

Licensing Committee

Agenda

Date: Monday, 6th March, 2023
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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**
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. **Public Speaking Time/Open Session**

In accordance with paragraph 2.32 of the Committee Procedural Rules and Appendix 7 to the Rules a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

For requests for further information

Contact: Jennifer Ashley

Tel: 01270 685705

E-Mail: Jennifer.ashley@cheshireeast.gov.uk with any apologies

4. **Minutes of Previous Meeting** (Pages 3 - 4)

That the minutes of the meeting held on 9th January 2023 be approved as a correct record.

5. **Minutes of Licensing Sub-Committees** (Pages 5 - 12)

To receive the minutes of the following meetings:

Licensing Act Sub-Committee

6 December 2022
12 December 2022
9 January 2023

6. **Annual review of the Mobile Homes - Fees and Charges Policy 2023 - 2024**
(Pages 13 - 26)

To consider the proposed Regulatory Services and Health Mobile Homes Fees and Charges Policy 2023-2024.

7. **Introduction of a new fee policy for Fit and Proper Person (Mobile Homes Act 2013)** (Pages 27 - 40)

To consider the new fee policy for the purpose of the Fit and Proper person assessment and determination process for implementation from 1 April 2023.

THERE ARE NO PART 2 ITEMS

Membership: Councillors D Brown, J Barber, S Davies, D Edwardes (Chair), H Faddes, R Fletcher, S Handley, A Harewood, I Macfarlane, S Pochin, L Smetham, J Smith, J Wray (Vice-Chair) and N Wylie

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 9th January, 2023 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor D Edwardes (Chair)
Councillor J Wray (Vice-Chair)

Councillors D Brown, S Davies, H Faddes, S Handley, A Harewood and
L Smetham

OFFICERS IN ATTENDANCE

Kim Evans - Licensing Team Leader
Phil Jennings - Legal Officer
Karen Shuker - Democratic Services Officer

50 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Barber, Councillor
Fletcher, Councillor Macfarlane, Councillor J Smith, Councillor Pochin and
Councillor Wylie.

51 DECLARATIONS OF INTEREST

There were no declarations of interest.

52 PUBLIC SPEAKING TIME/OPEN SESSION

There were no public speakers.

53 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 5 September 2022 be approved
as a correct record.

54 MINUTES OF LICENSING SUB-COMMITTEES**RESOLVED:**

That the minutes of the following sub-committee meetings be received:

26 September 2022
3 October 2022
5 October 2022

4 November 2022

55 REVIEW OF LICENSING FEES AND CHARGES

Kim Evans, Licensing Team Leader attended the meeting and presented the item to the Committee.

The Committee were advised that Appendix 1 outlined the Licensing Fees and Charges for the issuing and renewal of licenses, consents and permits issued with effect from April 2023.

Some fees were set by statute or regulations, while others could be set by Local Authorities in order to cover the cost of administration, compliance and some elements of enforcement; Locally Set Fees. Where the Council had the discretion to set fees, they were subject to review by the Licensing Team and confirmation by the Licensing Committee.

New fees outlined in the report included:

- Accident replacement Vehicle Licence -This had been amended following the change of policy which had been agreed in the previous year. It was hoped that this would make the accident replacement process swifter for licence holders and would include the test fee.
- Safeguarding Training fee for licence holders – Colleagues in the Safeguarding Board would be providing free training throughout 2023 for new and existing drivers. The cost for following years was unknown, however this was not expected to exceed £50.

RESOLVED:

That:-

1. the fees payable as set out in appendix 1 be approved.
2. the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions be published by the Licensing Team Leader.
3. delegated authority be given to the Head of Regulatory Services to consider any objections received and determine the final fees payable in consultation with the Chairman of the Licensing Committee.

The meeting commenced at 2.00 pm and concluded at 2.18 pm

Councillor D Edwardes (Chair)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Tuesday, 6th December, 2022 in the Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillors D Edwardes, L Smetham and J Wray

OFFICERS IN ATTENDANCE

Tracey Billington, Licensing Officer
Garry Coughlan, Solicitor
Jennifer Rowney, Licensing Enforcement Officer
Karen Shuker, Democratic Services Officer
Brioni Turner, Senior Environmental Health Officer

35 APPOINTMENT OF CHAIR**RESOLVED:**

That Councillor David Edwardes be appointed as Chair.

36 DECLARATIONS OF INTEREST

In the interests of openness and transparency, Councillor D Edwardes declared as a non-pecuniary interest that he had previously chaired the committee on the 26 January 2022 which heard the original application. The meeting had been adjourned because the agent dealing with the application and the applicant did not comply with the Notice of Hearing issued.

In the interests of openness and transparency Councillor L Smetham declared that she had been Chair of the Committee when the Licence was granted on 22 February 2022.

In the interests of openness and transparency Councillor J Wray declared that he had sat on the committee 26 January 2022.

37 APPLICATION TO REVIEW PREMISES LICENCE - SWISH LOUNGE, 31 MILL STREET, CREWE, CW2 7AJ

The Sub Committee considered a report regarding the application for a review of the Premises Licence, under the Licensing Act 2003, Swish Lounge, 31 Mill Street, Crewe, CW2 7AJ, together with objections and support.

The following attended the hearing and made representations with respect to the review application:

The Applicant - Cheshire East Council's Commercial Services Team as a Responsible Authority under S 13(4) of the Licencing Act 2003.

