

Mobile Homes Fees Policy Consultation Results

SUMMARY

- 1.1 The legislation regarding the licensing of mobile home sites has changed.
- 1.2 The new legislation introduces new local authority powers, including new enforcement powers and the ability to charge for some licensing functions.
- 1.3 Before any charging regime is implemented, the Council must agree a Mobile Homes Fees Policy(the Policy) following consultation with existing licence holders and current residents.
- 1.4 On 17 July 2014 the General Licensing Committee agreed to instruct the Service Director of Environment and Regulatory Services to conduct a consultation exercise and to report back to the Committee in December 2014 with the findings.
- 1.5 The consultation exercise took place during August 2014 with the existing licence holders and residents. This report contains the results of the consultation and the final copy of the Mobile Home Fees Policy.

RECOMMENDATION

- 2.1 That Committee notes the comments made during the consultation period.
- 2.2 That Committee notes and approves the final copy of the proposed Mobile Homes Fees Policy which is attached at Appendix 3.

REASONS FOR RECOMMENDATION

- 3.1 The Mobile Homes Act 2013 (the Act) is mandatory legislation and therefore must be implemented by the Council. However, the Council has discretion as to whether it charges a fee for a relevant licensing function.
- 3.2 The adoption of a charging regime for all the relevant licensing functions will enable the Council to recover the costs of undertaking the work required by the new legislation.

SUPPORTING INFORMATION

- 4.1 As part of the consultation exercise a letter was sent to 243 existing residents and to the 3 existing licensed site owners. Information concerning the consultation exercise was also placed on the Council's website. The exercise was limited to residents and site owners.
- 4.2 From the initial letter, the Licensing Team had 15 requests for a full consultation pack. One response was received, a copy can be found at Appendix 2. The content of the response consisted of queries concerning the selling and gifting of homes, and the transfer of site licences. The Mobile Homes Act 2013 deals with these issues specifically and cannot be dealt with via the Mobile Homes Fees Policy.
- 4.4 Due to no other responses being received the Policy remains unchanged and the final copy can be found at Appendix 3.
- 4.5 An equality impact assessment has also been completed. A copy can be found at Appendix 4.

OTHER OPTIONS CONSIDERED

- 5.1 Committee could decide not to introduce fees at this time and not adopt the final version of the Mobile Homes Fees Policy. If the Policy is not adopted, the cost of administering the existing site licences, and dealing with any new applications or transfers will have to be met from other sources for which there is no budget. It is the Government's intention that the cost of site licensing should be met from the fee income.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Lucie Keeler Amanda Fletcher n/a n/a n/a Michael Kay, Ann Webster
For more information contact: Background papers: List of appendices:	Sandra Mansell 01332 641931sandra.mansell@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Response Received During Consultation Appendix 3 – Final Version of the Mobile Homes Fees Policy Appendix 4 – Equality Impact Assessment

IMPLICATIONS

Financial and Value for Money

- 1.1 The regime allows for the local authority to re-charge the cost of certain licensing functions and will be new income to the Council. The estimated annual level of new income will be relatively small at around £1,000 Pa. The new Licence fee charges were included as part of the consultation exercise.

Legal

- 2.1 The Mobile Homes Act 2013 received Royal Assent on 26 March 2013 and came into force on 1 April 2014. The Council has responsibility for the licensing, administration and enforcement of the Act, and has discretion to charge a fee for certain licensing functions.
- 2.2 The duty to consult must adhere with the guiding principles of effective consultation, namely, that consultation:
- (a) should be well timed, allowing contributors sufficient time to consider and respond;
 - (b) should be clearly presented, in order to encourage informed opinion;
 - (c) should be properly targeted;
 - (d) responses should be properly considered;

Personnel

- 3.1 None arising from this report.

IT

- 4.1 None arising from this report.

Equalities Impact

- 5.1 An equality impact assessment has been undertaken and a copy is included at Appendix 4 for information.

Health and Safety

- 6.1 None arising from this report.

