

LICENSING & REGISTRATION COMMITTEE

20 JANUARY 2025

REPORT OF THE ASSISTANT DIRECTOR FOR HOUSING & ENVIRONMENT

A.2 HOUSING & ENVIRONMENT – CARAVAN SITE LICENSING - PROPOSED FEES AND CHARGES FOR 2025/26

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek the Committee's approval to the proposed schedule of fees and charges 2025/26 for Housing & Environment – Caravan Site Licensing.

To provide the Licensing and Registration Committee with the details of the proposed licensing fees and charges for the new financial year beginning April 2025, regarding Residential Park Homes. The Mobile Homes Act 2013 amended Section 3(3) of the Caravan Sites and Control of Development Act 1960 and empowered Local Authorities to charge when issuing licences in respect of 'relevant protected sites' and to charge fees for the provision of other associated licensing functions. The purpose of the report is to endorse those fees and changes to those fees and charges to take effect for the new financial year 2025/26 (as soon as possible there after taking account of legislative requirements).

EXECUTIVE SUMMARY

- This report sets out the proposed fees and charges for 2025/26 for Housing & Environment – Environmental Health statutory functions. They continue to be considered against several key principles that form part of the long-term financial forecast approach which are summarised later in this report.
- Any amendments to income budgets that are required to reflect changes to fees and charges will be included in the detailed budget proposals for 2025/26 that will be considered by Cabinet / Full Council next year.

- In respect of Full Council next year, these individual decisions agreeing fees and charges will be collated and presented as part of the overall budget setting process for 2025/26.
- The proposed fees and charges associated with licensing of Residential Sites (relevant protected sites) have been increased using the projected rate of inflation for the next financial year, and approval is sought to better reflect cost recovery in relation to the administration of the licensing areas concerned. It is proposed that the amended fees and charges to take effect from the 1st April 2025.
- The proposed fees and charges for 2025/26 along with the fees and charges for 2025/26 are set out within Appendix A to this report.

RECOMMENDATION(S)

That the Schedule of Fees and Charges for 2025/26 for Housing & Environment – Licensing of Residential Mobile Homes, as set out in Appendix A be agreed, insofar as that:-

- 1) the proposed fees and charges for 2025/26, as set out in column B of Appendix A be approved with effect from 1 April 2025; and**
- 2) the Assistant Director for Housing & Environment be authorised to publish The Mobile Homes (Residential Protected Sites) fees and charges in accordance with the relevant legislative provisions.**

REASON(S) FOR THE RECOMMENDATION(S)

To enable the implementation of a revised fees and charges schedule for 2025/26.

The Council has made provision in its Constitution within the Committee's Terms of Reference (at Part 3.20) for the Committee to approve the setting of fees and charges for licences falling within its remit.

The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals. The recommendation is to comply with the provisions of the European Services Directive (2006/123/EC) which although following Brexit, is no longer applies to the UK, the requirements of such were incorporated into UK law by the Provision of Services Regulations 2009. The legal requirements of what could be and were not recoverable were considered by the Supreme Court in the case of R (on the application of Hemming and others) v Westminster City Council [2015] UKSC 25 and [2017] UKSC 50. These considerations have been taken into account in setting the proposed fees.

ALTERNATIVE OPTIONS CONSIDERED

Please see the considerations / reasons behind the proposed fees and charges later on in this report.

Where a discretion exists in relation to fees and charges for licences and other licensing provisions, consideration has been given to not increasing the fees payable. However, the costs associated with providing the service have increased over the past year and it is necessary for the service to be, so far as possible, cost neutral and increase fees in line with estimated inflation. The proposed increase reflects on-going general inflationary pressures experienced in 2024/25 and those estimated in 2025/26, and therefore, a 2.3% increase is proposed for 2025/26. This is to ensure that all relevant costs are lawfully recovered from the income derived from the fees and charges for each distinct area of the licensing of Residential (Protected Mobile Home Sites), as well as charging annual fees and for other associated licensing provisions as necessary. If there is no increase in fees there is a risk that the Council will not recover all of the costs for statutory services or functions for which it is permitted to charge and increase the burden on the Council's General Fund.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The forecasting and budget setting process, including fees and charges, will have direct implications for the Council's ability to deliver on its objectives and priorities. At its heart, the 10-

year approach to the forecast seeks to establish a sound and sustainable budget year on year where maximising income, including income raised from fees and charges, will continue to be an important element of this approach.

