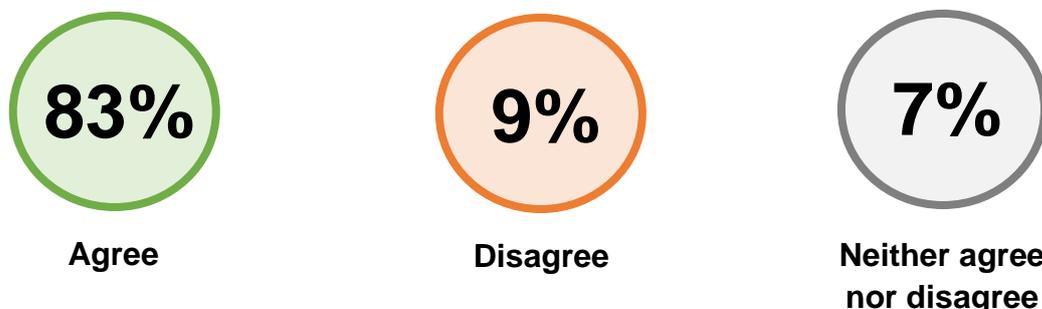


*The Guidelines are not well-researched or thought through in respect of offences committed in other jurisdictions. As examples, it will not be possible to use the current wording to refuse a licence to a person convicted in Scotland of wilful fire-raising ("arson" can only be committed in England and Wales), and Fixed Penalty Notices can only be issued for criminal offences. However, as the word "civil" is mentioned, shouldn't Penalty Charge Notices be included?*



Respondents were asked if they agreed or disagreed that the BTEC Award in Transporting Passengers by Hackney Carriage and Private Hire is sufficient for applicants to demonstrate that they have appropriate English language skills.

**How strongly do you agree or disagree that this is sufficient for applicants to demonstrate that they have appropriate English language skills?**



*Total number of respondents 228*

Respondents expressed a high level of agreement that the BTEC award is sufficient for applicants to demonstrate that they have appropriate English language skills (83% 'strongly agree' or 'agree', 191 of 228).

Respondents left a total of 35 comments to this section which were split into those who expressed support (12 references) and those who had the following points:

- BTEC doesn't go far enough, face to face interviews and assessment are needed to prevent others from completing courses online (10 references)
- Current licence holders should be applicable to this, poor skills raised concerns (7 references)
- Too complicated, shouldn't apply to UK drivers with good history (3 references)
- Who covers the cost, another barrier to new drivers (1 reference)
- How to deal with out of area drivers not having this (1 reference)

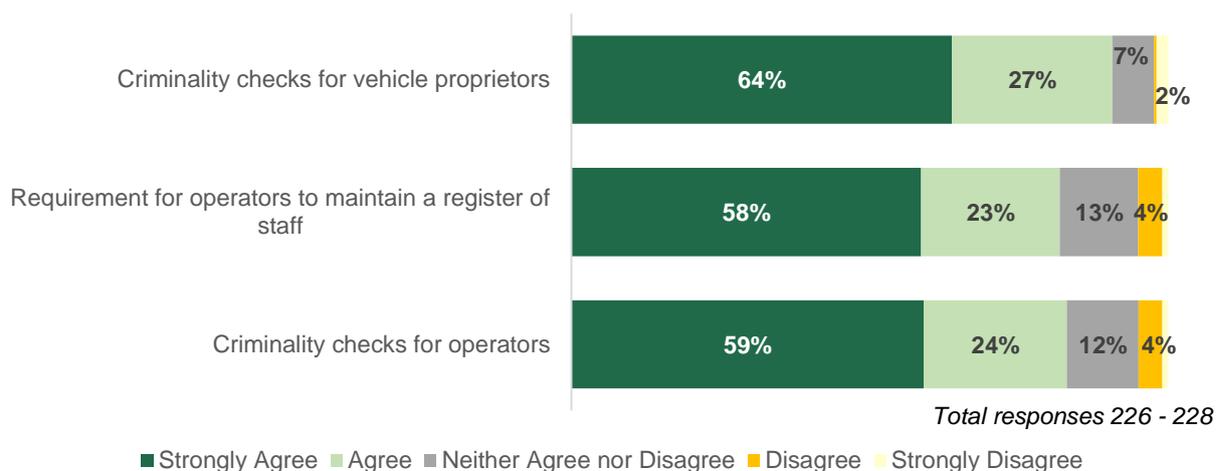


*The idea of such courses is a nice idea however they are often difficult to come by and are an obstacle in the way of a potential new driver. Maybe adopting the Wolverhampton approach to this would be better.*



Finally, in this section respondents were asked how strongly they agreed or disagreed with a number of criminality checks for proprietors and operators as well as a requirement to hold a register of staff. Figure 3 overleaf presents a summary of results.

