

DECISION TITLE: Consultation on Proposed Mobile Homes Act 2013 Fees Policy
Councillor: Councillor Hiller – Cabinet Member for Planning and Housing Services
January 2015
Deadline date: n/a

Cabinet portfolio holder: Responsible Director:	Councillor Peter Hiller – Cabinet Member for Planning and Housing Services. Wendi Ogle-Welbourn – Director for Communities
Is this a Key Decision?	No
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO

R E C O M M E N D A T I O N S

The Cabinet Member is recommended to authorise a period of 8 weeks for public consultation in relation to a Fees Policy document (attached as **appendix A**), including utilising the option to calculate annual fees on a banding basis, and the exemption of certain sites from its annual fee charge.

1. SUMMARY OF MAIN ISSUES

- 1.1 The Mobile Homes Act 2013 (“the Act”) came into effect on 1 April 2014. It amends The Caravan Sites and Control of Development Act 1960 and introduced a new licensing regime for all mobile home parks.
- 1.2 Briefly the Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process.
- 1.3 The Act introduces additional powers for local authorities to monitor site licence compliance effectively and take enforcement actions for non-compliance by site owners. This means that the Council can now charge fees to carry out its licensing functions, to recover the costs of enforcement actions and to oversee and publish any site rules relating to a site within the City of Peterborough.
- 1.4 Currently there are 9 licensed park home sites in the City, however the draft ‘Fees Policy’ is intended to be applied citywide. The Act was passed in order to mark the Government’s

commitment to giving better rights and protection to park home owners, whilst ensuring honest professional site owners can flourish. The Council's proposed Fees Policy is intended to support the Government's Policy and the wider policies of the Council's Strategic Housing service. The proposed Fees Policy will enable the Council to better discharge its responsibility to protect the vulnerable residential park home owners across the City in line with corporate objectives.

2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Cabinet Member for Planning and Housing Services to approve the public consultation of the proposed fees and charges and associated policy set out in the attached 'Draft Fees Policy' arising from the Act 2013.
- 2.2 This report is for the Cabinet Member to consider under Part 3, Section 3 paragraph 3.4.3 of the Constitution in accordance with the terms of his portfolio at paragraph (t).

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO
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4. DETAILS OF DECISION REQUIRED

4.1 Background

- 4.1.1 Under the Caravan Sites and Control of Development Act 1960, all residential park owners require a licence from the local authority to operate. Central Government considered the legislation to be ineffective and outdated. The changes introduced by the Mobile Homes Act 2013 provide for local authorities to charge fees for their licensing functions in respect of "relevant protected sites" and to provide local authorities with procedures and penalties for enforcement of site licence conditions on residential parks.
- 4.1.2 The draft Fees Policy for consideration has been prepared with these principles in mind. It should be stressed that the Council will always prefer to work *with* park owners. However, where park owners refuse to co-operate the Council will be able to use these new enforcement powers, where necessary, to ensure that bad practice does not prevail.

4.2 Relevant Protected Site

- 4.2.1 A "relevant protected site" is defined in the Act as any land to be used as a caravan site with planning consent. This does not include a site where a licence is either granted for holiday use or has conditions e.g. via planning which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year.
- 4.2.2 "Relevant protected sites" to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites. Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the Caravan Sites and Control of Development Act 1960 (as amended) (CSCDA60), but the provisions relating to payment of fees do not apply.
- 4.2.3 A local authority 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.

4.2.4 Before a local authority can charge a fee, the Act requires that a fees policy is prepared and published. When fixing a fee the local authority must act in accordance with their fees' policy, may fix different fees in different cases and may determine that no fee is required in some cases.

4.3 Proposed Licence Fees Policy

4.3.1 An application for a licence must be accompanied by a fee. The fee is to be set locally by each local authority on a cost recovery basis having had due regard to the guidance from the Department of Communities and Local Government (DCLG) which was published in February 2014 ("the Guidance"). The basis of fees must be published with a fees policy. In calculating its fee option Officers could calculate annual and new fees by using one of the three following options:

Option 1 - a fee per pitch (a fee based on the total cost to the local authority in carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit), or

Option 2 - a fee based on site size bandings, or

Option 3 – a fee based on a risk rating that takes into account the size of a site, the level of compliance on a site and confidence in management

4.3.2 The fee for granting of a new site licence and the annual fee in the proposed policy has been determined by using option 2 as it is considered to offer the most transparency and fairness to both residents and site owners. The fee is proposed to be set proportionately and reflects the time spent in processing the licence, which increases due to the number of pitches on site.

