

Report title	Mobile Home Site Licensing and Fees Policy	
Wards affected	All	
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Originating service	Licensing	
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Report to be/has been considered by	None	

Recommendations for decision:

The Regulatory Committee is recommended to:

1. Approve the proposed mobile homes act fees policy, set out in Appendix 1 of this report.
2. Approve the fee structures (Appendices 2-5)
3. Delegate authority to grant applications for 'fit and proper' persons to Licensing and compliance officers where there are no objections.

Recommendations for noting:

The Regulatory Committee is recommended to note:

1. That a register of fit and proper persons shall be published online and the contents will be in accordance with the Regulation

1.0 Purpose

- 1.1 To seek approval for the implementation of a new licensing and fees policy for mobile homes sites.
- 1.2 To inform the Committee of the recent legislation change requiring a “fit and proper” person to assume legal responsibility for the day to day running of such sites.

2.0 Background

- 2.1 There are currently two mobile home parks licensed in City of Wolverhampton. They have been running for many years with little intervention. Given the small number of sites, the introduction of a policy specifically for their management has not been adopted.

The Mobile Homes Act 2013

- 2.2 The Mobile Homes Act 2013 made changes to the law giving better rights and protection to mobile home site residents, whilst ensuring that honest professional site owners can flourish. This enabled local authorities to monitor site licence compliance more effectively. Authorities were provided the tools to take enforcement action where owners were not managing and maintaining their sites and its services. Thus ensuring residents' health and safety are better protected and the value of their homes safeguarded.
- 2.3 The 2013 Act contains a discretionary power for local authorities to charge fees for:
 - considering applications for the issue or transfer of a site licence;
 - considering applications for altering conditions in a site licence and;
 - administration and monitoring of site licences.

Application fees are one off fees to be paid at the time but the administration and monitoring of site licences activity is an annual chargeable fee.

- 2.4 The 2013 Act also requires sites to have set of rules which are then deposited with the local authority for them then to be binding on the homeowners. This becomes a chargeable facility and the fee this service will be covered in the fees policy.
- 2.5 Where a local authority decides to charge fees, these must be published in its fees policy document and must be transparent. The fees must be reasonable and on a cost recovery basis.
- 2.6 It is not proposed to consult with site owners or homeowners as the proposed fees are on a cost recovery basis only.

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

- 2.7 As of 1st October 2021, The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 created a requirement for the person in charge of the a mobile homes site to pass a basic "fit and proper person test".
- 2.8 The 2020 regulations prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.
- 2.9 The Regulations apply in relation to all relevant protected sites other than non-commercial family-occupied sites. These include both "residential parks", which are used exclusively residentially, and "mixed use parks", which are used for both residential and holiday purposes
- 2.10 The two licensed sites within City of Wolverhampton have submitted application for a fit and proper person. No fee has been charged for these applications as there was no fee policy in place.

3.0 Proposal

- 3.1 The proposed mobile home sites licensing fees policy is attached at Appendix 1
- 3.2 The 2013 Act allows a local authority to charge for
- Considering applications for the issue of a site licence.
 - Considering applications for the transfer of a site licence.
 - Considering applications for altering conditions in a site licence.
 - Holding a register of site rules.
 - Annual fees for the administration and monitoring of site licence
- 3.3 The Council has discretion to exempt some "relevant protected sites" and accordingly it is proposed that that sites with five or fewer pitches are exempt from licensing and annual fees. However, such sites are still required to hold a licence and be subject to the controls.
- 3.4 The 2020 regulations permit the charging of two fees;

Firstly a Fit and Proper Person application fee - to cover the cost of assessing applications to be included on the fit and proper register. Registration lasts for up to five years. It is not proposed to set a fee for the first year. A further report setting the fee for next year will be submitted with the annual fees and charges report in January 2022

Secondly a Fit and Proper Person annual fee - to cover the cost of monitoring the scheme or conditions attached to the register. Payment of the annual fee may also be required as a condition of inclusion in the register.