It is intended that the revised fees and charges would support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents
- Championing our local environment
- Financial Sustainability and openness

OUTCOME OF CONSULTATION AND ENGAGEMENT

Councillor Adrian Smith, Portfolio Holder for the service areas has been consulted and has agreed with the proposed increase in fees and charges.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	No	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	N/A

These decisions are to record the Schedule of Fees and Charges for Executive functions only.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) determined in Regulation 2, which functions are not to be the responsibility of the executive, as set out in column 1 of Schedule 1 of the Regulations. For the purposes of this report, The Licensing of Caravan Sites are contained within column 1, and therefore, sit within the terms of reference of the Licensing and Registration Committee as set out in Part 3.21 of the Council's Constitution. Any fees set in accordance with the licensing regime under this legislation are to be approved by the Committee.

The arrangements for setting and agreeing a budget and for the setting and collection of council tax are defined in the Local Government Finance Act 1992. The previous legislation defining the arrangements for charging, collecting and pooling of Business Rates was contained within the Local Government Finance Act 1988. These have both been amended as appropriate to reflect the introduction of the Local Government Finance Act 2012.

The general power to charge is set out in the Local Authorities (Goods and Services) Act 1970 and the Local Government Act 2003 – Section 93 respectively. The latter also requires that charges for discretionary services should be on a cost recovery basis. Trading powers can only be exercised through a separate company and are not relied upon for the purposes of this report.

Under Schedule 3 of the Council's Constitution - Responsibility For Executive Functions - Para 4.4: Delegation of Executive Functions to Officers - General Responsibilities Delegated To Officers 4.4.1 (8) Part 3.45 of the Council's Constitution, all Assistant Directors, in consultation with the relevant Portfolio Holder, Management Team Member and the Director (Finance & IT), are authorised to decide the level of the annual discretionary fees and charges for their service (including any in-year changes that may be required) for inclusion within the Council's corporate schedule of fees and charges. Following the above consultation, an Officer decision must be published.

Under Para 4.4.1 (8) Part 3.4 of the Council's Constitution, all Assistant Directors, in consultation with the relevant Portfolio Holder (for executive functions), Management Team Member and the Assistant Director (Finance & IT), are authorised to decide the level of the annual discretionary fees and charges for their service (including any in-year changes that may be required) for inclusion within the Council's corporate schedule of fees and charges. Following the above consultation, an Officer decision must be published.

Fee and Charge	Legislative Power Being Relied Upon
Mobile Homes Site Licensing (Residential Protected Sites)	<p>Local Authorities were afforded powers under The Caravan Sites and Control of Development Act 1960 (the Act), to grant caravan site licences for sites that have planning permission.</p> <p>The Act has now been amended by The Mobile Homes Act 2013 (the 2013 Act), that enables Local Authorities to charge for the issue of licences in respect of Residential Mobile Homes ('relevant protected sites'), and to charge fees for other associated licensing provisions for these type of sites.</p> <p>The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person)(England) Regulations 2020</p>

The Caravan Sites and Control of Development Act 1960 (the Act) was amended by the Mobile Homes Act 2013 (the 2013 Act). The changes introduced by the 2013 Act came into force on 1st April 2014. These included powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”.

Local authorities can charge:

- a licence fee for applications to grant or transfer a licence or an application to alter the conditions on a licence and;
- an annual licence fee for administering and monitoring licences

Before a local authority can charge a fee, it must prepare and publish a fees policy. (See section 10A of the Act). When fixing a fee the local authority:

- must act in accordance with their fees policy
- may fix different fees in different cases
- may determine that no fee is required in some cases.

Tendring District Council published its first fee policy in April 2019 following approval by Cabinet. It provides a framework for fee setting and the process for the granting, renewal,

transfer, amendment of licences, the checking of site rules, and since the 1st October 2021, the requirement for accepting applications for a relevant person to be included on the Fit and Proper Person Register with regard to Mobile Home Protected Sites. The policy was updated and revised in 2021 in consultation with the Portfolio Holder for Environment & Public Spaces to include the fit and proper person provisions.

This Schedule of Fees and charges include some non-executive functions, so therefore, the Committee is asked to endorse and approve these fees for the next financial year, 2025/26.

The setting of these proposed fees and charges is in accordance with the requirements of the Provision of Services Regulations 2009 and case law as referenced earlier in this report.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

Report has been seen by the Monitoring Officer.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance and other resources

Fees and Charges have been reviewed against the key principles that underpin the long-term forecast, which includes the generation of income whilst balancing strategic and external market conditions.

Given the significant on-going financial challenges faced by the Council from 2025/26, a key underlying principle is to consider inflationary increases wherever possible to support corresponding increases in the Council's own costs in delivering the associated service(s). Although set against the current inflationary environment, any proposed increases in fees and charges must be balanced against other considerations / market conditions, whilst also recognising the restrictions placed on local authorities in terms of setting fees and charges as set out within the legal section above. Further details relating to any proposed increases to fees and charges is set out below.