4.3.3 The following fees are proposed:

Application to grant a new Site Licence: Number of pitches	Fee
4-49	£390.00
50 - 99	£495.00
100-149	£710.00

Application for Annual Site Licence Number of pitches	Fee
4-49	£190.00
50 - 99	£315.00
100-149	£440.00

- Application for transfer is £110.00
- Fees payable for deposit of site rules is £55.00
- Application for amendment of up to two site licence conditions is £65.00
- Where significant amendments to the site licence conditions are requested this is likely to involve a site visit so the fee for this licensing activity will increase to:

Number of pitches	Fee
4-49	£125.00
50 - 99	£170.00
100-149	£210.00

4.3.4 Any fees charged must fairly cover the costs incurred by a local authority under its functions in Part 1 of the Act and not include costs of enforcement action. They must be reasonable and transparent and whilst different fees can apply to different types of cases, there must be consistency in the fee structure and its application. Fees must not be set to make a profit and fees will need to be reviewed annually.

4.3.5 An Equality Impact Assessment will be completed as part of the public consultation process.

4.4 Exemption of certain relevant protected sites

4.4.1 The Act allows the local authority to exempt certain sites from charging for licensing functions. The Council felt it appropriate, in line with good practice established by local authorities, to propose to make the following additional exemptions:

- Sites that are not relevant protected sites.
- Sites with 3 units or less - 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 for the Site owner and their family (does not include sites that are run for financial gain).

4.4.2 These categories of sites are proposed to be exempt from the annual licensing fee as the Council do not intend to carry out annual inspections of these sites; however, any complaints would be dealt with as appropriate.

5. **CONSULTATION**

5.1 The proposed public consultation will be held over a period of eight weeks. All interested parties will be invited to participate in the consultation. Consultation will take place by way of letter, email, telephone and public events.

6. **ANTICIPATED OUTCOMES**

6.1 To approve the public consultation of the Council's Mobile Homes Act 2013 Fees Policy.

7. **REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION**

7.1 The Act sets out the Council's powers to meet the aims of the Act and its duties towards people living in park homes and caravans. The recommendations in this report will ensure the Government's intention to provide greater protection to occupiers of residential park homes and caravans is achieved.

8. **ALTERNATIVE OPTIONS CONSIDERED**

8.1 To not consult and introduce the powers of the Act would further disadvantage the occupiers of residential park homes and caravans.

9. **IMPLICATIONS**

9.1 Legal Implications

Under the Act the Council may require that an application for a site licence, transfer of a site licence, or changes to the conditions of a licence be accompanied by a fixed fee.

- 9.2 Before the Council charges its fee, the Act requires the Council to prepare and publish a “fees policy”. The draft “Fees Policy” attached to Annex A is prepared in accordance with the Act and the recommendations in the Guidance from the DCLG to local authorities on matters to take into account when setting its licensing fees.
- 9.3 The Council seeks a consultation period on the proposed draft “Fees Policy” document before it publishes the Policy document and to charge fees for its licensing functions.
- 9.4 The Act also entitles the Council to charge for its expenses and costs incurred in taking action including any enforcement action to ensure licensing compliance by site owners. This includes costs incurred in inspections, preparing the notice and obtaining expert advice (including legal costs) and any interest the authority intends to charge.