Figure 3: National Standards Continued



Respondents expressed a high level of agreement with all standards. The highest level of agreement was expressed to criminality checks for vehicle proprietors (91% 'strongly agree' or 'agree', 207 of 228).

Respondents left a total of 53 comments to these three items which were split in those expressing support for them (21 references) mainly due to safety benefits (3 references). However, a number of respondents raised concerns or queries about them such as:

- A transparent process free of bias (7 references)
- This would create a barrier for new drivers (4 references)
- How to deal with out of area drivers (4 references)
- Already required by business (4 references)
- Measures do not go far enough (3 references)
- Individuals have already been punished by the courts, how will people reform (3 references)
- Heavy handed requirement for those will only 1-2 drivers (1 reference)
- Who will pay the costs (1 reference)



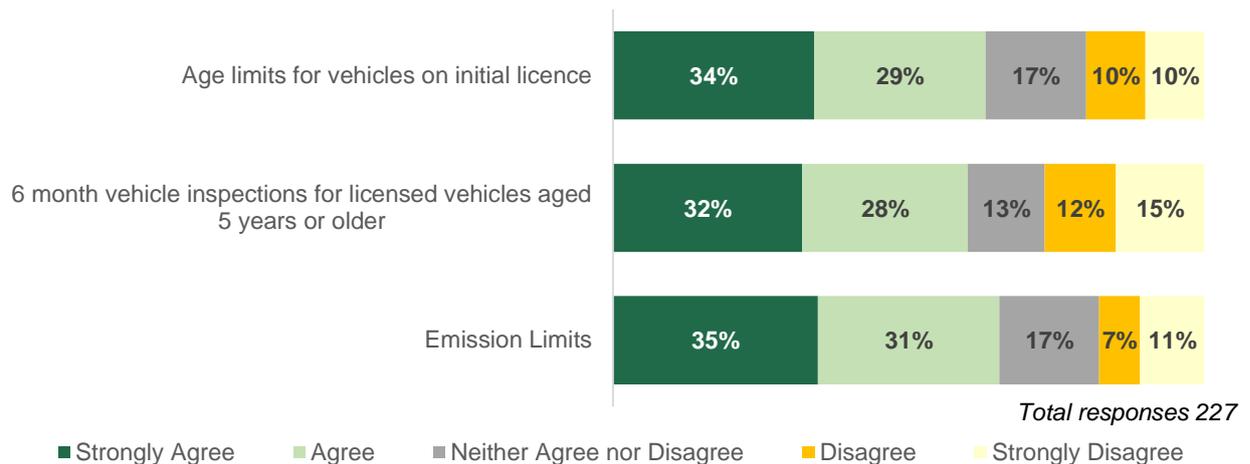
*Also that spot checks should be made on a regular basis, random cars pulled to the office, no reason needed just to check who's driving and it's the correct vehicle and in good condition, these spot checks should also include the council's presence on occasions this will then put a seriousness that alerts the drivers to the fact that they could be stood up there and then and an immediate hold on their license and vehicle, this will make all those who do use unlicensed drivers to think twice as all involved will lose their license*