Any changes to income budgets resulting from any changes in the level of fees and charges agreed, will form part of the detailed budget setting process for 2025/26. It is also recognised

that there may be advantages to allocate some or all of any additional income to associated investment / expenditure, which will also need to be considered as part of the detailed budget setting process for 2025/26.

A summary of the main changes proposed are as follows:

- Generally, overall, we have applied a 2.3% inflationary increase to the fees and charges, as most of the fees relate to commercial activities and not the delivery of direct services to individuals. This increase reflects the estimated 2.3% published CPI figure for April 2025.

Where possible, the Housing & Environment service aims to recover all reasonable costs. In several areas, statute dictates whether a fee may or may not be charged and the level of any charge.

When setting the fees and charges for the new financial year, the responsible officer refers to the Fee Policy and the framework for setting the appropriate level of fee and charges. They carefully monitor the licensing fee income through the financial year, which can fluctuate depending on whether new applications are made and whether amendments are needed due to a change of ownership or a transfer of the licence. The income from the “Fit and Proper Person” applications is renewed every five years and a fee is only chargeable at this time. Therefore, if at any time, it was considered there would be a short fall between income and expenditure the fees could be reconsidered and increased, subject to notice and consultation, and implemented in the next financial year.

Local Authorities are not allowed to make a profit from fees and charges associated with licensing of Residential Mobile Homes (Protected Sites) and must reduce fees if it is found that a surplus of funds has been amassed. This is monitored and is unlikely to happen as fees and charges are set in accordance with the Fees Policy Framework which is time specific and based on the hourly rate of the responsible officer, whilst any increase is calculated in accordance with the annual CPI and inflation each year.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

Although there are no further comments over and above those set out elsewhere in the report, it is important to highlight that the demand / volumes used to calculate any estimated total income figures included within this report are based on those held by the Service. The estimated additional income highlighted above will be incorporated within the budget proposals for 2025/26 as necessary.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services.	Please see relevant comments elsewhere in this report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks.	It is important that fees are set by the correct decision making arm of the Council. Discussions between the Assistant Director for Housing and Environment and Governance have recently taken place to ensure the service is fully aware of these requirements. The Monitoring Officer is satisfied that suitable assurances have been given and improvements identified.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

Fees and Charges for 2025/26 form part of the wider budget setting process, which culminates in the detailed estimates being presented to Full Council in February 2025. Fees and Charges must therefore be approved in advance of this date.

The report sets out the proposed fees and charges currently being charged and those to be set from April 2025 and invites the Committee to consider approving them.

ASSOCIATED RISKS AND MITIGATION

There is a risk that businesses will chose not to pay the fees. With payment of the fees being a requirement for obtaining the service or statutory licence required to run their business it is not

anticipated that many will take this route.

If the Committee determined that no increases in fees are appropriate, this could place a financial burden on licensing budgets that may require support from the General Fund. This in turn may mean that other Teams or Services see their budgets reduced.

EQUALITY IMPLICATIONS

Fees will apply equally to all businesses in accordance with the type of activity the fee is levied for.

There are no direct equality implications. The fees are calculated on a cost recovery basis and will not disproportionately affect those with a protected characteristic.

SOCIAL VALUE CONSIDERATIONS

The charging of fees enables the Council to undertake the statutory function for which the fee relates. Overall, the service seeks to improve the economic, social and environmental wellbeing of the area through the work undertaken.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

The proposed decision is neutral in relation to the Council’s emissions ambitions.

OTHER RELEVANT CONSIDERATIONS OR 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	The changes introduced do not have implications on these considerations and apply equally to transactions irrespective of the area or ward in which the matter is located.
Health Inequalities	
Area or Ward affected	

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Income from fees and charges form an important element of the budget and the financial sustainability of the Council as highlighted earlier.

Similarly to previous years, Departments have been asked to review their fees and charges on an individual basis as changes may need to be made to meet specific aims or strategic objectives or in some cases in response to external factors such as market forces.

The review of fees and charges has been set against the following key principles:

- general inflationary increases where possible or lower where appropriate / justified
- amounts rounded for ease of application, which may result in a slightly above inflation increase.
- on a cost recovery basis as necessary
- reflect statutory requirements.
- increases where market conditions allow
- to meet specific priorities or service delivery aims / objectives

As highlighted earlier in this report, the Council continues to face a number of significant financial challenges in 2025/26 and beyond. It is therefore important that fees and charges are considered against this context and to maximise income opportunities where possible, albeit whilst balancing the various issues highlighted above.

