

LICENSING REGULATORY COMMITTEE

Implementation of New Licensing Controls being brought in under the Mobile Homes Act 2013 16 October 2014

Report of Chief Officer (Health and Housing)

PURPOSE OF REPORT

To seek decisions about the implementation of new licensing powers under the Mobile Homes Act 2013 and in principle about whether to impose related licensing charges.

This report is public

RECOMMENDATIONS

- (1) That the committee notes the new powers conferred by the Mobile Homes Act 2013.
- (2) That the Chief Officer (Health and Housing) and any officers authorised by her in writing be given authority to exercise the licensing, inspection and enforcement powers provided in the Act, including authority to determine whether to grant or vary a licence, and whether to serve a Compliance Notice, and that the Committee's scheme of delegation to officers be amended accordingly.
- (3) That a decision in principle be taken to introduce charging of fees for licensing under the Mobile Homes Act 2013.

1.0 Introduction

- 1.1 The licensing provisions of The Mobile Homes Act 2013 (MH Act 2013) came into force on 1 April 2014. This act amends previous legislation covering residential caravan sites and provides local authorities with new licensing powers in relation to 'Relevant Protected Sites'. The new legislation is intended to overcome previous difficulties in law governing standards relating to mobile homes. Throughout the country some sites are very well run and provide consistently high standards of accommodation for residents without the need for regulatory intervention. However there are sites where residents are less well cared for by site operators and there is a need for stronger powers to curb poor standards. Many sites across England are occupied by vulnerable groups and people on limited incomes who would benefit from well-managed sites.

- 1.2 Sections 1-7 of the MH Act13 relate to the licensing of sites and are particularly relevant to the local authority. These sections apply only to 'Relevant Protected Sites', which are residential caravan sites, not those licensed for holiday use only - which cannot be used all year round. Relevant Protected Sites are therefore commonly known as park home sites or residential caravan sites, including traveller sites.
- 1.3 There are 39 Relevant Protected Site' involving residential caravan dwelling in the Lancaster District (Appendix 1).

2.0 Proposal Details

- 2.1 The MH Act 2013 gives local authorities discretion (subject to regulations made by the Secretary of State) as to whether to issue or transfer a licence for a Relevant Protected Site The regulations detail a number of 'prescribed matters' which the council must consider when deciding whether to issue or transfer a site licence. These include the financial means of the proposed licence holder, his competence and any history of previous related offences. Dissatisfied applicants have a right of appeal to the Residential Property Tribunal against licensing decisions. Local authorities are free to choose whether to implement the Relevant Protected Site Application scheme introduced by the MH Act 2013.
- 2.2 Significantly, section 4 of the MH Act 2013 introduces Compliance Notices. A local authority may serve a Compliance Notice where a licensee is failing to comply with a licence condition. A licensee served with such a notice must take appropriate steps to comply with the notice within a specified period and they have a right of appeal against service of the notice. It is an offence not to comply with a Compliance Notice and any licensee convicted of three such offences may have their licence revoked. Local Authorities can charge the licensee for expenses involved in serving the Compliance Notice. Local Authorities are also empowered to carry out in default the works required in a Compliance Notice and to recover related expenses from the licensee.
- 2.3 Local Authorities are entitled to charge annual licensing fees when implementing powers available under the MH Act 2013. The amount of this fee is at the discretion of the local authority. Where an annual fee has become overdue, a local authority may apply to the Residential Property Tribunal for an order requiring the licence holder to pay the fee, and where the licence holder fails to comply with this order a local authority may apply for an order revoking the site licence. Local Authorities may also require a fee where licence holders apply to alter their licence conditions or to transfer their licences. Before charging fees in relation to the Relevant Protected Sites Local Authorities must prepare and publish a fees policy. They may fix different fees for different cases, for example the fee for large commercial sites may be set differently from small family sites.
- 2.4 The remainder of the MH Act 2013 relates to matters other than licensing matters, such as site rules and pitch fees.

3. Implications

- 3.1. In the Lancaster district there are currently 39 Relevant Protected Sites of various sizes, ranging in number from a single one to 174 mobile homes.

Fifteen sites have less than five mobile homes. Sites have been inspected on a two or three year cycle, although those sites having only a single mobile home (currently 6) are assessed by questionnaire only. The majority of these sites are well-run and cause very few problems to the council, however on one or two sites problems do arise and these create disproportionate demands for the council's involvement. The new licensing powers offer timely and effective regulatory solutions when unacceptable standards and problems are faced by site residents. However it is likely that any new licensing fees imposed will be passed on by site owners to their residents, especially during the first year.

- 3.2. If the Licensing Regulatory Committee decides in favour of implementing powers for issuing and varying licences and inspection and enforcement of Relevant Protected Sites under the new legislation, and to introduce charging of fees, then a further report will be prepared detailing the options available. This would include charging options ranging from introducing a single fee through to several tiered levels of fee. Administration and other costs would arise from introducing any fee-charging system, however this could be taken into consideration when setting the fees.

4.0 Details of Consultation

- 4.1 In June 2014 approximately 550 questionnaires were delivered to residents on the 24 sites having five or more residential caravans on the site licence, seeking their views to aid the council's consideration whether and how to implement the new legislation. 275 completed questionnaires were returned, which is a 50% return rate, and the results are summarised in Appendix 2. In brief:

- overall, 68% of respondents were satisfied with their mobile home site, the primary causes for dissatisfaction are listed at the end of the summary in Appendix 2
- 69% of respondents supported the council having better powers to regulate mobile home sites i.e. by implementing the new legislation
- when asked whether residents are willing to pay a small fee in the first year for the cost of the council inspecting the site, 24% were willing, 5% were not sure, 30% were not willing and 39% said it would depend on the amount (2% didn't answer the question).