A representative from Licensing;

The Premises Licence Holder and his supporter;

After a full hearing of the application and in accordance with the rules of procedure, the Sub-Committee reported that after taking account of:

- The existing Licence
- The Application.
- The 4 licensing objectives – namely:
 - The prevention of crime and disorder,
 - Public safety,
 - The prevention of public nuisance,
 - The protection of children from harmand the steps appropriate to promote them.
- The oral and written representations made by Cheshire East Council's Licensing Officer.
- The oral and written representations made by Cheshire East Council's Senior Enforcement Officer.
- The oral and written representations made by the Premises Licence Holder
- The written representations from the owner of a business in the locality.
- The Licensing Act 2003
- The Secretary of State's Guidance on the Licensing Act 2003 (April 2018).
- Cheshire East Council's Statement of Licensing Policy.
- The law relating to smoking in public places which is set out in the Health Act 2006 (*"the Act"*).

RESOLVED:

That following the application for review of the premises licence that the application be granted, and the premises licence be REVOKED.

The meeting commenced at 10.00 am and concluded at 11.30 am

Councillor D Edwardes

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 12th December, 2022 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillors D Edwardes, A Harewood and L Smetham

OFFICERS IN ATTENDANCE

Garry Coughlan, Solicitor
Josie Lloyd, Democratic Services Officer
Richard Hellon, Licensing Officer

39 APPOINTMENT OF CHAIR

RESOLVED:

That Cllr Edwardes be appointed as Chair.

40 DECLARATIONS OF INTEREST

There were no declarations of interest.

41 APPLICATION FOR A PREMISES LICENCE - DUBBED OUT, ROYAL CHESHIRE SHOWGROUND, TABLEY, WA16 0HJ

The sub-committee considered a report regarding an application for a premises licensing in respect of Dubbed Out, Royal Cheshire Showground, Tabley, WA16 0HJ.

The following attending the hearing and made representations with respect to the application:

- The applicant

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003;
- Cheshire East Borough Council's Statement of Licensing Policy;
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them; and
- All the evidence, including the oral representations made at the

meeting and the written representations of interested parties.

The following course of action had been agreed:

RESOLVED:

That the application for a Premises Licence be GRANTED as outlined in the application.

The meeting commenced at 14:00 and concluded at 14:35

Councillor D Edwardes (Chair)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 9th January, 2023 in the Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillors D Edwardes, A Harewood and H Faddes

OFFICERS IN ATTENDANCE

Kim Evans, Licensing Team Leader
Phil Jennings, Legal Officer
Martin Kilduff, Licensing Enforcement Officer
Jennifer Rowney, Senior Licensing Officer
Karen Shuker, Democratic Services Officer

ALSO PRESENT

Caroline and Toby Mckenzie, applicants

42 APPOINTMENT OF CHAIR

RESOLVED:

That Councillor D Edwardes be appointed as Chair.

43 DECLARATIONS OF INTEREST

There were no declarations of interest.

44 REDWILLOW BREWERY, THE LODGE AND PAPER STORE, SUTTON GARRISON, BYRONS LANE, MACCLESFIELD, SK11 7JW

The sub-committee considered a report regarding an application for a premises licensing in respect of RedWillow Brewery, The Lodge and Paper Store, Sutton Garrison, Byrons Lane, Macclesfield, SK11 7JW

The following attending the hearing and made representations with respect to the application:

- The applicants

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003;

- Cheshire East Borough Council's Statement of Licensing Policy;
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them; and
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties.

The following course of action had been agreed:

RESOLVED:

That the application for a Premises Licence be GRANTED with additional conditions as follows:

- There shall be signage displayed prominently and at all exits from the Premises requesting patrons to leave quietly.
- There shall be no disposal of bottles outside at the Premises arising from the licensable activities between the hours of 23.00 and 07.00 on any day.
- A CCTV system compliant with Cheshire Constabulary's guidance "CCTV in Licensed Premises – an operational requirement" shall be in operation at all times licensable activities are taking place in The Paper Store at the Premises.
- Recorded CCTV images will be maintained and stored for a period of thirty days.
- A staff member from the Premises who is conversant with the operation of the CCTV system shall be on the Premises when the Premises are being used for any of the licensable activities. This staff member shall be able to provide a Police officer or an authorised officer of the licensing authority data or footage upon request and within a reasonable time scale.
- Designated supervisors will need to be able to demonstrate that their CCTV system complies with the operational requirements. They will need to demonstrate the following:
 - Recordings are fit for their intended purpose.
 - Good quality images are presented to the officer in a format that can be replayed on a standard computer.
 - The supervisor has an understanding of the equipment/training.
 - Maintenance agreements and records are maintained,
 - Data Protection principles and signage are in place.
 - A Challenge 25 policy shall be operated in The Paper Store at the Premises at all times licensable activities are taking place.
 - The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are:
 - A valid passport.
 - A valid photographic driving licence.
 - A PASS approved proof of age card.

- A HM Services Warrant Card or other reliable photo ID (that has been approved for acceptance by the Police or an Officer of the Local Authority).

- Publicity materials notifying patrons of the operation of the Challenge 25 scheme shall be displayed at The Paper Store at the Premises.
- The Designated Premises Supervisor or Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by the Licensing Authority Officers and the Police.
- A documented training programme shall be introduced for all staff in a position to sell, serve or deliver alcohol. A written record for each member of staff shall be kept of the content of such training and shall be made available for inspection at the request of Licensing Authority Officers and Police.
- An incident log book shall be kept at the Premises that relates to the licensable activities for at least 12 months and made available on request by Licensing Authority Officers and the Police.