## Section 2: Additional Standards

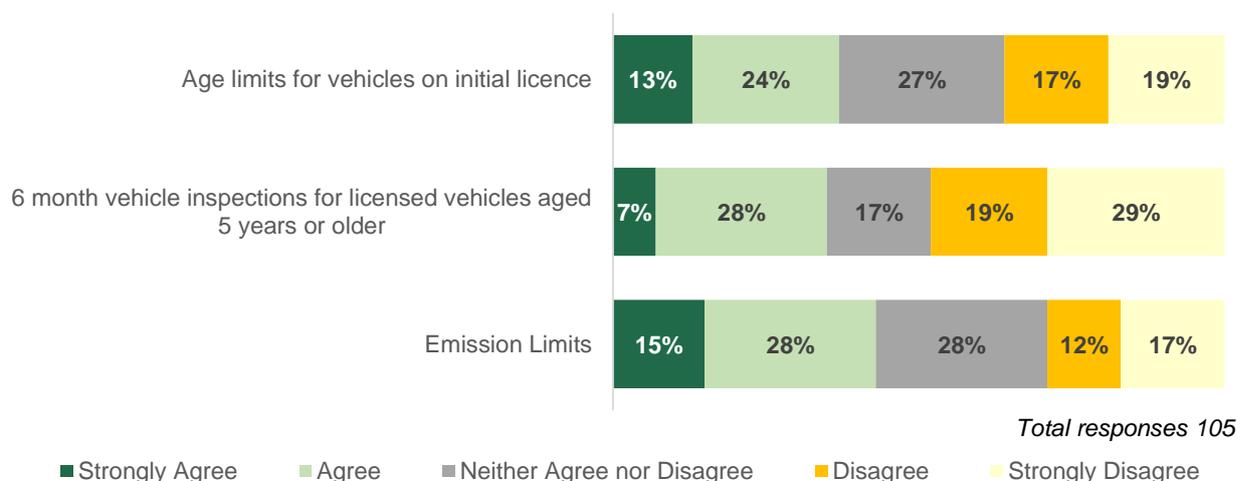
Respondents were asked about a number of additional standards alongside the proposed DFT standards. Several of these additional standards pertain to vehicle standards such as age limits, vehicle inspections and emission limits, figure 4 below presents a summary of these.

**Figure 4: Additional Standards For Vehicles (all respondents)**



At surface level respondents generally seem positive about these standards however there is an increase in disagreement seen from the DFT standard questions. Further analysis of the licence holder only responses provides more clarity into where this increase in disagreement has come from, see Figure 5 below.

**Figure 5: Additional Standards For Vehicles (licence holders)**



Licence holders expressed the highest level of disagreement (36% 'strongly disagree' or 'disagree, 38 of 105) to 6-month vehicle inspections for vehicles aged 5 years or older.

Respondents left a total of 107 comments to these three items which were split in those expressing support for them (15 references) mainly due to air quality benefits (14 references) and safety increases (3 references). However, a number of respondents raised concerns or queries about them such as:

- Who will pay the costs to meet these standards, will force many out of business at an already difficult time (40 references)
- Age of vehicle timespans need adjustment; cars would be in good working order but not able to be used (14 references)
- Need to deal with out of area drivers, would encourage out of area drivers (6 references)
- Not enough garages to undertake this work, system is restrictive this will make it worse (6 references)
- Mileage would be a more appropriate measure than age, especially in regard to specialist transport vehicles (5 references)
- An MOT would be enough, this is over-testing (4 references)
- A grace period for these measures would be needed to help absorb costs (4 references)
- Council should focus on reducing its own fleet emissions (2 references)



*Perhaps a set of standards and not limited to age. Vehicle age isn't always the main factor in meeting standards with maintenance levels being more important. The monitoring of vehicles by TSS has informed for this conclusion.*



Respondents were asked if the council should adopt the requirement of publishing a register of wheelchair accessible vehicles.

**How strongly do you agree or disagree that the Council should adopt this requirement? (WAV register)**



**Agree**



**Disagree**



**Neither agree  
nor disagree**

*Total number of respondents 226*

Respondents left a total of 24 comments to this item which were split into those expressing support for a register (10 references) and those raised concerns or queries about them such as:

- More accessible vehicles are needed generally (8 references)

- Privacy concerns, not needed or generally against (5 references)
- How will this apply to out of area drivers (2 references)
- Too costly, currently couldn't afford the expense (2 references)



*As an operator who regularly does disabled journeys I am more concerned about drivers who have bought vehicles that meet the standard to be Hackney's but then do not provide a disabled service as they are more time consuming.*



Respondents were also asked about the proposal to amend procedures on how the council deals with the licensing of temporary vehicles in the event of an accident.