5.0 Options and Options Analysis (including risk assessment)

	Option 1: Continue with pre-existing licensing only (i.e. do not implement the new powers).	Option 2: Implement the new powers but make no licensing charges for doing so	Option 3: Implement the new powers and introduce new charges
Advantages	No increased workload implications to city council or charges to site owners	Site residents benefit from the council implementing the new powers available to protect them from unacceptable standards or practices. No additional charges to site operators.	New powers available to protect residents from unacceptable standards or practices. Recovery of some or all of the administration, inspection and

			enforcement costs to the council.
Disadvantages	New powers to control sites would <u>not</u> be available to protect site residents. (going against the majority 69% of questionnaire respondents who supported the council implementing the new legislation).	Additional workload implications of licensing administration, inspection and enforcement action but no income to contribute towards or fully recover associated costs. This would be inconsistent with the spirit of the council's fees & charges policy	Increased licensing charges to site owners, who are likely to pass this on to site residents in the first year.
Risks	The council could face criticism for a decision contrary to the majority views of residents, in failing to use new powers to control problem sites and protect their residents from unacceptable standards or practices	Implementing new powers without introducing licensing fees would be inconsistent with the MH regulations and spirit of the council's fees & charges policy	Whilst this option balances implementation costs against some cost recovery, some 30% of responding site residents were against the corresponding increase they may experience in site charges in the first year if passed on by site operators

6.0 Conclusion

- 6.1 Officers anticipate that there will be individual cases where implementing the new licensing powers serve an important beneficial purpose to protect site residents from poor standards, and the adoption of recommendations (1) and (2) will provide for this. Implementation would, however, create additional associated workload implications for the council, which will need to be absorbed within existing resources. It would be consistent with the spirit of the existing charging policy for some or all of those costs to be recovered through the setting of charges at appropriate levels. Costs could be recovered if recommendation (3) is adopted, although it is likely that costs will be passed on by site owners to residents (only allowed in the first year). Subject to decisions taken on the recommendations in this report, a further report containing detailed proposals would be submitted for consideration.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None identified.

LEGAL IMPLICATIONS

The Mobile Homes Act 2013 amends the Caravan Sites and Control of Development Act 1960 (“the CSCDA 1960”), the Caravan Sites Act 1968 (“the CSA 1968”) and the Mobile Homes Act 1983 (“the MHA 1983”). It brings the licensing regime that applies to mobile home sites in England under the CSCDA 1960 more closely in line with other local authority licensing regimes and also includes a power to enable the Secretary of State to introduce by way of secondary legislation a “fit and proper” person requirement for managers of sites. The Act amends section 3 of the CSA 1968 by extending the scope of the offences under that section.

Section 2 amends sections 3 (issue of site licences by local authorities) and 10 (transfer of site licences, and transmission on death, etc) of the CSCDA 1960. The effect of the amendments to subsections (4) and (5) of section 3 made by subsection (1) of section 2 is to confer discretion on a local authority when deciding whether to issue a site licence to the occupier of land who has made an application for a site licence authorising the use of that land as a relevant protected site under section 3(1). Currently, as long as the applicant can show that the necessary planning permission for use of the land as a caravan site has been granted and has provided the required information, the local authority has no option but to issue the licence.

The Secretary of State has made The Mobile Homes (Site Licensing) (England) Regulations 2014 that:

- require a local authority, where they have the new discretion not to issue a licence, to have regard to the matters prescribed in the regulations when deciding whether to issue one;
- require a local authority, where it decides not to issue a licence, to notify the applicant of the reasons for that decision;
- confer on an applicant a right of appeal to a residential property tribunal against a decision of a local authority not to issue a site licence;
- provide that no compensation may be claimed by the applicant for loss suffered in consequence of the decision pending the outcome of an appeal.

FINANCIAL IMPLICATIONS

If the Licensing Regulatory Committee approves the recommendations within this report, it is likely that there will be additional workload implications for officers, particularly during the first year of implementation. It is expected that any associated costs including officer time during consultation and implementation will be met from within existing budgets, however.

If Members agree in principle to introduce a licence fee, then following consultation with site operators and appropriate council officers (such as Accountancy and Legal) and in line with information within the Mobile Homes Act 2013 / Council’s Fees and Charges policy, a further report will be brought to the Licensing Regulatory Committee with detailed options for approval prior to introducing any licence fees.

Members are reminded that the Fees and Charges Policy in relation to license fees offers a standard of good practice, although it is not binding on Licensing Regulatory Committee.

OTHER RESOURCE IMPLICATIONS**Human Resources:**

None identified.

Information Services:

None identified.

Property:

None identified.

Open Spaces:

None identified.

SECTION 151 OFFICER'S COMMENTS

The Deputy Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Deputy Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

The Mobile Homes (Site Licensing (England)) Regulations 2014
Mobile Homes Act 2013
Caravan Sites and Control of Development Act 1960
Caravan Sites Act 1968
Health and Safety Act 1974
Model Standard Conditions Residential Parks 2008
Mobile Homes Act 1983

Contact Officer: Sue Clowes

Telephone: 01524 582740

E-mail: sclowes@lancaster.gov.uk

Ref: LRC7