The meeting commenced at 10.00 am and concluded at 10.37 am

Councillor D Edwardes (Chair)

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Working for a brighter future together

Licensing Committee

Date of Meeting:	6 th March 2023
Report Title:	Annual review of the Mobile Homes - Fees and Charges Policy 2023-2024
Report of:	Jayne Traverse – Executive Director Place
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	All Wards

1. Purpose of Report

- 1.1. In accordance with the Mobile Homes Act 2013 (MHA13), which amended The Caravan Sites and Control of Development Act 1960, the Council is permitted to charge a fee for administering the statutory licensing function for residential caravan sites. As part of fee setting the Council is required to have a Fees and Charges Policy in place for mobile home sites, which must be reviewed annually to reflect the cost of administering the licensing function. This report provides the background to the development of an updated charging policy for 2023-2024.
- 1.2. This report seeks to support two Corporate Plan strategic aims and objectives.
 - **Open**
Ensure there is transparency in all aspects of council decision making.
Look at opportunities to bring more income into the Borough.
 - **Fair**
Protect and support our communities and safeguard children, adults at risk and families from abuse, neglect and exploitation

2. Executive Summary

- 2.1. In accordance with the Mobile Homes Act 2013 (MHA13) the Council is permitted to charge a fee for administering the statutory licensing function for residential caravan sites. Appendix 1 provides the proposed Fee & Charging Policy for 2023-2024.

3. Recommendation

- 3.1. The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Fees and Charges Policy 2023-2024 as set out in Appendix 1.

4. Reasons for Recommendations

- 4.1. In accordance with the Mobile Homes Act 2013, the Council must produce a Fees and Charges Policy for the licensing of residential caravan sites where it intends to recover the costs of the service that it provides. These fees and charges shall be reviewed annually to reflect the costs of administering the licences.

5. Other Options Considered

- 5.1. Cheshire East Council has implemented a charging scheme for mobile home licensing functions for several years and in accordance with the Mobile Homes Act 2013. In taking this approach it has committed to the production of a charging policy each year which provides a ‘cost recovery’ charging structure in accordance with guidance from the Secretary of State.
- 5.2. The Council could decide not to charge for this function and consequently would not need to produce and publish a charging strategy. This would however be contrary to the Council’s Charging and Trading Strategy.

Option	Impact	Risk
Do nothing – Carry out the Mobile Homes licensing function without a published fees policy.	The Council would not receive eligible income for the work required to administer the Mobile Homes licensing function.	Medium Risk – impacts to service budgets through reduced income.

6. Background

- 6.1. In accordance with the MHA13, the Council may charge a fee for issuing and administering licences for residential caravan sites. In addition to the licensing of sites the Council may also set a fee for other functions such as maintaining a register of site rules and transferring or amending licences.
- 6.2. The Council must set fees on a “cost recovery” only basis. Therefore, the fees have been set using a time monitoring approach together with officer knowledge of the times involved for carrying out the various functions. This ensures the fees set are as accurately as possible.
- 6.3. The following is a summary of the proposed fees and charges as set out in the Mobile Homes Fees and Charges Policy 2023-2024. The fees have been

calculated for caravan sites as both an initial application fee and an annual fee, and are the same as the charges that were approved for 2022-2023.

Number of Pitches	2023-2024 Fee
< =10	£211.00
< =20	£262.00
< =30	£328.00
< =40	£394.00
< =50	£440.00
> 50	£499.00

Additional fees that can be levied on sites are proposed below, again these remain static from the previous year.

- Site Licence Transfer Fee - £116
- Licence amendment (simple) - £116
- Application by the licensee for amendment of conditions - £348 and
- The deposit of site rules - £38

6.4. There has been no alteration to the proposed fees and charges for 2023-2024 compared to those that were approved in 2022-2023 as the caravan site licensing function is being updated to streamline the service with development of updated standard site licence conditions, review of policies and procedures and integration of an updated software system. It is anticipated that this work will have had time to establish over the coming year and that the service will be in a position to carry out an updated cost recovery exercise that is fair and accurate, for 2024-2025. Existing charges are considered suitable to cover current service provision.

7. Consultation and Engagement

7.1. There are no requirements in legislation for any prior consultation or engagement.

8. Implications

8.1. Legal

8.1.1. Sections 3(2A) and 5A of the Caravan Sites and Control of Development Act 1960 provide local authorities with the power to charge a fee for

administering licences for “relevant protected sites.” In addition, section 1(3) sets out that where ‘a local authority sets a fee it must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question...’. Guidance from the Secretary of State recommends that this should be undertaken by adopting a Mobile Homes Fees and Charges Policy.

8.1.2. A review of fees and charges has been undertaken and this has been used to produce a proposed charging policy for 2023-2024 (Appendix 1).

8.2. Finance

8.2.1. With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities. The proposed new fees (see table in paragraph 5.3) are based on a cost accounting process that reflects site size, officer input and other associated costs.

8.2.2. In addition to the licensing function, the guidance also proposes additional fees and charges which can be set by local authorities, such as the depositing of site rules and the issuing, transferring, or amending of site licences, which are the more administrative functions of the regime. The proposed new fees (see paragraph 5.3) are based upon officer time and associated costs.