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

None

11. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)
Mobile Homes Act 2013
Mobile Homes (Site Licensing) (England) Regulations 2014
DCLG A guide for Local Authorities on setting site licensing fees – February 2014
DCLG Guidance on Definition of relevant protected sites – January 2014
Regulators Compliance Code



Draft Fees Policy Licensing of Residential Park Homes Sites Consultation Document - ** 2014

Contents

- 1. INTRODUCTION**
- 2. RELEVANT PROTECTED SITE**
- 3. THE LICENCE FEE STRUCTURE**
- 4. REVIEW OF THE LICENCE FEE STRUCTURE**
- 5. PUBLISHING THE FEE POLICY**
- 6. PAYMENT OF FEES**
- 7. APPLICATION FOR A NEW SITE LICENCE**
- 8. TRANSFER/AMENDMENT OF EXISTING SITE LICENCE**
- 9. ANNUAL FEES FOR EXISTING SITE LICENCES**
- 10. CONDITIONS**
- 11. SITES EXEMPTED FROM ANNUAL LICENSING FEES**
- 12. CHARGING ARRANGEMENTS**
- 13. OTHER CHARGES**

APPENDIX 1 - Activities that the Council can include when calculating its fee for the grant or transfer of a licence.

APPENDIX 2 - Activities that the Council can include when calculating its annual fee.

1. INTRODUCTION

Peterborough City Council (“the Council”) has granted Caravan site licences under The Caravan Sites and Control of Development Act 1960 (as amended) for sites that have valid planning permission.

The Caravan Sites and Control of Development Act 1960 (CSCDA) has now been amended by the Mobile Homes Act 2013 (MHA). The MHA 2013 was introduced to provide greater protection to occupiers of residential caravans and mobile homes.

The MHA 2013 has introduced some important changes to park home site licensing. The Act authorises Local Authorities to issue licences in respect of “relevant protected sites” and to require applications for such licences to be accompanied by a fee. Fees may also be charged for applications to transfer sites licences or to change the conditions in site licences. The Council can also charge a fee to serve enforcement notices and publish any site rules relating to a site. There is an expectation that local authorities will inspect sites annually and use the additional powers to ensure compliance with site licence conditions.

The fee generated by the MHA 2013 is not designed to include investigation of harassment or matters not related to the site licence, these matters should be dealt with via Residents Associations or other appropriate channels.

2. RELEVANT PROTECTED SITE

The changes introduced by the MHA 2013 for site licensing came into force on 1 April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of “relevant protected site”. A relevant protected site is defined in the MHA as any land to be used as a caravan site other than one where the application for a licence is:

- For holiday use only, or
- In any other way subject to restrictions or conditions which limit the times of the year when the site may be used for stationing caravans for human habitation (e.g. planning conditions)

Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the CSCDA60, but the provisions relating to payment of annual fees do not apply. A relevant protected site does not include sites that are owned by the local authority. Relevant protected sites to which the legislation applies are typically known as Residential Parks, Mobile Home Parks and Gypsy Roma and Travellers sites.

3. THE LICENCE FEE STRUCTURE

In setting its draft fees policy and the fees to be charged Peterborough City Council has calculated its fees in accordance to the Guide for Local Authorities on Setting Site Licensing Fees issued by the Department for Communities and Local Government. In

determining those fees, Peterborough City Council has taken into account all administrative costs incurred in the licensing process, officer visits to sites, travel costs, consultations, meetings, monitoring of sites/investigation of complaints and the giving of informal advice.

The fees determined are set out in this policy.
The fee structure adopted by the Council is based upon

- *a fee based upon size banding*

The fees set out in this policy cover the period 1 April 2014 to 31 March 2015 – pro rata for the current year.

Under the new MHA a fee can be charged for:

- Applications to grant a new licence
- Applications to transfer or amend an existing licence
- Annual licensing fees for administering and monitoring existing sites licences
- Deposit of Site Rules

This policy details the fees to be charged for all these licensing functions.

4. REVIEW OF THE LICENCE FEE STRUCTURE

A review of the fee structure will be carried out annually and it will be revised if necessary. Any adjustments will take into account variations in officer and administration time to those used in calculating the fees set out in this policy document, along with any changes to other costs incurred in providing the licensing function.

Any surpluses/deficits for the previous year will be taken into account when fixing the fees for the following year.

In setting annual fees each year the Council will inform the site owner of the extent to which they have had regard to any surpluses/ deficits from the previous year and will confirm to the site owner the annual fee for the forthcoming year.

5. PUBLISHING THE FEE POLICY

The fees policy for licensing of residential park home sites will be published on the Council's website:

[insert link to consultation page](#)

If the Council revises its fees policy, it will replace the published policy with the revised policy. The policy will also be available to view during normal office hours from Housing Enforcement Team, 4th Floor, Bayard Place, Broadway, Peterborough, PE1 1HZ.