Income budgets included in the detailed estimates will reflect any required changes from the proposed fees and charges set out in this report.

Set against the current fees and charges for 2023/24, **Appendix A** includes the schedule of fees and charges proposed for 2024/25, which have been developed by applying the key principles highlighted above.

The Licensing Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations, but some fees can be set by Local Authorities to cover the cost of administration, compliance, and some elements of enforcement; Locally Set Fees. The Council is not able to make a profit from licensing fees and cannot support the General Fund from licensing fees.

Where possible, the Housing & Environment service aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, and purchase costs etc.

In proposing the fees for 2025/26 we have been mindful of the current cost of living increases, the continued effect of the economy post pandemic on the licensed trade, and the increases in costs to the Council caused by current inflation rates.

The Environmental Health Manager monitors fees and charges set by other Local Authorities as a bench marking exercise and the service always has due regard to this when setting fees.

The basis in setting such fees is generally to ensure cost recovery. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for Councils, and that fees should be reviewed annually to ensure a significant surplus is created. Should a surplus be accrued, the following years fees and charges will be reduced to bring it back to zero profit.

Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated into UK law by the Provision of Services Regulations 2009. For such schemes, fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities". This principle was affirmed by the courts in R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.

Details of the proposed fee structure is attached at Appendix A.

As mentioned in the Finance section above, the service will continue to monitor the fees and charges for licensing Residential Mobile Homes (Protected Sites) in accordance with TDC's Fees Policy which includes a comprehensive breakdown of the services activity in this matter

Housing & Environment – Licensing of Residential Mobile Homes Sites - PROPOSED FEES AND CHARGES 2025/26

Set against the current fees and charges for 2024/25, **Appendix A** includes the schedule of fees and charges proposed for 2025/26, which have been developed by applying the key principles highlighted above.

In finalising the proposed fees and charges for 2025/26, the table below sets out a summary of the associated review:

As part of this review, a comparison of licencing fees was undertaken with other Councils in Essex using benchmarking data. In general, we have applied an inflationary increase of 2.3%.

Environmental Health – Fees & Charges for the Licensing of Residential Mobile Homes Sites

Element of This Year's Review	Comments
1. Background to the annual review process and reasoning behind the fees and charges proposed.	
	These are statutory fees so the only consideration is cost recovery.
2. Is the Associated Service Subsidised in 2024/25. (i.e. is there a budgeted deficit for the service the fee and charge relates to)	
Yes	
3. Expected impact of the proposed fees and charges on the budgeted income position.	
£100	
4. Is it proposed to use of any additional income raised?	

No. Any surplus accrued must be offset against the following years Fees & Charges. Local Authorities are not allowed to make a profit from their Licensing functions.

5. Impact on the Net Budget

Expenditure increase is estimated a 5% due to salary increases. Income varies from year to year so is not currently budgeted, therefore, the estimate is based on a 3 year average.

Budget Line	2024/25	2025/26
Expenditure	£74,370	£78,090
Income	£5,000	£5,100
Net Position	£69,370	£72,990

6. Other important issues to highlight.

When a site licence is issued it stays in place until there is a material change, for example, a change to the lawful Planning Permission or a change in ownership. Should this stays the same there is no renewal.

The only guaranteed annual income is from Annual Site Licence Fees for Residential Protected Sites. Therefore, some years there may be income from site licensing, whereas other years there may be none.

Fees for the Fit & Proper Person Register are collected every five years unless there is a change to the responsible person in charge of the site in question.

PREVIOUS RELEVANT DECISIONS

Decision of the Licensing & Registration Committee to accept the Fess & Charges for 2024/25 – 31st January 2024

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Attached – Detailed fees and charges 2025/26 for Housing & Environment- Licensing of Residential Mobile Home Sites.

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A.2 Appendix A

VAT is not applicable	A	B
LICENSING OF MOBILE HOME SITES (PROTECTED SITES)- MOBILE HOME ACT 2013	2024/25 £	2025/26 £
Application for New Site Licence		
Number of Caravans		
200+	844.00	863.41
100 to 199	717.60	734.51
25 to 99	583.00	596.41
6 to 24	498.00	509.45
1 to 5	471.00	481.83
Annual Site Licence Fees (Every April)		
Number of Caravans		
200+	638.00	652.67
100 to 199	510.00	521.73
25 to 99	350.00	358.05
6 to 24	244.00	249.61
1 to 5	180.00	184.14
Transfer of Site Licence	249.00	254.73
Amendment of Site Licence	249.00	254.73
Checking and Registering Site Rules	249.00	254.73
NEW - Application for the Fit & Proper Person Register	249.00	254.73