



Purpose: For Decision

Cabinet report

Date **15 JULY 2021**

Title **MOBILE HOMES LICENSING FEES POLICY**

Report of **DEPUTY LEADER AND CABINET MEMBER FOR DIGITAL TRANSFORMATION**

EXECUTIVE SUMMARY

1. The Mobile Homes Act 2013 amended the Caravan Sites and Control of Development Act 1960 to enable local authorities to set and charge fees to reclaim the cost of administering and monitoring site licences and applications in respect of 'relevant protected sites' (residential sites).
2. The Mobile Homes (Site Rules) (England) Regulations 2014 and The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 also enable local authorities to charge fees in respect of exercising the functions under these regulations.
3. Before an authority can charge these fees, they must publish a fees policy. This report is for a decision to adopt a proposed fees policy.

BACKGROUND

4. The regulations outline in what circumstances fees may be charged, for example –
 - 1 Fees are not applicable to holiday or camping sites – only sites that provide residential occupancy.
 - 2 Fees may be charged for applications to grant or transfer a licence or alter the conditions on a licence, and an annual licence fee may be charged for administering and monitoring licences.
 - 3 Enforcement costs can also be recovered but not under the fees for applications or annual fees.
 - 4 Fees may also be charged for applications to be included on the Fit and Proper Person Register as well as an annual fee for maintaining such records.
5. A fees policy has been created following the guidance issued by the Local Government Association; this can be found at Appendix 1.

6. The legislation states that before charging fees, the local authority must prepare and publish a fees policy. It also states that a local authority:
 - (a) must act in accordance with their fees policy,
 - (b) may fix different fees for different cases or descriptions of case,
 - (c) may determine that no fee is required to be paid in certain cases or descriptions of case.

7. There are currently 6 sites on the island that are licensed and fall under the definition of 'relevant protected sites' that would potentially be affected by the implementation of this fees policy:

Site Name	Number of residential units permitted
Fernhill	26
Little Canada	6
Medina Park	158
Riverview Park	19
Riverview Court	45
Waverley Park	30

8. The guide for setting fees from the Department of Communities and Local Government outlines several options for local authorities in respect of annual fees:
 - Option 1 – fee per pitch (A fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit)
 - Option 2 – fee based on site size bandings
 - Option 3 – fee based on a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management.

9. The annual fees will be based on site size bandings. The calculation of the fees has not included the cost of any inspection as it is not proposed that sites would be routinely inspected at present. If a routine inspection programme is to be implemented in future, these fees will be subject to review to recover such costs.

CONSULTATION

10. Licence holders of sites that fall under the definition of 'relevant protected sites' were written to, along with established Residents' Associations, informing them of the proposed policy and inviting any comments.

11. The proposed policy was also posted on the Council's website inviting comments to be submitted.

12. One comment was received regarding how such fees would be passed on to residents. Clarification was provided (and is reflected in the subsequently revised version of the policy), based on the national guidance, which states:

Paragraph 9.1

Homeowners may argue that they already pay for a council service in terms of council tax and therefore the cost of the licensing function should be covered in this. (This assumes the site owner passes on their licence fee to the homeowner which they are permitted to do in law).

Paragraph 8.7

A site owner may not pass on costs of enforcement action to residents through the pitch fee.

13. No correspondence has been received from licence holders.

FINANCIAL / BUDGET IMPLICATIONS

14. Broadly, Council expenditure on licensing matters, and specifically those administered and enforced through Regulatory Services, is funded from the income generated from licensing fees and charges and not the council's revenue budgets.
15. If this policy is adopted, it will enable the service to recover the cost of administering the function of licensing Mobile Home sites.
16. If the policy is not adopted, the council will continue to be obliged to process applications received under the relevant regulations but will not be recovering the cost of doing so.

