

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting: 9 March 2015
Report of: Principal Manager - Regulatory Services and Health
Subject/Title: Implementation of the Mobile Homes Act 2013 (Fees and Charges Policy)

1.0 Report Summary

- 1.1 In accordance with the recently enacted Mobile Homes Act 2013 (MHA13) the Council is now able charge a fee for administering the statutory licensing function of residential caravan sites. Before the Council can implement any fees it must first adopt a Fees and Charges Policy for mobile homes and the purpose of this report is to request that the Licensing Committee approve the proposed fees and charges policy as set out in Appendix 1.

2.0 Recommendation

- 2.1 That Members note the changes introduced by the Mobile Homes Act 2013.
- 2.2 That the Principal Manager, Regulatory Services and Health be given delegated authority to exercise the council's powers under the Mobile Homes Act 2013, apart from setting fees, until such time as the matter is further considered by the Constitution Committee.
- 2.3 The Licensing Committee is asked to approve the proposed Regulatory Services and Health Mobile Homes Act 2013 Fees and Charges Policy 2015-16.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council has sufficient funds, processes, policies and procedures to meet its statutory obligations under the legislation relating to caravan and camp sites to licence them subject to appropriate conditions.
- 3.2 To provide a transparent and consistent approach to the setting of fees and charges for relevant protected caravan sites in line with government guidance to local authorities.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Contained within the report.

7.0 Financial Implications

- 7.1 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 In addition to the licensing function, the guidance also proposes other 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 i.e. the more administrative functions of the regime.

8.0 Legal Implications

- 8.1 The MHA13 amends the Caravan Sites and Control of Development Act 1960 and introduces a number of new requirements relating to the buying, selling or gifting of residential caravans; the process of reviewing pitch fees for sites and the introduction of fees for various functions delivered by the local authority which it could not previously charge for.
- 8.2 Section 1 of the MHA13 provides 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 policy for fees and charges; the proposed policy is attached as Appendix 1.
- 8.3 The MHA13 also provides residents and site owners with a safeguarding appeal process via a third party residential property tribunal. This allows applicants to make written or oral representations at a hearing. This appeals process is not a council function, thus does not place a burden on either the Council or the Licensing Committee.
- 8.4 There are currently 38 residential caravan sites, of various sizes, within the Borough which will be included in the new fees and charges regime. It is useful to note that sites cannot be licensed without first being granted planning and other relevant permissions.

9.0 Risk Management

- 9.1 The MHA13 specifically empowers local authorities to set a local scheme of fees and charges on a cost recovery basis.

- 9.2 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.

10.0 Background

- 10.1 The MHA13 amends the Caravan Sites and Control of Development Act 1960 to provide greater protection for occupiers of residential caravans. The changes introduced by the MHA13 only apply to 'relevant protected sites', which is defined as any licensable caravan site, unless either of the following exemptions apply;
- Planning permission or a site licence is granted for exclusive holiday use only or;
 - There is a restriction on its use as permanent residential site.
- 10.2 The MHA13 introduces important changes relating to buying, selling and gifting of residential caravans and the setting of pitch fees. In addition, it allows the Council to recover costs for their licensing role with respect to residential caravan sites through the setting of local fees and charges.
- 10.3 Whilst the majority of residential caravan sites are managed in a professional and fair manner, there are situations where this is not always the case. On those sites which are not managed appropriately and where conditions are allowed to deteriorate this can impact upon the health, safety and amenity of residents. To provide a level of protection a local authority can inspect and enforce licence conditions to ensure all the relevant standards are met.
- 10.4 It is intended that the MHA13 will raise standards in the industry across the country. In particular it will help to prevent site owners from blocking the sale of caravans and enable effective enforcement action to be taken against those operators who fail to comply with their licence obligations; both of which have been historic issues under the existing legislative regime.

11.0 Definitions under the Act

- 11.1 A mobile home residential caravan site is a classed as a relevant protected site when designated by planning permission (or by historic caravan site licenses) for residential use only.

N.B. Purely holiday/recreational parks (even if staff live there full time) and local authority owned parks are excluded from this new enforcement and charging regime. However, holiday parks will still need to be licensed in accordance with existing legislation.