6. PAYMENT OF FEES

The Council requires that the application fees for a new site licence, for amending a site licence or for transferring a site licence must accompany the application. It will not commence the application process until such time as the fee is received. Application fees are not refundable if the application is not approved.

Annual fees will become due on *(insert date)* each year. The request for payment will be accompanied by information detailing what matters the council took into account in fixing the annual fee and the extent to which it had regard to deficits and surpluses from the previous year.

Where a fee becomes overdue for payment, the Council may apply to a residential property tribunal for an order requiring the licence holder to pay the Council the amount due by the date specified in the order. If the licence holder has still not paid the fee within three months from the date specified in the order, the Council may apply to the tribunal for an order revoking the site licence.

7. APPLICATION FOR A NEW SITE LICENCE

All sites (subject to exemption in the CSCDA60) require a site licence to operate; failure to apply for a licence is an offence under section 1(2) of CSCDA60. The Council may only issue a licence for a site with a valid and correct planning permission for the use. Any application made before the planning status has been awarded must be processed within six weeks of the planning decision. Sites which already have planning permission in place must be processed with two months of the licence application. Appendix 1 sets out the activities that the Council can include when calculating its fee for the grant of a new site licence or transfer of a licence.

The fee for a new site licence is currently:

Number of pitches	Fee
4-49	£390.00
50 - 99	£495.00
100-149	£710.00

8. TRANSFER/AMENDMENT OF EXISTING SITE LICENCE

Where a licence holder wishes to transfer the licence an application must be made to the Council for which a fee is payable. The fee must accompany the application to transfer the licence. Appendix 1 sets out the activities that the Council can include when calculating its fee for the grant of a new site licence or transfer of a licence.

Similarly, where a site owner requires an amendment to site licence conditions the Council can charge a fee for this function.

Applications can be made by licence holders to vary or cancel conditions, the fee is payable at the application stage.

If the Council deems it necessary to alter conditions there will no fee payable. The fee for an application for transfer is £110.00

Fees payable for deposit of site rules is £55.00

The fee for amendment of up to two site licence conditions is £65.00.

Where significant amendments to the site licence conditions are requested this is likely to involve a site visit so the fee for this licensing activity will increase to:

Number of pitches	Fee
4-49	£125.00
50 - 99	£170.00
100-149	£210.00

9. ANNUAL FEES FOR EXISTING SITE LICENCES

All “relevant protected sites” must pay an annual fee to the Council (subject to any exemptions stated in this policy). The fee is due on 1st April 2014 and annually thereafter. Appendix 2 sets out matters to be taken into consideration when setting an annual fee.

The annual fee cover the costs associated with administration, an annual site inspection to ensure compliance with the site licence conditions and a revisit to ensure compliance with any outstanding works required. If there is a breach in site licence condition at the point of the revisit further charges may become payable to cover the cost of any enforcement action which may be taken. Enforcement costs are detailed below.

The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating an annual fee. These include:-

Option1 – per pitch (A fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit)

Option 2 -fee based on site size bandings.

Option 3 – fee based on a risk rating that takes into account the size of the site; the level of compliance on the site and confidence in management.

Option 2 has been adopted by the Council as it consider the offer the most transparency and fairness to both residents and site owners and the annual fee is as below:

Number of pitches	Fee
4-49	£190.00
50 - 99	£315.00
100-149	£440.00

Charges for the first year (2014/2015) have been based on average estimates. Fees will be assessed each year to determine accuracy as part of the Council’s annual fees and charges setting process.

10. CONDITIONS

The conditions on the existing site licence will remain the same until the Council deem they are out-dated or incorrect and then a review will take place or unless an application is made to amend conditions on the licence by the site owner.

11. SITES EXEMPTED FROM ANNUAL LICENSING FEES

The power for Local Authorities to charge an annual fee for their licensing function was introduced by the MHA 2013 in respect of "Relevant Protected Sites". A "Relevant Protected Site" is defined in the act as any land to be used as a caravan site with planning consent, other than one where a licence is;

- Granted to holiday use

In any 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

The Council felt appropriate to make the following additional exemptions:

- Sites that are not relevant protected sites
- Sites with 3 units or less - 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 for the Site owner and their family (does not include sites that are run for financial gain)

These categories of site are exempt from the annual licensing fee as the Council do not intend to carry out annual inspections of these sites however, any complaints would be dealt with as appropriate.