Environmental Sustainability

7.1 None arising from this report.

Property and Asset Management

8.1 None arising from this report.

Risk Management

9.1 The adoption of a fees policy will avoid a budget pressure.

Corporate objectives and priorities for change

10.1 The proposals set out in this report will deliver **better outcomes for our communities, more efficient and effective services and improved value for money for our customers.**

APPENDIX 2



APPENDIX 2

FORM
1
10 AUG 2014
10 AUG 2014
Hand/ Post/ Email

MOBILE HOMES FEES POLICY CONSULTATION – RESPONSE FORM

How can you comment on the proposed changes?

Please return your completed response form to the **Licensing Team, Environment & Regulatory Services, Derby City Council, Council House, Corporation Street, Derby DE1 2FS** before **5pm on 31 August 2014**.

Responses received after this date will not be considered.

You can also e-mail your comments to the Licensing Team to licensing@derby.gov.uk

Please phone the **Licensing Team** on **01332 641951** if you have any questions about this consultation.

What will happen to the information gathered through this consultation?


The information will be collated and presented to the General Licensing Committee on 4 December 2014.

1. Are you, (please tick the relevant box):

- | | |
|----------------------------------|-------------------------------------|
| a licensed site owner | <input type="checkbox"/> |
| a resident of a mobile home park | <input checked="" type="checkbox"/> |
| neither | <input type="checkbox"/> |

Please note this consultation is open to existing licensed site owners and current residents on mobile home parks within the Derby city area.

2. Comments	
Please write in your comment/s, including any additions or suggested wording. Please include the paragraph number of the policy you are referring to.	
Paragraph Number	Comment / Suggested Amendment
1.3	Does this allow occupiers selling or gifting homes to 'get round' site rules such as minimum age restrictions?
4	Can a site owner transfer a licence in this way without informing the residents of the site?
5	As above re. changes
Please continue on extra sheets if you wish.	

 All information provided will be treated in confidence and in accordance with the Data Protection Act 1998. It will be used for the purpose of the consultation exercise. We will only pass personal details to other Council departments or other Public Service organisations with your explicit consent. Information may also be shared for the purposes of preventing fraud.



MOBILE HOME FEES POLICY

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1. Introduction

- 1.1 The Caravan Site and Control of Development Act 1960 (CSCDA60) introduced a licensing system enabling Derby City Council (the Council) to regulate the establishment and operation of caravan sites. All sites are subject to obtaining the correct planning permission.
- 1.2 Under the CSCDA60, the Council cannot charge a fee, or refuse a site licence application, even if there is poor standards and poor compliance with the Council's licence conditions. This existing legislation limits the enforcement action available to local authorities. In cases of non-compliance the only option to prosecute the site owner.
- 1.3 The CSCDA60 has now been amended by the Mobile Home Act 20013 (MHA13). This Act was introduced in order to provide greater protection for the residents who occupy these park homes and caravans. It also introduced fundamental changes to the gifting, buying and selling of a park home, protection from harassment and eviction, the pitch fee review process, and introduced additional powers for local authorities.
- 1.4 These additional powers include charging fees for different licensing functions, the ability to serve enforcement notices and publish site rules relating to a site.
- 1.5 There is an expectation that councils will carry out annual inspections and use the additional powers afforded by the MHA13 to ensure site owners comply with the site licence conditions.

2. Scope

- 2.1 The changes introduced by the MHA13 came into force on 1 April 2014 and the fees that may be charged only apply to 'relevant protected sites'. A relevant protected site is defined in section 5A (5) and (6) of CSCDA60 (as amended). Guidance has been issued by the Department for Communities and Local Government (DCLG) and lists the types of sites which fall into the definition.