Fees

- 3.5 The guide for setting licensing fees has been produced for local authorities and can be found on the government's website: <https://www.gov.uk/government/publications/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees>
- 3.6 In setting fees for applications for the issue/variation/transfer of a site licence and annual fees for the administration and monitoring of site licences the Council has had full regard to above guidance which lists those costs that can be recovered via the fees and those which cannot.
- 3.7 The fees policy is reviewable every three years and the fees are reviewable every year.
- 3.8 The legislation allows costs to be recovered for
- Administration of the licensing process.
 - Site inspections.
 - Travel.
 - Consultations.
 - Meetings.
 - Informal Advice.

But there is no provision for the licence fees to cover the costs of any enforcement for a breach of licence fees. Accordingly, any costs of this type of enforcement will be met through existing budgetary provision.

Register

- 3.9 The 2020 Regulations require a local authority to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.
- 3.10 The authority must also publish the register online and the contents of the register will be in accordance with the Regulations. A person's inclusion in the register has effect for a maximum period of 5 years.

Decision/delegation

- 3.11 Once a "fit and proper" application has been received the local authority may grant the application with or without conditions, or may refuse it.
- 3.12 It is proposed that the decision to grant without conditions be delegated to Service Manager and Section Leader roles within Commercial Regulation. If officers were minded to require conditions or to refuse the application, this would be considered by members at a Regulatory Sub-Committee hearing.
- 3.13 Once a "fit and proper" full and complete application has been received (including the relevant fee) the local authority must make a decision on the application as soon as is reasonably practicable.

- 3.14 If the Council were minded not to grant, without condition or refuse, the applicant would be notified and given 28 days to provide written representations. Once written representations have been received a regulatory sub-committee would make a final determination.
- 3.15 An applicant may appeal to a First-tier Tribunal (FTT) against the decisions made.

4.0 Financial implications

- 4.1 The fees proposed are based on cost recovery and will be reviewed each year.
[SB/02112021/L]

5.0 Legal implications

- 5.1 The failure to comply with the duty imposed in the Act and the regulations would lead to the Council being potentially liable to civil claims of negligence from the tenants.
- 5.2 In particular the Council must establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area. The register must be available to inspection and be published online
- 5.3 Without an approved fee policy the Council may not defray the cost of administration and enforcement of the legislation which will then be borne by the Council Tax payers.
[JB/02112021/A]

6.0 Equalities implications

- 6.1 The introduction of the requirement to have a licence could increase the costs associated with living in a mobile home on these sites (rent). Site owners may increase the fees for residents to live on the site, to take account of the financial costs incurred in applying for a grant or renewal of a licence and also any potential costs incurred to ensure the site owner is able to comply with the conditions attached to a licence.
- 6.2 The legislation may also discourage potential site owners from opening up a mobile home site with permanent residents given the financial implications of applying for a licence and maintaining the site to ensure conditions are complied with. This could, as a result potentially impact on available accommodation for affected residents.
- 6.3 The licence is only required where residents live on the site permanently so it could encourage site owners to vacate residents for several weeks/months of the year so the site owner does not require to apply for a licence and comply with conditions.
- 6.4 Site owners could incur more financial costs in seeking advice to determine whether they require to apply for a licence or if an exemption applies to them; potentially applying for a licence; potentially complying with licence conditions; and potentially appealing a decision by the Local Authority.
- 6.5 If a site licence is applied for and refused it could result in current residents having to find an alternative site to live on.

6.6 Accordingly, a full equalities analysis has been carried out. An informal peer review process has shown that the findings of our analysis are broadly in line with those of a number of local authorities. As a result of the equalities assessment Private Sector Housing will contact all the tenants to ensure that they are aware of the licensing regime and the consumer protections afforded to them by that regime.

7.0 All other Implications

7.1 This report poses no implications for climate change and environmental, Human Resources, Corporate Landlord, Health and Wellbeing. Nor are there any implications that have arisen from the Covid-19 Pandemic.

8.0 Appendices

- 8.1 Mobile Homes Sites Licence Fees Policy
- 8.2 Caravan Site Fees - New Application
- 8.3 Caravan Site Fees - Application to vary
- 8.4 Caravan Site Fees - Application to transfer
- 8.5 Caravan Site Fees - Annual fees