LEGAL IMPLICATIONS

17. The Mobile Homes Act 2013 has made sweeping changes to the law on park homes and included amendments to the Caravan Sites and Control of Development Act 1960, and the Mobile Homes Act 1983.
18. The Caravan Sites and Control of Development Act 1960 (as amended) allows local authorities to charge fees in respect of 'relevant protected sites'.
19. Regulation 12 of The Mobile Homes (Site Rules) (England) Regulations 2014, made under the Mobile Homes Act 1983 provides that a deposit of site rules must be accompanied by a fee of such amount as an authority may determine.
20. Regulation 10 of The Mobile Homes (Requirement for Manager of a Site to be Fit and Proper Person) (England) Regulations 2020 specifies that a registration application must be accompanied by a fee fixed by the local authority and allows for an annual fee to be charged following the preparation and publication of a fees policy. Further publication is required on revision of the fees policy.
21. The Ministry of Housing, Communities & Local Government has published guidance Mobile Homes Act 2013: a guide for local authorities on setting licence fees which sets out advice on matters that a local authority can and cannot take into account when setting fees, setting fee structures and how fees are to be calculated.

22. There is no requirement to consult with site owners or homeowners, but a local authority may consider doing so.

EQUALITY AND DIVERSITY

23. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
24. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies.
25. The equality impact assessment looks at how a service promotes equality and diversity to ensure legal compliance and how the services we provide and the decisions that we make meet the needs of our local community.
26. The assessment carried out (Appendix 2) acknowledged that the residents of the mobile home sites are usually in the older age demographic. As the policy will be applied equally across all 'relevant protected sites' as defined in the regulations, and the fees are intended to recover the cost of administering licensing functions in relation to these sites, there will be no impact specifically on this protected characteristic. The licence holders and established Residents' Associations were informed of the proposed policy during consultation and no comments have been received to indicate otherwise.

SECTION 17 CRIME AND DISORDER ACT 1998

27. Section 17 of the Crime and Disorder Act 1998 (as amended by Police and Justice Act 2006) provides that: '...it shall be the duty of each authority ... to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent, crime, disorder, antisocial behaviour adversely affecting the environment, and substance misuse in its area'.
28. Section 17 applies to all duties, activities and decision making. Ignorance or failure to respond to the requirements of section 17 leaves the Council open to legal challenge.
29. Legislation requires caravan sites to be licensed and provides a range of offences regarding how these are to be operated. The powers given to the local authority under such regulations are to assist in ensuring that crime and disorder is prevented; Implementing a fees policy will assist in the cost recovery of the authority exercising this function.

OPTIONS

30. Option 1 – to adopt the proposed Mobile Homes Licensing Fees Policy (Appendix 1).
31. Option 2 – to adopt the policy with amendments that are deemed necessary.
32. Option 3 – not to adopt the proposed policy.

RISK MANAGEMENT

33. There is the risk of legal challenge from licence holders and/or residents of the sites that will be affected if the fees policy is adopted.
34. The legislation provides the authority with the ability to charge fees for exercising its functions relating to mobile homes in accordance with a published policy. The policy has been drafted with reference to guidance from the Local Government Association and the Ministry of Housing, Communities & Local Government and has been publicly consulted upon with no comments received.

EVALUATION

35. The regulations permit fees to be charged to recover the cost of administering these licensing functions.
36. There is no prescribed consultation period or process to be followed in publishing a fees policy.
37. Public consultation and direct engagement with licence holders and Residents' Associations has taken place and no comments have been received in respect of the draft fees policy including the fees proposed to be charged.
38. If councillors believe that amendments are required to be made to the policy, they could consider this but it should be noted that any changes would not have been consulted upon with licence holders or members of the public and therefore this renders this decision more exposed to challenge.
39. To refuse to adopt the policy would mean that the costs of administering licences in respect of mobile homes would not be recovered. When applications are received, the authority is obliged to process them and if unable to charge fees, the authority would be operating in deficit.
40. The regulations require sites to be licensed and provide enforcement powers to local authorities to ensure that such sites are safe and the residents that live there are protected. As the costs of exercising such functions can be recovered, the recommendation is that the policy is approved to enable fees to be charged.

RECOMMENDATION

41. Option 1 - To adopt the proposed Mobile Homes Licensing Fees Policy (at Appendix 1).

APPENDICES ATTACHED

42. Appendix 1 Mobile Homes Licensing Fees Policy
Appendix 2 Equality Impact Assessment – Initial Screening

BACKGROUND PAPERS

43. Mobile Homes Act 2013: a guide for local authorities on setting licence fees
<https://www.gov.uk/government/publications/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees>

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