- 2.2 A 'relevant protected site' is defined in the CSCDA60 as any land to be used as a caravan site with planning consent, unless it is specifically exempted from being so. A site is exempted if:
- It has planning permission or a site licence for exclusive holiday use
 - There is a restriction on use as permanent residential
- 2.3 Relevant protected sites to which the MHA13 applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites. It will not include sites where the caravans are occupied by employees of the site owner, or travelling sites where the residents are close family members.
- 2.4 Those sites that do not fall within the definition of relevant protected sites are still subject to the licensing requirements of CSCDA60, but the provision relating to the payment of fees do not apply.
- 2.5 Under the MHA13 a fee can be charged for :
- Applications to grant a new licence;
 - Applications to transfer or amend an existing licence; or
 - Annual licence fees for administering and monitoring existing site licences.
- 2.6 This policy details the level of fees Derby City Council will charge in relation to the different functions of the MHA13.
- 2.7 The fee levels have been based on the estimated average time and costs involved in undertaking the activities involved. These fees include officer time and overheads. The MHA13 outlines what the Council can consider in calculating the fee levels. These are detailed in Appendix 1. A table outlining all the fees covered in this policy can be found in Appendix 2.
- 2.8 The fee rates set out in this policy cover the period 1 April 2015 to 31 March 2016.

3. Application for a new site licence

- 3.1 All sites are required to hold a licence (subject to the exemptions in the CSCDA60); failure to apply for a licence is an offence under section 1(2) of the CSCDA60. Under the new legislation, the Council can require a fee to accompany any new licence application.
- 3.2 The Council can only issue a licence to a site that has valid and correct planning permission for the use. Any application made before the planning status has been awarded must be processed within 6 weeks of the planning decision. Sites that have the correct planning permission in place at the time of application must be processed within 2 months of receipt of a valid application. To be considered a valid application it must include the correct fee.
- 3.3 An applicant may make contact with the Council before making an application. Informal advice and any work given in advance of an application should be given free of charge.

4. Transfer of an existing licence

- 4.1 Where an existing licence holder wishes to transfer the licence an application must be made to the Council. Any transfer application must be accompanied by the correct fee.

5. Amendment of conditions on an existing licence

- 5.1 If a site owner requests a variation to site licence conditions the Council can charge a fee.
- 5.2 It is envisaged any amendment to licence conditions will involve conducting a site visit, prior to the matter being presented and determined by the General Licensing Committee.
- 5.3 Any application to vary conditions must be accompanied by the correct fee.
- 5.4 If the Council considers it necessary to alter the conditions, no fee is payable.

6. Annual fees for existing site licences

- 6.1 Annual fees must be paid by all relevant protected sites. The fee will be due on 1 April every year, and the licence will run until the end of the financial year.
- 6.2 The annual fee covers the permitted costs associated with an annual site inspection to ensure compliance with the site licence conditions, and a revisit to ensure compliance with any informal schedule of works. If any breach of licence conditions still remain further charges may be payable to cover any enforcement action. Enforcement action is covered in Section 7.
- 6.3 The fee is calculated using both the Council's historic data of time spent on previous site inspections and estimated time and costs to enforce the new licensing functions of the new legislation.
- 6.4 The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating fees. Given the historic data the Council has available, and to ensure transparency and fairness to residents and site owners, one annual fee will be charged. If a site owner fails to comply with the site licence conditions, the MHA13 allows the Council to charge extra fees for enforcement action, thus only affecting those site owners who do not comply with their licence conditions.
- 6.5 Invoices will be sent to the licence holders of the relevant protected sites at the start of the financial year and payment will be due within 30 days.
- 6.6 If a new site licence is issued part way through the year, the annual fee will also be due in the same year. An invoice will be sent to the licence holder after the licence has been granted with the pro-rata payment being due within 30 days.
- 6.7 If an amended licence is issued part way through the year (including the addition or reduction of units), the change in annual fee would be calculated on a pro-rata basis for the remainder of the current year and the difference in fee would be adjusted against the following years annual fee.
- 6.8 If an annual fee is not paid within the terms of the invoice, the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the fee due.