8.3. Policy

8.3.1. The Council’s Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. This policy will therefore ensure that there is transparency in our approach to the Mobile Homes requirements and our fee setting processes.

8.4. Equality

8.4.1. There are no direct equality implications arising from this report.

8.5. Human Resources

8.5.1. There are no direct resource implications arising from this report.

8.6. Risk Management

8.6.1. The MHA13 specifically allows local authorities to set a local scheme of fees and charges on a cost recovery only basis.

8.6.2. Where a local authority does choose to implement a charging regime this must be supported by a charging policy. This report addresses that need by providing a policy and seeking relevant approval for its implementation.

8.6.3. As with all locally set fees and charges, there is a risk of challenge by those to whom the fee relates. However, it is hoped that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children & Young People / Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. There are no implications for climate change.

Access to Information	
Contact Officer:	Name: Sarah Sutton Job Title: Commercial Services Team Leader Email: sarah.sutton@cheshireeast.gov.uk
Appendices:	Mobile Homes Fees and Charges Policy 2023-2024
Background Papers:	The Mobile Homes Act 2013 is available here http://www.legislation.gov.uk/ukpga/2013/14/contents/enacted The Mobile Homes (Site Rules) (England) Regulation 2014 is available here http://www.legislation.gov.uk/cy/uksi/2014/5/made 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/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees#section-a-costs-that-can-be-included-in-licensing-fees

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Regulatory Services and Health

Mobile Homes Fees and Charges Policy

2023-2024

Contents

- 1 Executive Summary
- 2 Introduction
- 3 Setting of Fees and Charges
- 4 Establishing number of units (Caravans) per site
- 5 Licensing Fees
 - 5.1 Considerations
 - 5.2 Annual Fee
 - 5.3 New Licence Fee
 - 5.4 Transfer Fee
 - 5.5 Licence Amendments Fee
 - 5.6 Fee Combination
 - 5.7 Fees and Charges Payment Timeframes
- 6 Fees for Depositing Site Rules
- 7 Exemptions
- 8 Charges for Enforcement Notices
- 9 Review

1. Executive Summary

The Mobile Homes Act 2013 (MHA13) introduced new requirements for residential caravan sites only, which are referred to as Relevant Protected Sites in the legislation, by amending the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983.

The MHA13 allows local authorities to charge for a range of licensing functions on a cost recovery basis and includes the following as chargeable functions;

- Licence applications;
- Annual licence fees;
- Licence amendments, when requested by the site owner;
- Transfer of a licence; and
- Deposit of site rules.

In order to be able to implement any fees and charges, Cheshire East Council must publish a fees and charges policy setting out all the relevant charges and how they have been calculated. This policy document is designed to fulfil the requirements of the legislation and enable Cheshire East Council to levy a charge for undertaking the licensing of residential caravan sites. In accordance with guidance, the Policy will be reviewed annually to ensure all the fees and charges are updated to cover costs of administering the licensing regime to the relevant sites. The Policy will be published and available on request from members of the public.

The fees will not apply to sites which are classed as non-residential such as those used for recreational or holiday use or those which do not require a site licence.

The MHA13 also introduced fees and charges for the deposit of site rules and maintaining a fit and proper person register.

2. Introduction

The MHA13 received royal assent on the 26th March 2013, and introduced important amendments to the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. The legislation amends how local authorities license residential caravan sites, which are termed as “relevant protected sites” under the MHA13.

The MHA13 introduced the ability for local authorities to charge fees for a range of activities associated with regulating relevant protected sites. Local authorities were able to implement the new fees and charges from the 1st April 2014. The range of site licensing functions, which attract a charge include;

- Determining and issuing new site licences;
- Annual fee for licensing existing residential sites;
- Amendments to site licences;
- Transferring existing licences to new site owners;
- Deposit of site rules with the Council; and

- Costs associated with issuing Enforcement Notices on site owners.

The site owner or licensee is responsible for the payment of all associated fees, as set out above, however they are only allowed to pass the equivalent cost of the annual licensing fee to site residents.

3. Setting of Fees and Charges

In setting the fees and charges relating to the MHA13 functions, the Council has taken into account both national guidance and local policies. The aim being to ensure that the setting of the various fees is proportionate and transparent. In line with this, the MHA13 only allows Councils to set fees and charges to recover the actual costs incurred.

In 2015, it was decided to set the fees based on the number of units per site, which are banded into the following categories:

Less than or equal to 10 caravans
Less than or equal to 20 caravans
Less than or equal to 30 caravans
Less than or equal to 40 caravans
Less than or equal to 50 caravans
Greater than 50 caravans

This approach is based on using the number of units set out in the planning permission granted for the site or as historically numbered in the site licence where there is no specific number in planning terms.

4. Establishing the units (caravans) per Site

All sites have varying numbers and types of units (qualifying caravans); the most equitable method for setting fees would be to make it relative to the number of units on site. This is supported by officer experience; more time is spent licensing and inspecting those sites with a greater number of units compared to those with only a few, however size alone is not the only factor to consider. Therefore, it is important to establish the definition of a unit and how the Council determines the number of units per site.

For the purposes of this policy a unit (caravan) is classed as a single dwelling, which is capable of being moved from one place to another. This can be in the form of a traditional caravan, which is towed on the back of a vehicle or a chalet type dwelling normally made up of one or two parts joined together on site. The precise definition of a caravan can be found in Section 29(1) of the Caravan Sites and Control of Development act 1960 (as amended).

