

Key Decision: Yes / No

Mobile Homes Act 2013

Report by the Director for Customer Services

1.0 Summary

- 1.1 To inform the Cabinet Member of the changes to the regulatory regime for permanent residential caravan sites under the Mobile Homes Act 2013 (the 'Act') and to approve a proposed fee structure

2.0 Background

- 2.1 The Caravan Sites and Control of Development Act 1960 (The Act) gives local authorities the power to issue a site licence for the use of land as a caravan site, where a site has the benefit of planning permission for that use. The Act has been 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 include powers for Local Authorities to charge fees for their licensing functions in respect of 'relevant protected sites'.
- 2.2 A 'relevant protected site' is defined in the Act as any land to be used as a caravan site other than one where a licence is:
- Granted for holiday use only.
 - In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).
- 2.3 Relevant protected sites are typically known as residential parks, mobile home parks, Gypsy Roma and Traveller sites and so on.
- 2.4 Local Authorities can charge for:
- A licence fee for applications to grant or transfer a licence or an application to alter the conditions of a licence; and
 - An annual licence fee for administering and monitoring licences.
 - A one-off fee for depositing revised Park Site Rules (see 2.6 below)
- 2.5 A local authority is prevented from charging for:
- Enforcement for breach of condition, etc. as separate provisions provided for under the Mobile Homes Act 2013; or
 - Site visits and enforcement against unlicensed sites.

- 2.6 Before a Local Authority can charge a fee, it must prepare and publish a fees policy (Section 10A of the Act). When fixing a fee the local authority:
- a. Must act in accordance with their fees policy
 - b. May fix different fees in different cases
 - c. May determine that no fee is required in some cases.
- 2.7 The 2013 Act also amends the Mobile Homes Act 1983 (The 1983 Act). As a result, the local authority is required to oversee and validate the park rules formed between park owners and their residents in the manner prescribed under the Mobile Homes (Site Rules)(England) Regulations 2014. When the final version of the park rules are deposited with the local authority, provision is made under Section 2C (11)(c) of the 1983 Act enabling local authorities to levy a charge for this service. The Fee's Policy should also address this matter.
- 2.8 A Pan Sussex group (The 'group') has been established with most Local Authorities across the County participating at an officer level in order to frame a policy. It is believed that by adhering to a similar fee structure this will ensure the fee policy will be fair, transparent and consistent. It is also hoped that this will guard against any major disparity between the fees implemented by neighbouring authorities, as many site owners operate cross-border. The fee policy has also been developed after having regard to the Department for Communities and Local Government (DCLG) guidance document on setting fees published in Feb 2014. Four possible options were outlined in the DCLG guidance document and considered by the group. These were as follows:
- 1) Charge nothing.
 - 2) A price per unit fee.
 - 3) A fee based on site size bandings.
 - 4) A fee based on or including a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management.
- 2.9 Option 1 – Charge Nothing. The group felt that it was important to recover costs associated with this type of work, as it would reduce the burden on the tax payer.
- 2.10 Option 2 – A price per unit fee. Perceived as being too complex and cumbersome, as sites would be attracting different fees and if they altered the number of units on site then the annual fee would need to be adjusted. In addition, the time taken to conduct an inspection did not depend purely on the number of units per site.
- 2.11 Option 4 – Fee based on risk rating. An interesting idea, however, not all authorities within the group used risk rating to determine frequency of inspections. Also, the group felt that unless there was a consistent and effective risk rating scheme in place across the local authority areas then the ratings could be susceptible to regular challenges by site operators who wished to reduce the site's annual fee.

- 2.12 The consensus amongst the group was to devise a fee policy based on site size bandings (Option 3). This appeared to be the fairest and simplest method available. It meant that fees would differentiate between smaller and larger sites, as generally speaking more time is spent by officers with regards to inspecting larger sites. However, because of the bandings it means that if the number of units alters the annual fee is not likely to change unless this results in the site falling into a different band.
- 2.13 It also meant that there could be an easy way for applicants and licence holders to determine fees, without having to rely on complicated equations or risk ratings.
- 2.14 The bandings are based upon those suggested in the DCLG guidance and are outlined in the table below along with the number of sites that fall into each category.