12.0 Applications & Licences

- 12.1 Section 1 of the MHA13 provides the powers for local authorities to set fees and charges for a range of functions undertaken within the licensing regime.
- 12.2 Due to the timing of the legislation coming in to force it is envisaged that the annual fee will be applicable from the 1st April 2015 and all existing sites will be notified of the new fees and charges once they have been approved. Other fees and charges will be levied upon application or through the administration of relevant functions.

13.0 Attaching Conditions to Licences

- 13.1 The council has the statutory power to impose conditions on a site licence subject to the right of a site operator to appeal against any conditions that they disagree with to a Property Tribunal. Officers always endeavour to negotiate or agree changes with the operator and in any event are guided by model conditions. Only in those situations where agreement is not possible will conditions be imposed.
- 13.2 Whilst fees and charges are not payable specifically for conditions imposed by the council they are payable for amendments requested by the site owner/licensee.

14.0 Scheme of Delegation

- 14.1 This function is specified as a non-executive function in accordance with Regulation 2(6) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 14.2 It is therefore appropriate for the Licensing Committee to approve the Regulatory Services and Health, Mobile Homes Act 2013 Fees and Charges Policy 2015-16 (see Appendix 1) and any subsequent annual fee updates. This provides a consistent approach to fee setting in line with other licensing regimes.
- 14.3 As the MHA 2013 is an extension to existing controls for mobile homes which are currently managed by the Principal Manager: Regulatory Services and Health, it is envisaged that she will carry out the new functions under that Act.

15.0 Fees and Charges

- 15.1 The Act provides that an application for a licence may be accompanied by a fee set locally by the local authority on a cost recovery basis. Local authorities have a duty to have regard to any guidance issued by the Secretary of State in relation to the setting of fees and charges.
- 15.2 When setting fees the authority must not take into account any costs associated with formal enforcement activity against residential mobile home sites.

- 15.3 The following is a summary of the proposed fees and charges as set out in the Regulatory Services and Health, Fees and Charges Policy 2015-16. The fees have been calculated for caravan sites as both an initial application fee and an annual fee;

Number of Pitches	Application Fee	Annual Fee
1 to 10	£218.00	£218.00
11 to 20	£258.00	£258.00
21 to 30	£297.00	£297.00
31 to 40	£336.00	£336.00
41 to 50	£375.00	£375.00
51 or more	£414.00	£414.00

N.B. When a licence is granted for a caravan site it is proposed that the annual fee becomes payable and the costs can be passed on to site residents.

Other fees that can be levied on sites are proposed as follows;

- Site Licence Transfer Fee - £70.00;
- Licence amendment (simple) - £70.00 (there is no fee if the change is imposed by the local authority);
- Application by the licensee to amendment of conditions - £250; and
- The deposit of site rules - £20.00

- 15.4 It is proposed that the fees and charges above will not be refundable in the event of any licence being withdrawn, refused or transferred. Existing sites (i.e. those currently licensed) are exempted from the initial application fee.
- 15.5 Fees and charges must be reviewed annually to ensure they accurately reflect the full costs associated with the provision of the service. The approval of the annual fees and charging policy will be the function of the Licensing Committee.
- 15.6 As this is a new charging regime an accurate estimate has been made of the amount of officer time and other resources required for each of the charges for the period 2015-2016 based on the information currently available. However, as the fees must be reviewed annually officers will continue to be required to undertake time recording, which will provide more accurate information for setting future fees and charges.

16.0 Public Register

- 16.1 The Mobile Homes (Site Rules)(England) Regulations 2014 state that new or amended site rules must be deposited with the local authority who must establish, keep up to date and publish an overall register of sites with rules.

16.2 This register will be made openly accessible to the public via the council's web site.

17.0 Access to Information

The background papers relating to this report are included.

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>

Name: Tracey Bettaney

Designation: Principal Manager Regulatory Services & Health

Tel No: 01270 686596

Email: tracey.bettaney@cheshireeast.gov.uk

Appendix 1

Fees and charges policy document