It is important for the setting of fees and charges to be able to determine the precise number of units on each site. All sites must have planning permission, deemed permission for those sites in existence with the enactment of the Caravan Sites and Control of Development Act 1960 or a Certificate of Lawful Use, which sets out the maximum number of permissible units. This will be the determining factor for

calculating the number of units for each site. However, there may be occasions due to historic use where this information is not available within the planning permission granted for the site and in these instances, calculations will be based on the number of units set out in the existing site licence.

5. Licensing Fees

5.1 Considerations

The following fees per band have been set using officer experience and previous time records as to the typical time taken for various activities, officer grades and on-costs, which include;

- Administration of licence fees;
- Pre and post inspection preparation and administration;
- Site inspection and where required re-inspection (including travelling time and mileage allowances at current rates);
- General administration and Licensing activities outside of the inspection related role (site liaison/advice, complaints and enquiries regarding caravan sites, maintaining files, electronic records and cost accounting);
- Training and research;
- Maintenance and development of ICT systems;
- Support and shared services on-costs e.g. HR and Legal
- Officer pay grades – these range from a grade 5 officer to grade 11 and reflects the amount of time required for each grade.

5.2 Annual Fees

The annual fees are;

Number of pitches	Cost
<=10	£211
<=20	£262
<=30	£328
<=40	£394
<=50	£440
>50	£499

5.3 New Application Licence Fee

It is estimated that processing a new licence would not be considerably different to the work proposed for the annual licence and as such it will duplicate the annual licence fee. Therefore, the fees for processing all new licence applications will be the same as the annual fees in 5.2.

5.4 Transfer Fee

A fee of £116 will be charged to cover this function, which is estimated to take 4 hours of officer time plus associated administration cost.

5.5 Licence Amendments Fee (application)

There is a statutory requirement to consult appropriate parties with regards to changes to any site licence conditions; this in turn has an impact on officer costs. Therefore, in setting the fees below, the same considerations will be used in section 5.1.

1. Licence amendment (simple) £116.
Simple amendments are those requested by the site to change non condition related details e.g. site name change or changes to registered offices or mail addresses.
2. Licence (condition etc.) amendments application fee £348.
Changes to the condition(s) will require consultation with both residents and the respective resident association, which will greatly increase the work required for undertaking of this function.
3. Changes imposed by Local Authority – no charges payable.

5.6 Fee Combination

New sites are required to apply for a site licence on a non-refundable fee basis as this will cover the administration and verification of application documents, whether granted or refused. Where the licence is granted the annual fee is also payable within the same year.

In cases where both simple and 'condition' amendments are requested the fees will be whichever is the greatest.

5.7 Fees and Charges Payment Timeframe

Annual Fees and Charges will be levied from the 1st of April each year and all other fees are per application or required function. The payment of fees will be in line with the Council's current terms, which is 28 days from the date of the invoice. Where a fee becomes overdue the council will issue a reminder to the site licence holder seeking payment. Where fees remain outstanding the service will liaise with the legal team on options available to recover debt. The ultimate sanction for non-payment can be that the Council may apply to the Housing Tribunal for an order to revoke the site licence.

6 Fees for Depositing Site Rules

Site rules are different to site licence conditions in that they are neither created nor enforced by the Council. They are a set of rules created by the site owner with which residents have to comply and whilst they may reflect the site licence

conditions, they will also cover matters unrelated to licensing. The MHA13 amends the Mobile Homes Act 1983 and requires existing site rules to be updated and deposited with the local authority within a specified timescale.

Local authorities will also be required to establish, keep up to date and publish a register of sites, which have deposited their site rules. In doing so, a local authority may levy a fee for the deposit, variation or deletion of site rules.

The administrative system for holding and publishing site rules estimates two hours of officer time per site. It is therefore appropriate to set a fee of £38 (based on the appropriate hourly rate and associated administration) for the checking and depositing of site rules by site owners.

7 Exemptions

Local Authorities can elect to exempt sites for reasons of risk and/or cost, scale etc.

- Any site that does not require a licence.
- Any site used exclusively for recreational type use.
- Any site exempted by legislation such as the Caravan Sites and Control of development Act 1960; Schedule 1.
- A recreational site where planning permission/Certificate of Lawful Use has been issued and the number of residential units on the site is 5% or less of the overall capacity.
- In accordance with the legislation Gypsy and Traveller sites owned by the Local Authority that do not require a site licence.

8 Charges for Enforcement Notices

From the 1st April 2014, Section 9A of the MHA13 allows local authorities to serve statutory notices on site owners for non-compliance with licence conditions and to make a charge for that notice. These notices set out what the site owner must do to comply with the relevant licence condition(s) and the timescales. In accordance with the legislation, the site owner is not allowed to pass this charge on to residents of the site.

In accordance with the amendments imposed by the MHA13, the Council is entitled to recover costs associated with the service of a notice. This includes the costs incurred with inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the Council intends to charge. The demand for recovery is served with the notice and must provide a clear breakdown of the costs incurred. The right to recover costs is subject to appeal by the site owner in certain circumstances. These will therefore be calculated on a case by case basis. Where compliance with a notice is achieved through works in default then these costs would be passed on to the site owner.

Please note that this charge is only for the service of enforcement notices. Any associated costs with taking any action for non-compliance such as action in Magistrates Court are recoverable through the court costs.

