



AGENDA ITEM (9)

THE MOBILE HOMES ACT 2013 - INTRODUCTION OF NEW LICENSING PROVISION

Ward Member(s)	Councillor Mrs. SL Jepson Cabinet Member for Housing and Communities
Accountable Officer	Bill Oddy Group Manager - Environmental Regulatory Services 01285 623000 ers@2020partnership.uk

Purpose of Report	To introduce the provisions of the Mobile Homes Act 2013 and to seek approval of the new charging structure for the site licensing of mobile home parks and the enforcement of site licence conditions
Recommendation(s)	(a) That the report be noted; (b) that the 2020 Managing Director be authorised to deal with the matters specified in paragraph 11.2 of this report; (c) that the Council be requested to incorporate the approved delegations into the Officer Delegation Rules of the 2020 Joint Committee; (d) that the Mobile Homes Site Licence Fee Policy, attached at Appendix 'A', be approved.
Reason(s) for Recommendation(s)	To meet the requirements of the Mobile Homes Act 2013

Ward(s) Affected	All
Key Decision	No
Recommendation to Council	No

Financial Implications	The charging regime will not introduce new work to the Council, but it will provide a mechanism for the Council to recover its costs in its work to licence home parks and to carry out enforcement action
Legal and Human Rights Implications	None
Environmental and Sustainability Implications	None
Human Resource Implications	None initially, although a review of the impact on existing resources will take place following implementation

Key Risks	Loss of income through failure to adopt the policy. Challenge to the fees set; this is mitigated by following Department for Communities and Local Government (DCLG) guidance and using a Resources Allocation model to support the charges set
Equalities Analysis	An Equalities Impact Assessment will be completed on all new policies and processes arising from the new legislation

Related Decisions	Minute L.19 - Licensing Committee - 7 th April 2015
Background Documents	A Guide for Local Authorities on Setting Site Licence Fees (DCLG) A Best Practice for Local Authorities on Enforcement of the New Licensing Regime (DCLG)
Appendices	Appendix 'A' - Mobile Homes Site Licence Fee Policy Appendix 'B' - Unit Costs of Charging Elements and Calculation of Charges for 2015/16 Appendix 'C' - List of Existing Licensed Sites

Performance Management Follow Up	To implement the Committee's decisions
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Options for Joint Working	The same policy has been adopted by West Oxfordshire District Council
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Background Information

- The provisions of The Mobile Homes Act 2013 were introduced between 26th May 2013 and 1st April 2014. They build on the requirements under the Caravan Sites Control and Development Act 1960 (CSCDA) which requires all park homes in England to be licensed by the local authority. The new provisions introduced are designed to bring the requirements of the management and maintenance of sites up to date. This reformed regime aims to ensure that local authorities are properly funded and have sufficient tools and powers to take enforcement action, where necessary and appropriate.
- For the first time, local authorities may charge site owners a fee for applying for site licences. As well as application fees, local authorities are now allowed to charge park owners annual fees for site licences - the level of those fees will depend on various factors which are detailed in 'The Mobile Home Site Licence Fee Policy', attached at **Appendix 'A'**. Where annual fees are not paid, cases can be referred to the Residential Property Tribunal, which has the power to revoke a site licence.
- The Act, by regulation, gives local authorities the power to refuse to grant a site licence where it considers that the Applicant is unsuitable to hold a licence. This introduction of a 'fit and proper person' test for park owners and managers may be introduced at some point in the future, if it is considered appropriate to do so.
- The Act deals only with what are classed as 'Relevant Protected Sites'. Therefore, holiday home parks are exempt, and the Council has the option to exempt very small sites subject to the provisions of its approved policy.
- Under the provisions of the Act, home owners no longer need consent from park owners to sell. Park owners have no right to a percentage of the sale price. Owners' Pitch Fee Review Notices are now required, which have to show any percentage increases, and the Act prescribes a set procedure for this. It also sets out the park owners', and residents', obligations.

6. This report seeks approval of the Council's policy, attached at **Appendix 'A'**, so that the provisions of the legislation can be enacted locally, and the relevant fees and charges can be levied. If a fee is unpaid, the Council is able to apply to a Residential Property Tribunal for an order requiring payment. Fees can be charged for changes in conditions or the transfer of licences.

7. Regulations

Regulations made under the provisions of the Act will set out the following:-

- rights of appeal;
- processes for decisions not to issue licences;
- the procedure to transfer licences;
- no compensation payable for refusal to licence;
- what local authorities should consider before granting licences;
- the procedure for non-payment of fees;
- revocation;
- appeals against conditions/grant of licences/transfer to go to a Residential Property Tribunal. A Residential Property Tribunal can cancel or vary conditions, or attach new conditions.
- Compliance Notice provisions.

8. Compliance Notices

If an occupier fails to comply, the local authority can serve a Compliance Notice to show the breach, how to remedy the situation, and the timescale for doing so. It also gives details of the right of appeal. The Council can revoke a Notice once it has been complied with, and can vary it by extending the period. If no work is carried out, a further offence is committed which, on conviction, carries a level 5 fine. A defence of reasonable excuse is available. The Council can apply to the Court to revoke the licence if non-compliance continues.

9. Power to Carry Out Works (Section 5)

If occupiers are convicted of failure to comply, the Council can carry out the works in default. Before commencement of any works, the Council must serve notice about the works and provide details of when such works are to be carried out. However, the Council can carry out emergency works if a condition has not been complied with and, as a result, there is an imminent risk of serious harm to the health and safety of person(s) on the land.

10. Notice Fees (Section 9(c)(1))

The Council has powers to demand expenses at the time of serving notice. When serving a notice, the local authority may impose a charge to recover expenses for deciding to serve notice and for the preparation and service of the notice. It may also include in the charges expenses for obtaining expert advice. Site conditions can be deposited with the local authority for which an additional fee can be charged.

11. Fees

11.1 All fees are set out in the Policy in order that they can be levied, and **Appendix 'B'** provides more detail of how the fees were originally arrived at in 2015/16. Comparison with a range of other local authorities indicates that the suggested levels are comparable, being neither in the highest or lowest ranges.

11.2 An application for a new site licence will incur a fee which reflects the costs of administration of the licence and includes inspection of the site, as well as a second visit to check conditions. This is in accordance with paragraph 3 of the Policy attached at **Appendix 'A'**. A fee will be payable the following year on 1st April, and annually thereafter.

11.3 For existing sites, an annual licence fee will be payable with effect from 1st April 2017, and annually thereafter. The annual fee includes a programmed site inspection, and a follow-up inspection to check compliance.

11.4 Section E of the DCLG guidance 'A Guide for Local Authorities on Setting Site Licence Fees' allows local authorities to exempt certain licensed caravan sites from the requirement to pay a fee. The Four Acres and Ewen Road site(s), South Cerney will be exempt from payment of a fee on the basis that they are not run as a business and there is no single legal entity operating the sites as a whole. The local authority still has a duty to licence sites which are exempt from payment of a fee, and has powers of enforcement.

12. Delegations

It is recommended that the Council's powers under Sections 4 and 5 of the 2013 Act be delegated to Officers. Section 4 of the 2013 Act relates to a local authority's powers to serve Compliance Notices, and amends Section 9 of the 1960 Act through the introduction of Sections 9A, 9B and 9C. Section 5 of the 2013 Act is concerned with powers for the local authority to carry out works, and amends Section 9 of the 1960 Act through the introduction of Sections 9D, 9E and 9F.

13. Communication

Once approved, a copy of the Policy will be forwarded to the existing licensed sites, as detailed at **Appendix 'C'**, for their information.

(END)