

TO: LICENSING AND SAFETY COMMITTEE
12 June 2014

PARK HOME SITE LICENCE FEES
Chief Officer: Environment and Public Protection

1 PURPOSE OF REPORT

- 1.1 The Mobile Homes Act 2013 (MHA13) was introduced in order to provide improved protection both through the civil and criminal courts to occupiers of residential park homes and caravans. In addition the Council has been given greater responsibilities and powers to enforce the criminal provisions of the licensing regime.
- 1.2 Alongside these new provisions the council has now been given the power to charge fees for certain functions it provides as part of the licensing of a site.
- 1.3 Section 10A (2) of the Caravan Sites and Control of Development Act 1960 (CSCDA60) requires a local authority to prepare and publish a fee policy where they propose to charge for functions associated with the regulation of relevant protected sites. This report puts forward a document to form the basis of a fee policy and proposes that it be released for consultation prior to bringing back to this committee for ratification at its meeting on the 9 October 2014.

2 RECOMMENDATIONS

2.1 That the Committee agree that

- (i) **the draft fees policy attached as Annex A be put out for consultation, and**
- (ii) **that the results of the consultation be brought back to the Committee at its meeting on the 9 October 2014 for consideration prior to publication and implementation.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 The Council must consider and draw up a fees policy under the provisions of the Mobile Homes Act 2013. It must consult upon that policy and take account of the comments prior to its publication and implementation.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 It is a legal requirement for the Council to undertake this procedure.

5 SUPPORTING INFORMATION

- 5.1 The CSCDA60 introduced a licensing system to regulate the establishment and operation of caravan sites. The Mobile Homes Act 1983 introduced a framework under which terms and conditions of a contract between a Park Home owner and the Site Owner can be contained within a legal framework. The Mobiles Homes Act 2013 was introduced following serious concerns over a number of years around the equality of position between site owners and home owners which showed that unscrupulous site owners were able to exploit financially and emotionally some of our most vulnerable residents. Unlike almost all areas of the wide licensing function carried out by local authorities a Council has never been permitted to charge a fee for the role it conducts in the licensing and monitoring of compliance with licence

conditions. These conditions are applied to ensure the protection of the park home owners who live on these sites and directly have little influence upon the wider environment within which they live. With 14 licensed sites within the borough and nearly 1000 homes provided to a significant higher proportion of elderly and vulnerable residents than within remaining housing stock this protection role is a significant and important one for the local authority.

- 5.2 The charges introduced by the MHA13 only apply to relevant protected sites. A relevant protected site is defined in section 5A (5) and (6) of CSCDA60, further guidance has also been issued by the Department for Communities and Local Government (DCLG) entitled 'Park Homes: Site Licensing, Definition of relevant protected sites' (January 2014), and lists the types of sites which would fall into the definition. In summary any licensable caravan site is a 'relevant protected site' 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.

Section 10A (2) of CSCDA60 (as amended) requires a local authority to prepare and publish a fee policy where they propose to charge for functions associated with the regulation of relevant protected sites. Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained with the CSCDA60, but the provisions relating to payment of fees do not apply.

- 5.3 The draft policy attached as Annex A details the level of fees the Council will charge in relation to the different functions covered by the Act. The fee levels have been calculated based on the estimated time and cost involved in undertaking the activities involved. The costs include officer time and overheads. The fees can only be applied upon a cost recovery basis and the Council must not make a profit. The proposed policy details as an appendix those costs that the council can and cannot take into account when calculating the fees it proposes to charge. It is intended that fees would come into effect within this financial year prior to the site ground rent reviews which are likely to be implemented in the period January to March 2015.
- 5.4 In normal circumstances the total costs incurred by a business as part of the licensing process will be passed on to the users of that business in the price of the goods or services provided. Within the MHA2013 there are specific provisions preventing this with one noticeable exception, the annual licence fee where the park owner is allowed to recharge the home owners through the annual "pitch fee". The annual fee is then built into that calculation and can only be increased in line with RPI on an annual basis regardless of a subsequent increase that may be applied by the local authority to the site owner.
- 5.5 The Council could agree to continue not to make any charge for the provision of the licensing of Park Home sites and the policy would need to state this and this would also need to be consulted upon.
- 5.6 It is proposed that the consultation will be conducted through the Council website with paper based alternatives for those that request it. All site owners will be contacted and arrangements will also be made to inform all park home residents of the consultation and how to respond. The consultation will run for a minimum of 2 months and end on the 31 August 2014. The comments received will be considered and a report together with a proposed policy will be brought back to the Committee on the 9 October for discussion and ratification.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The legal implications are included with the report.

Borough Treasurer

- 6.2 Costs are calculated through hourly officer rates adding on costs in line with corporate guidance. Once any fees have been approved, an estimate of the additional annual income can be assessed and incorporated into the Council's budget setting process.

Equalities Impact Assessment

- 6.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

- 6.4 No strategic risk management issues have been identified.

7 CONSULTATION

Principal Groups Consulted

- 7.3 Site owners, park home owners and residents of Bracknell Forest are to be consulted.

Method of Consultation

- 7.2 As detailed within the report.

Background Papers

A Guide for Local Authorities on setting site licence fees
Mobile Homes Act 2013
Pitch Fees Regulations 2013

Contact for further information

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