9 Review

This fees and charges policy will be published on the Cheshire East Council website. The fees detailed in this policy have been determined based on experience of dealing with mobile home site licensing and with consideration of the changes the MHA13 has introduced. In addition, at the time of producing this policy some elements of the licensing regime have recently been introduced (fit and proper person), which may impact on the processes and time involved resulting in a revision to the proposed charges.

This policy will be revised no later than 31st March 2024 in line with the Council's fee setting process.



Working for a brighter future together

Licensing Committee

Date of Meeting:	6 March 2023
Report Title:	The introduction of a new fee policy for Fit and Proper Person (Mobile Homes Act 2013).
Report of:	Jayne Traverse, Executive Director – Place
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The purpose of this report is to provide a background to new Fit and Proper Person requirements with respect to the management of residential mobile home sites and to propose a Fees Policy to seek to recover associated costs with the delivery of the assessment, decision-making and monitoring process.
- 1.2. This report seeks to support two Corporate Plan strategic aims and objectives.
 - **Open**
Ensure there is transparency in all aspects of council decision making.
Look at opportunities to bring more income into the Borough.
 - **Fair**
Protect and support our communities and safeguard children, adults at risk and families from abuse, neglect and exploitation

2. Executive Summary

- 2.1 In accordance with the introduction of The Mobile Homes (Requirement for Manager of Site to be a Fit and Proper Person) (England) Regulations 2020 (F&PP Regulations) the Council is required to introduce a Fit and Proper

Persons test for the owners of residential mobile home sites, or the person appointed to manage the site.

- 2.2 The Council is permitted to charge a fee for this administrative test but in order to do so must develop and publish a fees policy which incorporates the costs involved in the assessment, determination, and monitoring process.
- 2.3 This report provides the background and purpose to the new Fit and Proper requirements and the relevant tests that must be applied as part of the decision-making process. Appendix 1 provides the proposed Fee Policy for this new area of work.

3. Recommendations

- 3.1. That Licensing Committee approve the new fee policy for the purpose of the Fit and Proper person assessment and determination process for implementation from 1 April 2023.
- 3.2. That Licensing Committee agree that in future years the fees for Fit and Proper Person will be included in the general Mobile Homes Fees and Charges Policy.

4. Reasons for Recommendations

- 4.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduce new responsibilities within the mobile homes licensing regime. To compensate for this additional work the Regulations permit the introduction of a charging scheme to cover the cost of implementation and monitoring of the scheme on a cost recovery basis.
- 4.2. That the approval of a Fees and Charges Policy with respect to Fit and Proper Persons will allow Regulatory Services to charge for its activities relating to this specific work in the same way that it does for general Mobile Home licensing and inspection work.
- 4.3. That going forward a single fees policy for all Mobile Home related activities will ensure clarity and transparency to those that are affected. This will be done by including Fit and Proper Person fees into the general Mobile Home Fees and Charges Policy which has been in existence for several years.

5. Other Options Considered

- 5.1. The Council can implement the requirements of the Regulations without the development of a charging policy however, this approach would be contrary to the Council's Charging and Trading Policy.
- 5.2. A published charging policy will allow for the recovery of reasonable costs associated with the assessment and determination process as well as providing clear cost related information to service users.

Option	Impact	Risk
Do nothing – Carry out F&PP function without a published fees policy.	The Council would not receive eligible income for the work required to administer the F&PP function.	Medium Risk – impacts to service budgets through reduced income.

6. Background

- 6.1.** The Mobile Homes Act 2013 introduced the provision for a Fit and Proper Person test as part of plans to tighten up the law on Park Homes following growing concerns around bullying, harassment and unnecessary and unreasonable charges levied on residents of the site. At the time no specific regulations were implemented and it was determined that these would follow when considered appropriate.
- 6.2.** The Mobile Homes (Requirements for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 came into force in September 2020 with relevant individuals being able to submit applications to the Council from 1 July 2021. Applications can be received from a site owner or their appointed site manager (relevant person) and must be accompanied by a criminal record certificate (DBS) dated no more than six months before the date of the application.
- 6.3.** On receipt of an application the Council needs to satisfy itself that the relevant person is a fit and proper person to manage the site. This assessment must have regard to matters laid down within the F&PP Regulations which include general matters and also specific information on the conduct of the relevant person and their ability to secure the proper management of the site.
- 6.4.** The conduct assessment includes, amongst others, matters relating to previous offences including fraud or dishonesty; contraventions of law relating to housing, caravan sites, mobile homes, planning or environmental health; contraventions under the Equality Act 2021; matters of insolvency and any disqualifications from acting as a company director.
- 6.5.** A local authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work, or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the residential mobile home site (or proposed mobile home site).
- 6.6.** Following the assessment of an application the Council will then decide whether to place the relevant person on the Fit and Proper Persons Register with or without conditions. Conditions can relate to any factors which are relevant to the person's competence to manage the site, the management

structure, funding arrangements for the site, an associated persons influence or any other relevant factor. Registration lasts for a period of 5 years.