**How strongly do you agree or disagree that the Council should adopt this requirement? (Temporary vehicles)**



**Agree**



**Disagree**



**Neither agree  
nor disagree**

*Total number of respondents 228*

Respondents left a total of 26 comments to this item which were split into those expressing support for amending procedures (4 references) and those raised concerns or queries about them such as:

- Procedures are too slow leading to loss of earnings, more needs to be done (7 references)
- Vehicles must be to a suitable standard (4 references)
- Current system works well so why change, more red tape (4 references)
- Needs more clarity (2 references)
- Time limits on the temporary licence to prevent abuse (1 reference)
- Out of area drivers (1 reference)



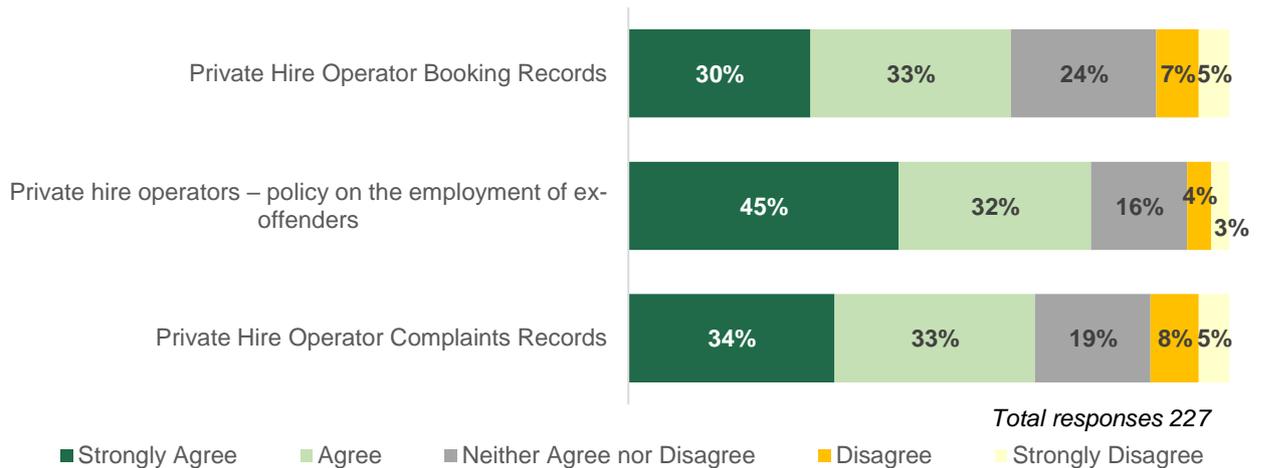
*Having had the experience, it is extremely time consuming and includes loss of income that is not recoverable from insurance (even a non-fault situation might not be recoverable.)*



## Section 3: Private Hire Operators

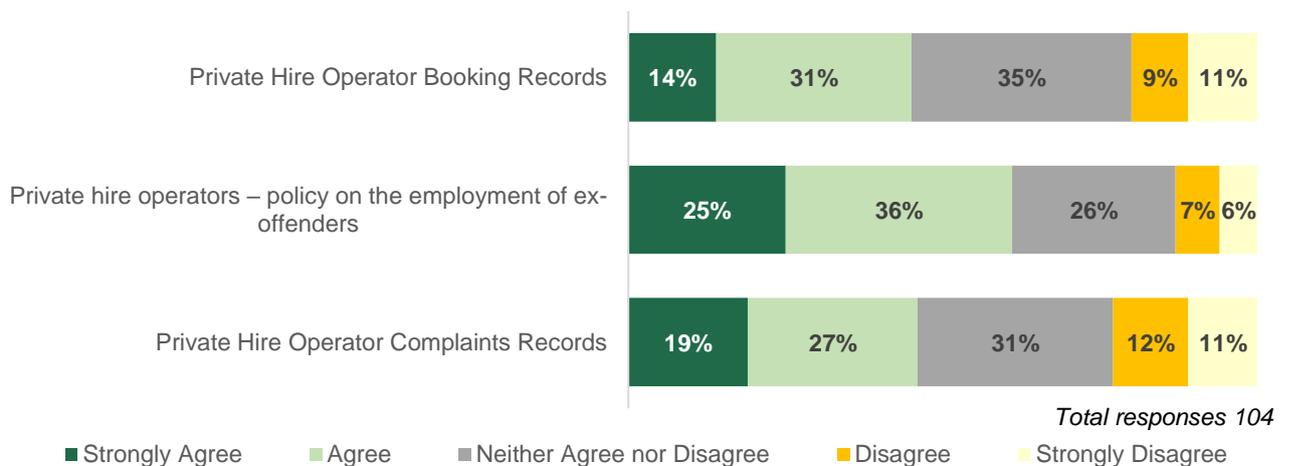
Respondents were asked a number of questions around standards relating to private operators, these included: keeping complaints and booking records for two years, and policy on employing ex-offenders and carrying out a DBS check on those involved in taking bookings. Figure 6 below presents a summary of responses to these questions.