- 6.9 The Council is not permitted to make a surplus from the licensing function. The MHA13 requires the surpluses and deficits to be included in the fee policy (section 5A (2)). These must be calculated and included in all future revisions of the fee policy. Any surpluses or deficits will be carried forward and affect the following financial year's fees.

7. Enforcement action

- 7.1 If breach in the site licence conditions comes to the Council's attention, a compliance notice may be served on the site licence holder, and a charge made.
- 7.2 The charge may include officer time involved in deciding to serve and prepare a notice. A detailed breakdown of the relevant expenses would be included with the notice. Any charge would be based on an hourly rate. This is in addition to any other costs incurred.
- 7.3 If the works identified in the enforcement notice are not carried out then an offence has been committed and the local authority may consider instigating legal proceedings. Any recovery of the costs incurred with such action would be at the discretion of the court.
- 7.4 If the prosecution was successful, the Council would then have the power to carry out the works in default of the site licence holder. An administration cost of 7% would be added to the cost of the works.

8. Fees for depositing, varying or deleting site rules

- 8.1 Site rules are different to the site licence conditions and are put in place by the site owner to ensure acceptable standards are maintained throughout the site and to the benefit of the occupiers or will promote community cohesion on the site.
- 8.2 The MHA13 changes the way site rules must be agreed between the site owner and the occupiers.
- 8.3 The Council must maintain a register of site rules on relevant protected sites and publish the register on their website.

8.4 Before publishing the site rules the Council must ensure the site rules have been made in accordance with the statutory procedure. A fee may be charged for this function.

8.5 Any site rules deposited with the Council for the first time, or any application to vary, or delete existing site rules must be accompanied by the appropriate fee. The fee for either of these functions is the same as the process is similar for each.

9. Revising the fee policy

9.1 The fees detailed in this fee policy have been based on experience of dealing with the previous licensing function and historical data held by the Council.

9.2 Some of the functions are new to the council, such as, the depositing of site rules and some estimates have been made as to the cost of providing these services.

9.3 At the time of producing this policy, all the sections of the MHA13 are not yet in force. Following their introduction, if there is any impact on the processes and time scales involved, the policy may need to be revised.

9.4 This policy will be revised no later than March 2016.

Appendix 1 – Permitted Elements of the Fee Setting

The Department for Communities and Local Government sets out the activities that the Council can include when calculating annual site licensing fees. These include:

- Letter writing / telephone calls etc. to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process:
- Handling enquiries and complaints;

- Updating hard files / computer systems;
- Updating the EU Directive website, if appropriate;
- Processing the licensing fee;
- Time for reviewing necessary documents and certificates;
- Downloading photographs;
- Preparing reports on contraventions;
- Review by manager or lawyers; review any consultation responses from third parties;
- Carrying out risk assessment process considered necessary;
- Pre-programmed full site inspection;
- Follow-up inspections to check compliance following a programmed inspection.

In addition to the above list the following activities can be included for specific applications:

- Land registry searches (new);
- Inspection of the site at the planning stage or on immediate planning approval, to discuss requirements with the site owner (new);
- Second visit, following the issue of a new licence, to check conditions and occupation of site (new);
- Initial enquiries (new and transfer);
- Preparing draft and final licences (new and transfer);
- Updating public register (new and transfer);
- Reviews of decisions or on defending appeals (new and transfer);
- Inquiries relating to management and financial standing, outstanding licensing issues and debts, and undertakings (new and transfer);
- Site visit to assess the specifics of the application (amendment to existing licence).

General costs can be included:

- Travel time and fuel costs to and from site;
- Consultations with the site owner and third parties, such as planning, fire service etc.;
- Meetings with the site owner, proposed licence holder or their representatives;
- Informal advice and assistance given to site owners or their representatives around licensing issues.

Appendix 2 - Fee Table as of 1 April 2015

Licensing Function	Cost (£)
Application for a New Site Licence	1,020.00

Transfer	898.00
Amendment of Conditions	898.00
Depositing of Site Rules	10.00
Annual Fee	210.00

Enforcement Action Hourly Rate	46.00
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