- 6.7.** A relevant person has the right of appeal against a decision and/or any condition applied to that decision. The appeal will be dealt with by the First Tier Tribunal Property Chamber.
- 6.8.** Where a relevant person fails the fit and proper person test and they are unable to identify and appoint a suitable alternative manager the Council can appoint, with the consent of the site owner, a person to manage the site.
- 6.9.** The F&PP Regulations provide for a number of offences relating to the fit and proper person requirement where it is an offence for the site owner to:
- Cause or permit land to be operated as a residential park home site unless they or the person appointed to manage the site is a fit and proper person.
 - Provide false or misleading information or fail to provide information in the application.
 - Fail to comply with a requirement set as a condition to the decision to include a person on the register.
- 6.10.** Appendix 1 provides the proposed fees policy to support the implementation of the F&PP Regulations requirements. Charges are based on work that has already been undertaken in assessing and determining the initial applications received by the Council and have considered the refinement of processes as officers have become more confident with applications. In accordance with the Regulations and guidance issued by the Secretary of State fees are set on a cost recovery only basis.
- 6.11.** All fees must be published in a Fee Policy document and be transparent. Where, in accordance with guidance, exemptions or reductions in fees are determined as appropriate then these shall be clearly stated within the Policy.

7. Implications

7.1. Legal

- 7.1.1.** The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person (England) Regulations 2020 allows for the Council to introduce a fee to recover the cost of the assessment and determination of a fit and proper person application.
- 7.1.2.** In order to implement a charging scheme and recover costs the Council must develop and publish a charging strategy outlining the fees to be charged for this service. Appendix 1 provides the proposed Fee Policy for approval.
- 7.1.3.** The publication of a Fee Policy will help to mitigate any challenge around the charging for the administration of the Fit and Proper Person requirements.

7.2. Finance

7.2.1. With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities.

7.2.2. More recently specific legislation has introduced the test of Fit and Proper Person and the potential to charge for the administration of this process where a fees policy exists. This fee policy is included as Appendix 1.

7.2.3. The proposed new fees for this function have been calculated and are based on a cost accounting process that reflect the work involved in receiving, assessing and determining applications.

7.3. Policy

7.3.1. The Council’s Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. This policy will therefore ensure that there is transparency in our approach to the Fit and Proper Person requirements and our fee setting processes.

7.4. Equality

7.4.1. There are no equality implications arising from this report. Legislation is clear on the requirement to meet Fit and Proper person requirements and where exemptions exist they are included in the Policy document.

7.5. Human Resources

7.5.1. There are no human resource implications arising from this report. Work required by the F&PP Regulations will form an extension to established mobile home licensing work.

7.6. Risk Management

7.6.1. The Mobile Homes Act 2013 allows a Local Authority to set a local scheme of fees for the administration of the Fit and Proper Person requirements.

7.6.2. Where a Local Authority does choose to implement a charging regime this must be supported by a charging policy.

7.6.3. As with all locally set fees there is a risk of challenge by those to whom the fee relates. However, it is expected that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

7.7. Rural Communities

7.7.1. There are no implications for rural communities arising from this report.

7.8. Children and Young People/Cared for Children

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

7.9. Public Health

7.9.1. There are no implications for public health arising from this report.

7.10. Climate Change

7.11. There are no implications for climate change arising from this report. The activities described are purely administrative.

Access to Information	
Contact Officer:	Name: Paula Firth Job Title: Senior Enforcement Officer Email: paula.firth@cheshireeast.gov.uk
Appendices:	Appendix 1 Fees and Charges Policy – Fit and Proper Person
Background Papers:	Mobile homes: a guide for local authorities on the fit and proper person test - GOV.UK (www.gov.uk) Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK (www.gov.uk)



Regulatory Services and Health

Mobile Homes
Fees and Charges Policy
Fit and Proper Person

Contents

1. Executive Summary
2. Introduction
3. Establishing Fit and Proper Person Status
4. Setting of Fees and Charges
5. Other relevant matters
6. Review

1. Executive Summary

The Mobile Homes Act 2013 (MHA 2013) introduced new requirements for residential caravan sites, which are referred to as Relevant Protected Sites in the legislation. The legislation also amended the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. Reference to the Mobile Homes Act 2013 within this Policy therefore recognises the extant requirements of the 1960 and 1983 Acts.

These changes included the ability to be able to charge for a range of licensing functions on a cost recovery basis following the development and publication of a Fees and Charges Policy. Cheshire East has taken this approach for several years.

The Mobile Homes Act 2013 also committed to the development of a requirement for sites to be managed by a 'Fit and Proper Person'. This was subsequently enacted through the Mobile Homes Regulations 2020.

Like the requirements laid down in the MHA 2013, local authorities have a duty to implement the Fit and Proper Persons requirement but can only levy a fee for this process following the development and publication of a Fit and Proper Person Policy.

Therefore, the purpose of this document is to detail the Council's policy for charging a fee for the processing and determination of 'Fit and Proper Person' requirements in respect of the management of relevant residential mobile sites in its area.

In future years it is expected that the Fit and Proper Person Policy will be subsumed into a single fee policy covering all chargeable aspects of Mobile Home Licensing.

2. Introduction

The Mobile Homes Act 2013 introduced the ability for a Local Authority to charge for a range of functions under the mobile home licensing regime. These functions have recently been extended by the Mobile Home Regulations 2020 to include those processes necessary for the determination of Fit and Proper Person.

The Mobile Homes Regulations 2020 requires all park home (permanent residential) sites which operate on a commercial basis to be managed by a 'fit and proper person' and for the Council to keep a public register of those persons managing sites in their area. Sites which are in mixed use i.e., partly holiday with some permanent Mobile Homes Act protected residential pitches, fall within the definition of a relevant protected site, and are covered by Fit and Proper Person requirements.

