

Report on NABMA Legal Clarification Meeting held 19th May 2026

Frodsham Artisan Market and Market Rights

Meeting Overview

A meeting was convened to clarify the legal position regarding the operation of the Frodsham Artisan Market and its compliance with market legislation under Part III of the Food Act 1984. The discussion focused on confirming factual legal positions rather than debating policy or opinions relating to the market.

The meeting invitation was extended to all Frodsham Town Councillors and the owner of the Frodsham Royal Market Charter.

The meeting was attended by Cllr D Critchley, Cllr J Critchley, Cllr Hayes, Cllr Hook, Cllr Lofts, J O'Donoghue (Town Clerk) and Graham Wilson (Legal Advisor to National Association of British Market Authorities)

Key Legal Clarifications

1. Authority Under Part III of the Food Act 1984

Graham Wilson confirmed that Frodsham Town Council is acting lawfully in operating and licensing the Artisan Market under Part III of the Food Act 1984.

Key points included:

- Parish and Town Councils are among the local authorities empowered under Part III of the Food Act 1984 to establish markets.
- The legislation permits councils to:
 - Establish markets directly;
 - Determine the days and hours of operation;
 - Enter into licensing arrangements with market operators.
- Frodsham Town Council is therefore legally entitled to appoint and license an operator to manage the Artisan Market on its behalf.

Graham Wilson stated clearly that there is “no issue at all” with the Town Council operating an Artisan Market on the last Saturday of each month.

Relationship Between the Artisan Market and the Royal Charter Market

2. Nature of Market Rights

The meeting discussed the relationship between:

- The Thursday Market operated under Royal Charter rights; and
- The Artisan Market operated under statutory powers.

Graham Wilson explained that market rights can arise through different legal mechanisms, including:

- Royal Charter rights; and
- Statutory rights under legislation.

Although Royal Charter rights generally hold higher legal precedence than statutory rights, the Charter holder is restricted to the specific terms set out in the Charter.

3. Scope of the Royal Charter

The Royal Charter in Frodsham permits:

- A weekly market on Thursdays; and

- Two annual fair days.

Graham Wilson explained that:

- The Charter holder cannot automatically establish markets on different days outside the Charter provisions.
- The Charter rights are specifically limited to the Thursday market and the designated fair days.
- Fair days are legally distinct from standard weekly markets and are traditionally regarded as larger trading gatherings.

The meeting also confirmed that the Charter refers to:

- One fair day in May; and
- One fair day in August.

Different-Day Markets and Legal Tests

4. Artisan Market Held on a Different Day

A major point clarified during the meeting was that the Artisan Market operates on a Saturday rather than a Thursday.

Graham Wilson advised that where a rival market operates on a different day to a Charter market:

- The Charter holder must demonstrate actual or apprehended damage to their market in order to challenge the rival market.

Examples of damage could include:

- Loss of trader income;
- Reduced footfall;
- Reduced rental income.

Graham Wilson stated that the burden of proof rests with the Charter holder.

5. Same-Day Market Distinction

Graham Wilson distinguished the current situation from a same-day competing market.

He explained that:

- If the Artisan Market were moved to a Thursday, the legal position would be significantly different.
- In same-day competition cases, damage to the Charter holder is presumed in law.
- In such circumstances, the Charter holder would not need to prove actual financial harm.

As the Artisan Market is held on a Saturday, these same-day protections do not apply.

Established Nature of the Artisan Market

6. Delay and Established Trading Position

Graham Wilson highlighted that the Artisan Market has existed for a considerable period (since 2024) and is now:

- Well-established;
- Well-run; and
- Well-respected.

He referred to the legal principle:

“Delay defeats equity.”

This principle means that where a Charter holder allows a market to become established over time without taking action, a court may be less sympathetic to later legal challenges.

Graham Wilson noted that if the Artisan Market had caused significant damage to the Thursday market, it would reasonably be expected that such damage would already have become evident.

Licensing and Additional Markets

7. Ability of the Charter Holder to Authorise Other Markets

The meeting clarified that:

- The Charter holder cannot independently establish additional markets on other days outside the Charter provisions.
- Any attempt to do so would require separate licensing arrangements.
- The Charter holder may seek to license markets on different days only if they can demonstrate that those markets affect their Thursday market rights.

Graham Wilson contrasted this with the Town Council’s statutory flexibility under the Food Act, which allows the Council to designate market days more freely.

Cheshire West and Chester Council Market Rights

8. Clarification Sought on Cheshire West and Chester Council

Questions were raised regarding whether Cheshire West and Chester Council could authorise markets within the Frodsham area.

Graham Wilson explained:

- The position depends upon the extent of Cheshire West and Chester’s market rights.
- Some authorities restrict the geographical extent of their market rights.
- Further checks would be required to establish the exact position.

It was agreed that:

- Clerk would liaise with Karen Bates at Cheshire West and Chester Council; and
- Graham Wilson would assist in reviewing the position if required.

Several councillors expressed the need for definitive written clarity for future records and governance purposes.

Wider Context of Market Rights

9. National Context and Legal Background

Graham Wilson noted that disputes and overlaps involving market rights are not unique to Frodsham.

He explained that:

- Similar situations arise elsewhere between Town Councils, District Councils and Unitary Authorities.
- Overlapping market rights can create confusion for market operators.
- NABMA encourages authorities to cooperate and establish clear arrangements where overlapping rights exist.

Graham Wilson also provided broader legal context by noting:

- Attempts were made by the Government in 1991 to abolish market rights;
- Further attempts were made by the European Union in 2006;
- Both attempts were unsuccessful.

He acknowledged that market rights are often criticised as archaic and anti-competitive, but confirmed that they remain part of English law.

Conclusion

The meeting concluded with a clear legal understanding that:

- Frodsham Town Council is acting lawfully under Part III of the Food Act 1984;
- The Town Council is entitled to appoint and license an operator for the Artisan Market;
- The Royal Charter market rights are restricted to Thursdays and two annual fair days;
- The Artisan Market, operating on a Saturday, does not automatically infringe Charter rights;
- Any challenge by the Charter holder would require evidence of actual or apprehended damage;
- The established and longstanding nature of the Artisan Market strengthens its position.

The Clerk concluded the meeting by stating that the Council could be satisfied that it is acting lawfully in continuing to support and license the Artisan Market on the last Saturday of each month.

Actions Agreed

1. Clerk to liaise with Cheshire West and Chester Council regarding the extent of Cheshire West and Chester market rights.
 2. Graham Wilson to assist further if clarification of Cheshire West and Chester market powers is required.
 3. The legal clarifications discussed at the meeting to be retained within Council records for future reference.
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Outcome

1. Karen Bates Cheshire West Market Manager confirmed the following on 20th May 2026 which states the legal position of Cheshire West and Chester Council:
Cheshire West and Chester Council does not hold market rights in Frodsham. Due to the location of its existing markets and the monthly markets it licenses, from which market-right distances can be measured; the nearest being Northwich Market, approximately 9 miles away. Consequently, the Council is only able to provide advice regarding market rights in Frodsham and cannot enforce or license Cheshire West and Chester market rights in Frodsham.
2. No further assistance is required from Graham Wilson in clarification of Cheshire West and Chester market powers.
3. Graham Wilson (NABMA) has received a copy of this report and agrees with the contents.
4. Legal clarifications discussed at the meeting to be retained within Council records for future reference:
Z CORRESPONDENCE > Market > Market rights