**Figure 6: Private Hire Operator Standards (all respondents)**



Respondents expressed the highest level of agreement with implementing a policy on the employment of ex-offenders (77% 'strongly agree' or 'agree', 176 of 227). As these questions are likely to be more relevant to those with businesses and licences the views of licence holders only are presented in Figure 7 below.

**Figure 7: Private Hire Operator Standards (licence holders)**



While agreement with the three items remains high among licence holders there is an increase in disagreement towards these three items. The highest increase in disagree

was seen in the complaints record keeping process which increased from 13% to 23% ('strongly disagree' or 'disagree', 24 of 104).

Respondents left a total of 62 comments to these items which were split into those expressing support for them (21 references) and those who were against them (14 references and raised concerns or queries about them such as:

- Timeframes for keeping records needs to be extended, two years is not long enough (10 references)
- Clarity on why the timeframe increase is required (4 references)
- How to deal with out of area drivers (3 references)
- Type of offenses needed to be considered (2 references)
- Cost of keeping these records (1 reference)



*Road transport requires three years, tax people six years, make it three years how can either of the above departments investigate an operator if it only two years?*



Respondents were asked if they felt there was more the council could do when working with the police, a total of 65 comments were left to this section:

- Greater information sharing where possible, with neighbouring authorities also (13 references)
- Enforcement checks for out of area driver and touts, make sure drivers and vehicle details match (12 references) including unannounced checks (5 references)
- Support closer working links with the police (12 references)
- Employ a designated officer to deal with this (5 references)
- More needs to be done to protect drivers, especially at late night, police are not responsive (4 references)
- Safety must be improved for children's transport, randomised drug testing for drivers (3 references)
- How to make a complaint (2 references)
- Just get on with it and do the job/catch lawbreakers (2 references)



*I have been in a position with the police in Macclesfield on a Saturday night and was told it's not our business or policy so just get on with your job for the night and stop mithering us on issues that don't matter, this was less that 2 weeks after a driver/licensing/police meeting at the town hall, so yes there is more that can be done.*



## Section 4: Zoning

Currently only the Congleton zone has a limit on the number of hackney carriage vehicle licences that will be issued (42). Respondents were asked how strongly they agreed or disagreed that this limit should be removed.

**How strongly do you agree or disagree that the Council should remove the limit in the Congleton Zone?**



**34%**

**Agree**



**19%**

**Disagree**



**47%**

**Neither agree  
nor disagree**

*Total number of respondents 225*

Respondents expressed a high level of neither agreement nor disagreement with this item (106 of 225). This can sometimes be a measure of uncertainty around this item in that respondents could not form a strong opinion either way.

Respondents left a total of 37 comments around the licence limit in Congleton which were split into those who supported removing the cap (7 references) and those that didn't for the following reasons:

- Keep the limit, not enough trade in the area as is and will cost businesses money (14 references)
- Need to deal with out of area drivers, stealing trade, restrictions make no difference otherwise (9 references)
- The system needs equity, either cap all places or none of them (6 references)
- More clarity needed, why is this the only zone with cap (5 references)
- Support and listen to drivers in this matter, already difficult enough (4 references)



*Not enough trade to support the 42 taxis in Congleton as it is. Issuing more plates for Congleton will just destroy my business even further.*

*My plate has Grandfather Rights and if the restriction is removed, I expect to be compensated for my plate as I had to purchase it from a previous owner for a substantial sum prior to Cheshire East transferring it to me.*



Currently, the Crewe and Nantwich and Congleton Zone have a requirement that all new grant hackney carriage vehicles must be a wheelchair accessible vehicle. This requirement does not apply to the Macclesfield Zone. Respondents were asked how strongly they agreed or disagreed that all new hackney carriage vehicles be accessible.

**How strongly do you agree or disagree that the Council should require all new hackney carriage vehicles to be wheelchair accessible vehicles?**



**Agree**



**Disagree**



**Neither agree  
nor disagree**

*Total number of respondents 225*

Respondents were split between agreement and disagreement to this requirement, although agree was slightly higher. Considering the views of only licence holders disagreement rises from 33% to 53% (56 of 105).