Such sites cannot operate unless the Council is satisfied that the site owner or their appointed manager qualifies as a fit and proper person. They must therefore apply to the Council to be assessed as to whether they meet the relevant conditions to be deemed as 'fit and proper' and for their details to be added to a published register.

The Council can charge fees in respect of applications to be included in a register of fit and proper persons and can require additional payments by annual fee if an application is granted subject to a condition.

In setting its fees the Council has had regard to guidance issued by central government:

[Mobile homes: a guide for local authorities on the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

3. Establishing Fit and Proper Status

All applicants must demonstrate that they have suitable financial and management arrangements in place for the site and are required to provide information relating to their general conduct. This includes details relating to:

- Offences relating to fraud, dishonesty, violence, arson or drugs or listed in schedule 3 of the Sexual Offences Act 2003
- Contraventions of law in relation to; housing, caravan sites, mobile homes, public health, planning, environmental health or landlord and tenant law
- Contraventions of law in relation to the Equality Act 2010
- Contraventions of law in connection with the carrying out of any business
- Harassment of any person in connection with the carrying out of any business
- Insolvency within the last ten years
- Disqualification from acting as a company director within the last ten years
- Their right to work in the UK

The site owner/site manager may only apply to be added to the register if they hold or have applied for a site licence.

This provision also applies where the site owner or site manager is a registered company.

The Regulations permit the Council to determine a fee for processing an application to be added to the register.

4. Setting of Fees and Charges

In setting the fees and charges relating to the MHA13 functions, the Council has considered both national guidance and local policies. The aim being to ensure that the setting of the various fees is proportionate and transparent. In line with this, the MHA13 only allows Councils to set fees and charges to recover the actual costs incurred.

Fees have been calculated for the following aspects of the fit and proper person process.

- Initial Application Fee
- Annual Fee
- Five Year Reapplication Fee

The service has already accepted and determined Fit and Proper Person applications and has used this experience to determine the level of fee to be set from 1 April 2023.

It is acknowledged that the work involved in dealing with different applications will not be equal. Therefore, in all cases fees are based on what would be considered an average application rather than a best case or worst case. As experience of the process develops, for all parties involved, then this will have the potential to be reflected in subsequent fee calculations.

4.1 Initial Application Fee

To calculate the costs incurred in processing an initial application the Council has taken the following matters into account when determining its fee policy:

- Initial enquiries
- Sending out forms to applicants
- Letter writing/telephone calls etc to make appointments, request documentation or any other information from the site owner or from any third party in connection with the fit and proper process
- Updating files, computer systems and websites
- Land registry searches
- Processing the application fee
- Time spent reviewing necessary documents and certificates
- Preparing preliminary and final decision notices
- Review of representations made by applicants or responses from third parties
- Consultation with service manager and/or Legal services
- Carrying out risk assessments where this is considered necessary
- Reviews of decisions (and defence of appeals)
- Updating the public register

The Council must also carry out relevant background checks regarding the applicant's background in management and their financial standing which will enable it to decide on whether to accept the application. The time taken for these checks is also accounted for in the calculation of the fee.

Having assessed the work involved the Council believes that the fit and proper person assessment and associated checks required to be included on the register will take approximately 9 hours per application. This time also includes updating and publishing the register itself and is split between several officers including management oversight.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £358.00.

4.2 Annual Fee

Where the Council agrees to the inclusion of a person on the fit and proper person register subject to condition, those conditions may include the requirement for additional payment by way of an annual fee.

To calculate the costs incurred in establishing an annual fee, the Council has taken the following matters into account:

- Letter writing/telephone calls etc to make appointments, request documentation or any other information from the site owner or from any third party in connection with the fit and proper process
- Handling enquiries and complaints
- Updating files, computer systems and websites if appropriate
- Time spent reviewing necessary documents and certificates
- Review any representations from an applicant or third parties, including reviews carried out by managers and/or legal services
- Carrying out risk assessments where this is considered necessary
- Time spent on consulting the site owner and third parties
- Time spent on meetings/discussions and in giving informal advice and assistance to site owners
- Monitoring and enforcement of fit and proper person requirements.
- Travel costs

The annual fee will be set as a condition of entry of being added to the register. The condition will state the amount and date by which the annual payment is due. Failure to make such a payment will be breach of the condition and may lead to legal proceedings being issued.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £113.00.

4.3 Five Yearly Reapplication

Site owners or their appointed manager must renew their entry on to the register of Fit and Proper Person every five years and where there has been no change to the named individual within that period.

This process will mirror that of the original application, however it is accepted that processing time will be shortened due to previous experience and so officer costs will be reduced.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £183.00.

5. Other relevant matters

5.1 Fee Exemptions

A site is exempted from a fee if it is occupied only by members of the same family and is not being run as a commercial residential site.

There is specific guidance available to the Council to determine the applicability of this exemption which will be considered as part of the formal decision-making process.

5.2 Payment of Fees

The Council is not required to consider an application for entry on to the fit and proper person register unless the application is accompanied by the correct fee. If the correct fee is not included, the application will not be valid,

5.3 Refunds

If the Council decides not to approve an application the applicant is not entitled to a refund of the fees paid.

6. Review

The Fit and Proper Person Fees Policy will be published on the Cheshire East Council website.

The fees detailed in this policy have been determined based on recent experience of receiving and processing initial applications under Fit and Proper Person requirements.

This policy will be revised no later than 31 March 2024 in accordance with the Council's fee setting process to ensure that fees remain accurate and reflective of the costs to administer the fit and proper person requirements.

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