

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

14 DECEMBER 2018

REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT

A.5 ADOPTION OF A FEE POLICY FOR MOBILE HOME SITE LICENSING

(Report prepared by Grant Fenton-Jones and Tim Clarke)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To inform Cabinet about the changes to mobile home site licensing introduced by the Mobile Homes Act 2013 and to seek approval for a Fee Policy.

EXECUTIVE SUMMARY

There are 13 residential mobile home sites in the District that fall under the licensing regime introduced by the Mobile Homes Act 2013.

The Council has the power to levy a fee for certain activities related to the licensing and the enforcement of licensing provisions on mobile home sites.

Before any fees can be charged it is necessary to adopt a fee policy.

RECOMMENDATION(S)

It is recommended that Cabinet:

- 1. adopts the Fee Policy as set out at Appendix A with immediate effect; and**
- 2. authorises the Corporate Director (Operational Services) to review the Fee Policy from time to time as required with any amendments to be included within the Council's Fees and Charging Schedule.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The decisions will contribute to the following priorities in the Corporate Plan 2016-2020:

Our Council Our Community

Health and Housing

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The fees as set out in the Fee Policy are intended to cover costs only and it is unlikely the Council will make any surplus as a consequence of the licensing programme. The fees will be reviewed on an annual basis in order to maintain a balance against the work required and the costs recovered from site owners.

Risk

The main risks are that the work involved will exceed the costs recovered from site owners. This will be mitigated through the annual review of the fees.

LEGAL

The Council is required to licence all Residential Mobile Homes Parks in the District under the Caravan Sites and Control of Development Act 1960. Section 5A was inserted by the Mobile Homes Act 2013 and permits local authorities who have issued a site licence in respect of a relevant protected site in their area to require the licence holder to pay an annual fee fixed by the local authority. When requiring a licence holder to pay an annual fee under this section, a local authority must inform the licence holder of the matters to which they have had regard in fixing the fee for the year in question (in particular, the extent to which they have had regard to deficits or surpluses in the accounts for the annual fee for previous years).

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Consultation

Consultation documents were prepared and delivered to the relevant sites within Tendring in November 2014.

No comments were received from representatives or site owners of the relevant sites, and no objections or comments were made in relation to making smaller sites exempt from the annual licensing fee.

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

The Mobile Homes Act 2013 was introduced to enable local authorities to monitor residential park home and caravan site licence compliance more effectively to ensure that residents' health and safety is better protected. These changes apply to 'relevant protected sites' as defined in the legislation and guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG). Any licensable caravan site will be a 'relevant protected site' unless it is specifically exempted from being so, for example if it is for holiday use or there is a restriction on use as permanent residential.

This report proposes to introduce a licensing scheme for mobile home sites in the District which will include Gypsy and Traveller sites with permanent planning permission.

Existing sites which are licensed under the Caravan Sites and Control of Development Act 1960 will not need to apply for a new site licence but will be transferred to come under the new provisions brought in by the Mobile Homes Act 2013 at no additional charge.

The Council will be able to charge fees for applications for a site licence and for the administration and monitoring of site licences, which will include annual site inspections. Annual fees will not cover enforcement of breach of conditions, recovery of expenses, serving of legal notices and dealing with sites that do not need licensing.

Where a local authority decides to charge fees these must be published in a Fee Policy document and must be transparent and reasonable. The proposed Fee Policy document is attached at **Appendix A**.

A fee can be charged for:

- applications to grant a new licence
- applications to transfer or amend an existing licence
- annual licence fees for administering and monitoring existing site licences
- depositing of site rules including first and subsequent deposits as a consequence of variations

The Council can include all reasonable costs such as administrative costs, site visits, travelling, consultations, meetings, etc. when determining their fees. The fee levels in the proposed Fee Policy have been calculated based on the estimated time and cost in undertaking the activities involved. A breakdown of how the costs have been estimated is included within the Fee Policy document. The actual costs incurred will be identified during the forthcoming year, which will inform the annual review process for the Fee Policy.

Where the Council makes a charge they must review the costs of administering the licence scheme to ensure that costs are covered by fees received; annual fees may be adjusted to take account of any surpluses or deficits – the Council can only pass on to the site owner their costs in carrying out its licensing functions.

Proposed fees are based on a banding system similar to that used by other Essex authorities, which were agreed at the Essex Caravan Working Group based on the number of pitches on each site. The largest site currently in Tendring falls into Band E (200+ pitches).