Respondents left a total of 13 comments to this section covering a number of points such as:

- All vehicles should be accessible for all (5 references)
- The cost of having these vehicles would be a barrier, larger fleets would hold a monopoly (3 comments)
- Existing licences should not be affected (2 references)
- Policy would be too limiting and restricting (2 references)

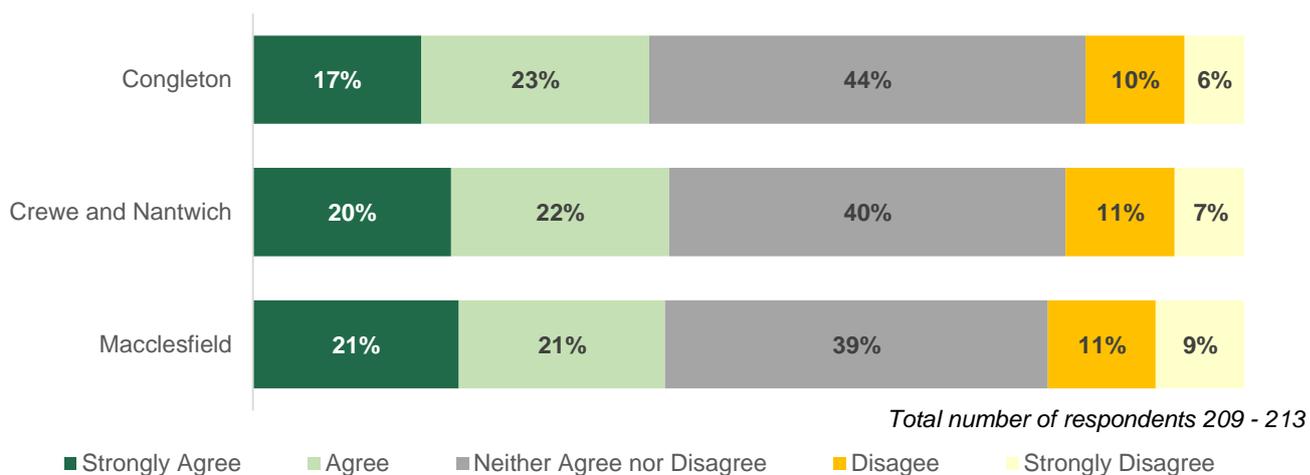


*This will lead to a shortage in Hackney Carriages. One thing I would ask is that there is more enforcement carried out on those that currently have wheelchair vehicles as it is practically impossible to get drivers to carry out wheelchair work. They all want the plate that the vehicle gets them, but they don't want to carry wheelchair passengers!*



Respondents were asked if they agreed or disagreed with the proposed table of fares for Crewe and Nantwich, Congleton, and Macclesfield. Figure 8 overleaf presents a summary of results.

Figure 8: Table of Fares



Views to increasing the table of fares in these three areas were mixed across the board with respondents expressing an equal level of agreement and neither agreement nor disagreement to items. When considering the views of licence holders only the picture becomes clearer for agreement for increasing fares in the three zones rising to 55% for Congleton, 56% for Crewe and Nantwich, and 58% for Macclesfield.

Respondents left a total of 49 comments to this section covering a number of points such as:

- Fares should be raised to cover increasing costs such as fuel, insurance, and cost of living (20 references)
- The same charges should apply to the whole of Cheshire East, unify the system (12 references)
- Fares should increase in line with inflation (7 references)
- Fares should be reduced, taxis are already too expensive (4 references)
- Out of area competition is affecting trade (3 references)
- Fares need to be displayed more clearly, how can the public access this information (2 references)

*Why are the fares not the same throughout the borough? I have strongly disagreed for C & N to have an increase because they charge more already. While taxi drivers may be feeling the pinch due to fuel increases, so are the rest of us, you could be putting taxi prices out of the range of people who may need to use one to get to a hospital.*

Cheshire East is split into three zones for hackney carriage licensing. The zones or areas are the same area as the boroughs before Local Government Reorganisation (ie Congleton, Crewe and Nantwich, and Macclesfield). Respondents were asked how strongly they agreed or disagreed that the council should retain the current zones.

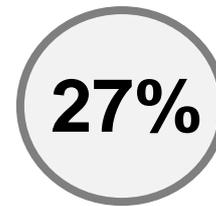
How strongly do you agree or disagree that the Council should retain the current hackney carriage zones?