	A	B	C	D
Number of units on site	(1-5)	(6-24)	(25-99)	(100+)
Number of sites in Adur	0	0	0	2

- 2.15 It was the view of the group that any sites comprising of 5 or less pitches should be exempt from paying a fee for the following reasons:
- a. The majority of small sites are family run;
 - b. Where a holiday site has permission for residential use too, and that use is only by the owner of the site (including family members) or employees working on the site – their permanent occupation does not make the site a ‘relevant protected site’;
 - c. The cost of inspection is outweighed by the cost of administering any charges; and
 - d. It would also lessen expectation amongst the smaller site owners requiring the local authority to undertake annual inspections.
- 2.16 Consideration was also given to exempting family/traveller sites that consist of more than 5 pitches. However, it was felt by the group that in extreme cases this could be exploited by site owners claiming that the site is only occupied by family members, when actually sub-letting the caravans to non-family members for commercial gain.
- 2.17 In terms of a transfer application, variation application and depositing of park rules, it was felt that a flat rate fee was more appropriate.
- 2.18 A detailed copy of the estimated costs associated with each application type, as well as, the annual fee is contained within the Fees Policy attached to this report.

3.0 Proposal

- 3.1 The table below summarises the proposed fee structure.

	Band			
Number of units on site	A (1 – 5)	B (6 - 24)	C (25 - 99)	D (100+)
New Application for Site Licence	£135.75	£220.60	£243.63	£271.26
Transfer of Site Licence	£77.30	£77.30	£77.30	£77.30
Variation of Site Licence	£77.30	£77.30	£77.30	£77.30
Annual Fee	Exempt	£147.55	£183.34	£226.29
Depositing of park rules with Local Authority	£81.46	£81.46	£81.46	£81.46

- 3.2 A Local Authority cannot make a profit from the proceeds raised, in respect of the 'Relevant Protected Site' Licensing fees. Therefore, the Local Authority will need to assess the costs accrued from the previous year. If a surplus is being made then the fees will need to be adjusted accordingly. In order to ensure that any alterations to the fees can be responded to efficiently, it is recommended that the Environmental Health Manager is authorised to amend fees if the need arises. If the Fees Policy itself requires reviewing then this will be a matter for the relevant Cabinet Member to determine.
- 3.3 The proposed implementation date of the new fees structure is 1st October 2014
- 3.4 The annual fee will be due on the 1st October 2014 for any existing sites. Any sites licensed for the first time after the implementation date will attract an annual fee on the anniversary of grant.
- 3.5 A break down on the methodology adopted in calculating the proposed fees is provided as part of the Fees Policy attached within the Appendix.
- 4.0 Legal**
- 4.1 An effort has been made by the group to ensure that the costing on which the fees are based is a conservative estimate. This is to guard against potential challenges that could be made by site operators if it is perceived that the proposed fees are inflated.
- 5.0 Financial implications**
- 5.1 At this current time there is no inspection regime in place. It is likely there will be an expectation amongst those sites which attract an annual fee that a visit is conducted at least once a year.

- 5.2 There are only two sites within Adur that fall under the Mobile Homes Act definition of 'relevant protected site'. The scheme will not generate a large income, but will cover additional costs incurred as part of the annual inspection process. The expected income from annual fees associated is predicted to be £452.58 per year. This is subject to change depending on whether new sites are licensed or existing sites cease operating.
- 5.3 The annual fee will also vary dependent on the amount of time and resources spent on the process during a year. Guidelines require that additional costs are recovered by an increase in the following year's fees and, vice versa, any underspend is returned by reducing the following years fees.
- 5.4 The expected income from depositing park rules will be £162.92 in the first year, as all relevant protected sites will need to lodge their park rules with us by no later than Feb 2015. After this, there is unlikely to be any applications.
- 5.5 In terms of new applications, variations, transfers for 'relevant protected sites', etc. we anticipate very few of these types of applications over the course of the year due to the lack of available

6.0 Recommendation

- 6.1 That the Cabinet Member approves fees for the discharging of the Councils duties under the Mobile Homes Act 2013
- 6.2 That the Cabinet Member approves the level of fees as per the attached Adur Fee Policy for Relevant Protected Sites.

Local Government Act 1972

Background Papers:

Adur Fees Policy for Relevant Protected Sites

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Schedule of other matters

1.0 Council Priority

1.1 Ensuring value for money and low Council Tax

2.0 Specific Action Plans

2.1 Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified

4.0 Equality Issues

4.1 Matter considered and no issues identified

5.0 Community Safety Issues (Section 17)

5.1 Matter considered and no issues identified

6.0 Human Rights Issues

6.1 The Act increases the protection of mobile home owners

7.0 Reputation

7.1 The level of fee charged is in line with other Sussex authorities and lower than published charges in other parts of England.

8.0 Consultations

8.1 The Mobile Home site operators are to be consulted following the approval of the concept of charging fees.

9.0 Risk Assessment

9.1 Matter considered and no issues identified

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

12.0 Partnership Working

12.1 Matter considered and no issues identified