12. CHARGING ARRANGEMENTS

For the purpose of this Policy the period covered by the annual fee will be 1 April to 31 March each financial year. The fee will be charged to the site owner/licence holder and invoices will be sent at the start of the financial year with payment due within 30 days. (Legislation allows the licence holder to pass on the annual fee costs for 2014/2014 to resident's pitch fee)

Where a new site licence is issued part way through the year, the annual fee will also be due in the same year and an invoice will be sent after the licence has been granted for the pro-rata amount.

Where an amended licence is issued part way through the year (which included either additional units or a reduction in units), the charge in annual fee will be calculated on a pro-rata basis for the remainder of the year and difference in fee would be adjusted against the following years' annual fee.

In the event an annual fee is not paid within the term of the invoice the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due.

13. OTHER CHARGES

Enforcement Expenses

The Council is entitled, and will seek, to recover expenses incurred in carrying out enforcement action involved in the service of a compliance notice. A compliance notice would be served where a breach of a site licence condition has come to the attention of the Council. The CSCDA60 details the elements which a local authority may include when imposing a charge for enforcement action. These expenses include costs incurred in deciding whether to serve a notice, site inspections, preparing the notice and obtaining expert advice.

Where appropriate, the Council will also seek to recover expenses incurred. The Council will also be able to register any of the debts to be recovered for enforcement actions as a land charge against the site.

A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on an hourly rate in addition to any other costs incurred. Hourly rate for enforcement costs is £41.89

Deposit of Site Rules

Site rules are different to site conditions and are put in place by the owner of a site to ensure acceptable standards are maintained will be of benefit to occupiers or will promote and maintain community cohesion on the site. They are neither created nor enforced by Local Authorities. The MHA 2013 changes the way sites rules must be agreed between both parties. It requires existing site rules to be replaced with new site rules and to be deposited with the Local Authority. The Local Authority is required to establish, keep up to date and publish a register of site rules.

Before publishing the site rules the Council will ensure the rules deposited have been made in accordance with statutory procedure, a fee can be charged for this function.

The fee is the same for either a first deposit or for a subsequent variation or deletion. This is because the process will be very similar for all three types of deposits.

Fees payable for the deposit of site rules is £49.59

This statement about enforcement costs and deposit of site rules is not required by the act to be included in the council's fees policy but is set out in this document in the interests of completeness and transparency.

APPENDIX 1

The DCLG guidance sets out the activities that the Council can include when calculating its fee for the grant or transfer of a licence, these include;

- Initial enquiries;
- Letter writing/telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third part in connection with the licensing process;
- Sending out forms;
- Updating hard files/computer systems;
- Updating EU directive website if appropriate;
- Land registry Searches
- Time for reviewing necessary documents and certificates;
- Downloading photographs
- Preparing reports on contraventions;
- Preparing draft and final licences;
- Review by managers or lawyers; review any consultation responses from third parties;
- Update public register
- Carry out any risk assessment process considered necessary;
- Review of decisions or in defending appeals

APPENDIX 2

The DCLG guidance sets out the activities that the Council can include when calculating its annual fee, these include;

- Letter writing/telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third part in connection with the licensing process;
- Handling enquiries and complaints;
- Updating hard files/computer systems;
- Updating EU directive website if appropriate;

- Processing the licensing fee;
- Time for reviewing necessary documents and certificates;
- Downloading photographs;
- Preparing reports of contraventions;
- Review by managers or lawyers; review any consultation responses from third parties;
- Carrying out any risk assessment process considered necessary;
- A pre-programmed full site inspection
- A follow-up inspection to check compliance following programmed inspection

Related Documents

The following documents have been consulted when drafting this policy

- The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)
- Mobile Homes Act 2013
- Mobile Homes (Site Licensing) (England) Regulations 2014.
- DCLG A Guide for Local Authorities on setting site licensing fees – February 2014
- DCLG Guidance on Definition of relevant protected sites – January 2014
- Regulators Compliance Code