**Agree**



**Disagree**



**Neither agree  
nor disagree**

*Total number of respondents 226*

Respondents were split nearly evenly between all options on the retention of zones. Agreement to keep the zones increases slightly when considering the views of licence holders only up from 39% to 44% (46 of 106).

Respondents left a total of 46 comments around the removal of zones which were split into the following:

- Remove the zones, one plate for Cheshire East as a whole would make more sense, a more refined system (24 references)
- Out of area plates and drivers are stealing trade, do not respect zones anyway (9 references)
- Against the removal of zoning, small areas with low trade, keep the local knowledge and businesses going (10 references)



*UBER and other private hire companies are operating in Cheshire east. they have captured customer market. Hackney trade almost dying in Our council area.*



Finally, respondents were asked if they had any further comments to make. A total of 69 comments were left to this section which were coded into three themes, a summary of which is presented below:

### **Concerns (26 references)**

The main point highlighted here by respondents was the need to deal with out of area plates and the rise of UBER and unlicensed vehicles taking trade (18 references). Respondents recommended that spot checks on drivers be undertaken (3 references). Respondents raised concerns about the cost of vehicle maintenance and felt that failures on tests causing loss of grandfather rights was unfair as they rely on others to undertake the work (3 references). Respondents asked for better communication and felt there should be an appointed knowledgeable officer (2 references).

*If a test is failed and the work required to the taxi is done by an independent garage which is not to the Councils satisfaction and fails again on retest, even though the driver/owner has done all she/he can to rectify the failure the taxi licence would be removed and the grandfather rights lost. The driver/owner would then be unable to take the taxi to another/different garage for repair and retest. The Driver/Owners are not qualified mechanics yet can be penalised for faults they rely on other people to put right!*

### **Documentation and Training (22 references)**

The need for greater driver training and awareness was highlighted by some respondents including English speaking skills, local knowledge, and domestic abuse support (10 references). Respondents highlighted that the point of the new policy should be to simplify and streamline the process which some felt might not be the case and could more plain English be used (9 references). Respondents also felt that forms for licence renewal and applications could be improved and streamlined (3 references).

*The main purpose of the document should be to simplify regulations not confuse the issue with needless amendments.*

### **Additional Points (10 references)**

Respondents felt that the document would have some air quality benefits and reduced emissions (6 references). Respondents felt more could be done about drivers speeding (1 reference), improved road conditions in the borough (1 reference) and that the council were overcharging licence holders for applications and maintenance (2 references).

### **Considerations (9 references)**

A need for more taxi ranks was highlighted by respondents (4 references) including a request for a rural hub service (1 reference). Resistance against a mandatory WAV condition was expressed (1 reference). Respondents also felt more could be done to improve driver and passenger safety such as driver screens and CCTV in vehicles (3 references).

*apart from the privately run rank at Crewe station Crewe only has the small rank on market square. customers need ranks at key points such as Leighton hospital, asda and the retail park. there is no daytime rank at all in Nantwich, creating unnecessary and expensive detours*

## Conclusions

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In terms of national standards respondents were generally positive around these, especially regarding DBS checks and the use of the NR3. Respondents felt that these could improve safety for both passengers and drivers. There was strong support for an English language qualification and also for mandatory safeguarding training.

In terms of mandatory conditions on vehicles (such as age and maintenance checks) respondents were less supportive, especially when considering the views of licence holders only. The main issue repeatedly raised throughout the survey was around the cost that some of these conditions would impose on an already delicate balancing act. Support for these measures could be improved through suggested grant funding or phased integration to give time for costs to be absorbed. Secondly respondents felt that too much weight was being given to the age of the vehicle and felt that focus should be more on the maintenance and mileage of vehicles for additional checks.

Respondents also had a mixed response to zoning and fare increases with many expressing concern or surprise that there is such variance across Cheshire East. Views of licence holders need to be considered carefully before making changes such as the removal of limits on licences in the Congleton zone and the removal of zones across Cheshire East as respondents raise compelling arguments for both sides of the case.

A consistent theme through the survey was the need to handle out of area drivers. Respondents felt that the stricter Cheshire East became as a licencing authority, this was something that would increase in the future and that was currently already a problem. A respondent felt that Cheshire East should look to Leeds City Council for an example in how to deal with this.

As well as out of area drivers, there were concerns raised around many points about the amount of time or 'red tape' and cost that adoption of these conditions would add to renewal and operating costs of a driver. This has been particularly sharpened by the impact of COVID-19 on the industry. Implementation of the policy should be mindful of its impact at an already difficult time with mitigation in place for costs if possible.