Details of the arrangements for the various fees are contained in the Fee Policy document at **Appendix A**.

The new legislation introduced improved powers for enforcement action in order to improve conditions on sites where standards are not maintained. In Tendring, as a result of the low number of residential sites, which are mainly small sites owned by the occupiers, it is not anticipated that enforcement powers will be often used unless alternative informal means of action are ineffective. The Fee Policy includes an hourly rate of £25.42 per hour, which will be used as the basis for charging for enforcement action.

The Council has discretion on whether to charge fees, and if so, whether fees should be applied to all 'relevant protected sites' in the District.

The Council also has discretion on whether to exempt certain categories of site from payment, but will have to justify any such decisions, e.g. based on risk or cost. The Government Guidance on Fees is quoted below:

'Exempting certain types of site

Whilst adopting a Fee Policy a local authority can decide to exempt certain categories of sites from payment. A local authority must however be able to justify any such decisions - which will usually be due to risk and, or cost.

Any exemption must be rational, objective and consistent. The exemptions must be set out in the fee policy. Site categories which are exempted can subsequently be brought within the charging structure by a change to the fee policy.

Importantly too, a local authority should not charge higher fees for non-exempted sites to cover its costs in relation to licensing functions for those sites that are exempted from payment.

A local authority may consider exempting the following types of sites:

- *Certain sites based on a minimum size – this may be single unit sites or sites of a size less than a given figure e.g. 3 or 5. The rationale for exempting such sites being that they are low risk, they tend to be family run sites which are not run as a business, they are rarely, if ever, the subject of complaints and the cost of inspection is outweighed by the cost of administering any charges.*
- *Sites that are not run as a business, again justified as above – this would include family run sites and typical small Gypsy Roma and Traveller sites. However, consideration needs to be given as to how you would quantify/define 'family site' and the evidence required to show that a site was not a family run site and was instead a business when challenged otherwise. On balance this is considered a problematic category and is not recommended.*
- *Gypsy Roma and Traveller (GRT) sites – some local authorities currently have little involvement with these sites and some do not even impose conditions. There may be a presumption that administering and recovering charges on these sites would be problematic. Even if no fees are charged the local authority still has a duty to license such sites and has powers of enforcement. There may be an expectation that enforcement action will be taken- in particular in respect of fire safety where the enforcing responsibility usually rests with the local authority and not the fire service under the Fire Safety Order (whereas on traditional residential park home sites the Order is relevant for common parts). Local authorities may consider the most sensible option to assess*

GRT sites against the same criteria as the traditional sites. So all sites of a minimum size (say less than 5) are exempt from charging, whilst all sites, including GRT sites, above a certain size are included.

In considering any Fee Policy, a local authority has full scope to consider the particular types and sizes of sites and issues on its district, so it can frame its policy accordingly, including exemptions to suit. It can also exempt by way of type of fee payable (i.e. application or annual fees) generally or specifically in relation to categories of sites’.

There are currently approximately 13 sites in the District which are currently licensed or are licensable. Of these the majority are small sites with less than 10 pitches, occupied by Gypsy and Traveller families who have obtained permanent planning permission. Sites without permanent permission or unauthorised sites are **not** considered to be ‘relevant protected sites’ within the definition of the Act and will not be licensable.

It is proposed to exempt sites smaller than 5 pitches where the occupiers of the site are members of, or live as, one family. The exemption will cover the fees associated with the issue and administration of the site licence but will not extend to any fees associated with enforcement action. These sites are generally low risk and are not run as a business.

The implications of not charging for mobile home site licensing in these cases will mean that there will be a small loss of income but this is reflected in the reduced time spent dealing with such sites.

The proposed fees for the various licensing activities calculated on a cost recovery basis are shown in the table below:

	Band A	Band B	Band C	Band D	Band E
Number of pitches	1 to 5	6 to 24	25-99	100-99	200+
Annual Fee	£142.35	£190.65	£279.62	£406.72	£508.40
New site licence application fee	£376.22	£396.55	£465.19	£571.95	£673.63
Transfer of site licence fee	£198.28	£198.28	£198.28	£198.28	£198.28
Amendment of site licence fee	£198.28	£198.28	£198.28	£198.28	£198.28
Checking & Registering Site Rules	£174.60	£174.60	£174.60	£174.60	£174.60

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A – Proposed Fee Policy for Mobile Home Site Licensing