

**COUNCIL – 25<sup>th</sup> FEBRUARY 2014**

**REPORT OF THE LICENSING AND SAFETY COMMITTEE**

**MOBILE HOMES ACT 2013 FEES POLICY**

**1. BACKGROUND**

Licensing and Safety Committee on 28<sup>th</sup> January 2014 considered a report on the Mobile Homes Act 2013.

There are a number of residential caravan sites in the rural areas of the Borough, and these are currently licensed under the Caravan Sites and Control of Development Act 1960.

This is carried out by the Environmental Services Department, as Rugby Borough Council is a Licensing Authority under the Act. The Planning Department also have an involvement with granting of planning permission for these sites.

The current law does not allow the Council to refuse to grant a licence for a site licence, even if the site standards are poor. Councils cannot charge fees for issuing or monitoring site licences. Councils are not allowed to take enforcement action, such as serving legal notices, with regard to licence conditions and the only option is to prosecute the site owner, if they do not comply with informal requests. The maximum current fine, the Magistrates Court could impose for a breach of site licence, is £2500 which is not an effective deterrent.

There have been national campaigns about the inadequacy of the existing legislation and about some rogue site operators, who have not operated sites properly or prevented occupiers selling caravans, except to nominated buyers.

**2. MOBILE HOMES ACT 2013**

This new Act received royal assent in March 2013, and amends the Caravan Sites and Control of Development Act 1960.

It only applies to residential caravan sites and not holiday only sites, or those with caravans occupied by the owner or an employee of the owner e.g. a site with a caravan only occupied by the owner. It will apply to sites owned by the travelling community, where other residents are not close family members.

These caravan or park home sites are designated as relevant protected sites, where licensing is applicable.

The new legislation covers sites rules, removal of the requirement for the site owners consent for the sale or gifting of a home and changes the terms with regard to protection against eviction and harassment.

It allows the Licensing Authority to charge for site licence applications and transfers of site licences; to charge an annual fee, including an annual inspection; charge for variations to the licence requested by the site owner and also any enforcement action.

The Government has allowed Licensing Authorities to set their own fees.

The Government intend to issue regulations under the Act, in spring 2014, and these may have an effect on the amount of fee charged. For example, if the Government introduce a 'fit and proper' requirement for licence applicants, then the application fee will have to be increased, to cover the increased costs. Officers do not know at this time, if they intend to do this, but will advise Licensing and Safety Committee at the time.

The legislation introduces enforcement notices similar to those in other housing legislation. These allow authorities to require site owners to improve site conditions, by formal action, before a Court process is considered.

Councils will also have powers to do works in default, including emergency works and recover their costs.

Fines for failure to comply with a compliance notice and for operating a site without a licence, will be increased substantially.

Site owners will be able to appeal to the Residential Property Tribunal against licensing decisions, including compliance notices and certain charges relating to enforcement action.

### **3. CONSULTATION**

All site owners in the Borough have been informed in writing of the new Act and the fees the Council intended to charge site owners. A copy of the consultation is attached at appendix 1.

A response was received from one person that it was unreasonable to charge annual fees, as these sites are mainly occupied by low income people and the elderly.

The annual fees are charged to the owners but then can be recovered by the owner from residents, as part of the site fee. Residents were worried about the additional costs.

Any enforcement fees cannot be recovered from the residents.

#### **4. FEES POLICY**

The Mobile Homes Act 2013 requires the licensing Authority to agree a Fees Policy and publish it before they can charge any fees.

The main points of this are as follows:-

Rugby Borough Council, as the Licensing Authority under the Mobile Homes Act 2013, agree that they will charge fees to administer the licensing regime under the Act.

These fees will only apply to relevant protected sites, as defined under the legislation. For example, permanent residential caravan sites in the Rugby Borough area, and not to holiday caravan sites or sites where caravans are only occupied by the owner or an employee of the owner, where an agreement under the Mobile Homes Act 2013 does not apply.

Fees will not apply to sites occupied by travellers, which are occupied by family members and not let out to other residents.

The fees to be charged will be for new licence applications, for transfers of site licence, for annual fees for licensed sites, for variations of existing site licences where a request has been received from the site owner and for recovery of expenses where the Licensing Authority has served a compliance notice on the site owner.

The Council will also recover expenses, where it has had to do work in default, at a licensed caravan site. This would usually be when a compliance notice has not been complied with, but the Council may have to do emergency works at a site, if the site owner has not taken action.

Existing caravan sites, licensed under the old legislation, will not need to apply for a new licence under the Mobile Homes Act 2013. The site licence will be deemed to have been transferred to come under the new Act.

Annual fees will not cover enforcement of breach of conditions, recovery of expenses, serving of legal notices and dealing with sites that do not need licensing.

Application fees will need to be submitted with any Site Licence application form, and with any application to transfer the site licence.

Annual fees will be due on the 1st April each year.

Variation fees will be required for a licence variation application, to be processed.

Compliance notice charges will be sent with legal compliance notices to site owners.

Notices will only usually be sent when site owners have not complied with informal written requests regarding site conditions. Officers would consider taking action if there was immediate risk or a history of problems on the site. Any enforcement would follow Rugby Borough Council's Enforcement Policy.

The proposed fees to be charged are in the table below.

Type of fee		Amount (£)
Application		250
Annual fee	2 to 10 residential units	150
	11 to 30 residential units	220
	31+	300
Compliance notice		350
Transfer of licence		50
Variation of licence		250

The fees have been calculated, taking into account various costs, including the cost of officer time for site visits and compliance inspections, travel mileage, officer time to draw up site conditions, licences, letters, drafting enforcement notices, case conferences, drafting legal notices, land registry checks, setting up invoices and service of notices.

The application fee may have to be increased if the Government introduce a fit and proper test, for the site licence applicant. This would be under new Regulations, due to be issued in spring 2014. If the application fee has to be increased, officers will report back to Licensing and Safety Committee.

As this is a new scheme, there is no surplus or deficit of funds from previous annual fees.

The Council will review the costs of administering the licence scheme, to check that all costs are covered by fees received.

Annual fees may be adjusted to take account of these costs.

**Recommended that** – the fees policy for the Mobile Homes Act 2013 be endorsed.