## Appendix A: Demographics

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Respondent Type	Count	Percent
An existing license holder	100	44%
A previous license holder	<5	2%
On behalf of a group, organisation or club	<1	0%
As an individual	108	48%
On behalf of a local business	<1	0%
As an elected Cheshire East Ward Councillor, or Town/Parish Councillor	7	3%
Other	6	3%
<b>Grand Total</b>	<b>227</b>	<b>100%</b>

Gender	Count	Percent
Male	164	72%
Female	53	23%
Prefer not to say	11	5%
<b>Grand Total</b>	<b>228</b>	<b>100%</b>

Age	Count	Percent
16 – 24	<5	0%
25 - 34	5	2%
35 - 44	29	13%
45 - 54	46	20%
55 - 64	61	27%
65 - 74	62	27%
75 - 84	11	5%
Prefer not to say	13	6%
<b>Grand Total</b>	<b>227</b>	<b>100%</b>

Long term health problem or disability	Count	Percent
Yes	27	12%
No	176	78%
Prefer not to say	23	10%
<b>Grand Total</b>	<b>228</b>	<b>100%</b>

**Work Programme – Environment and Communities Committee – 2022/23**

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/15/21-22	4 Aug 2022	Developer Contributions SPD	To approve the draft supplementary planning document for public consultation.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	No
EC/37/21-22	4 Aug 2022	Hackney Carriage and Private Hire Licensing Policy	To consider the Hackney Carriage and Private Hire Licensing Policy.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	N/A
EC/11/22-23	4 Aug 2022	Household Waste Recycling Centre User Guide/Policy	To consider information concerning the use of household waste recycling centres present on the Council's website. The user guide/policy brings all the information together in one document.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/12/22-23	4 Aug 2022	Single Use Plastics Update	To consider an update on single use plastic items following a notice of motion with regard to the council removing any single use plastics from its operations.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/32/21-22	4 Aug 2022	Standing Item: Member Advisory Panel: Cheshire East Planning Process Review	To receive an oral update from the Chair of the Member Advisory Panel.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/31/21-22	4 Aug 2022	Standing Item: Members Advisory Panel: Cheshire East Cemeteries Strategy Review	To receive an oral update from the Chair of the Member Advisory Panel.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/02/22-23	29 Sep 2022	First Financial Review of 2022/23 (Update to include progress on policy proposals and material variances from MTFS)	To receive the first financial review for Adults, Health and Integration and to note or approve virements and supplementary estimates as required.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	An open and enabling organisation	NA
EC/10/22-23	29 Sep 2022	Household Waste Recycling Centre Contract	To inform Councillors of the winning bidder for the HWRC contract that is starting in April 2023. The cost of the procurement could determine if there is appetite for pushing forward with a new Congleton site.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/13/22-23	10 Nov 2022	Cheshire East Enforcement Policy Review	To consider a report presenting information on the review of the Cheshire East Enforcement Policy including any amendments that have been made to the existing version published in 2019. The report will seek approval of a new 2022 Policy.	Director of Environment and Neighbourhood Services	Yes	N/A	N/A	An open and enabling organisation	N/A
EC/14/22-23	10 Nov 2022	Local Development Scheme 2022	To review a revised Local Development Scheme setting out a timetable for the preparation of the Local Plan. It will remove the, now withdrawn, Crewe Hub Area Action Plan which forms part of the current LDS. It will set out a revised timetable for the preparation of the Minerals and Waste Plan and also a new timetable for the Local Plan Strategy Update.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	N/A
EC/03/22-23	10 Nov 2022	Second Financial Review of 2022/23	To receive the second financial review for Adults, Health and Integration and to note or approve virements and supplementary estimates as required.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/15/22-23	2 Feb 2023	Animal Welfare Policy	To consider the Animal Welfare Policy.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	An open and enabling organisation	N/A

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/04/22-23	2 Feb 2023	Medium Term Financial Strategy Budget Consultation	To respond to the budget consultation for Environment, Neighbourhoods and Communities.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	An open and enabling organisation	N/A
EC/05/22-23	30 Mar 2023	Third Financial Review of 2022/23 - Part B Full Report based on Part A	To receive the third financial review for Adults, Health and Integration and to note or approve virements and supplementary estimates as required.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	An open and enabling organisation	N/A

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