

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	17 December 2018
REPORT TITLE	Licensing for Mobile Homes with Permanent Residents
REPORT NUMBER	OPE/18/302
DIRECTOR	Rob Polkinghorne, Chief Operating Officer
CHIEF OFFICER	Mark Reilly
REPORT AUTHOR	Aileen Brodie
TERMS OF REFERENCE	2

1. PURPOSE OF REPORT

The purpose of this report is to make Council aware of changes in the licensing requirements for mobile home sites with permanent residents and the need for the Council to approve a charging scheme for new applications and site licence renewals.

2. RECOMMENDATION(S)

That Council:-

- 2.1 notes the new licencing regime; and
- 2.3 approves the scheme of charges for licence fees detailed in Appendix 1 of this report.

3. BACKGROUND

3.1 Following amendments to the Caravan Site and Control of Development Act 1960 (the Act) by the Housing (Scotland) Act 2014, a new system for licensing and controlling permanent residential sites was introduced by The Licensing of Relevant Permanent Sites (Scotland) Regulations 2016. The key measures of the new system:

- provide local authorities with a range of powers, and appropriate discretion in deciding how to use them, in relation to the granting, management, and revocation of licences;
- introduce a 5 year licensing period;
- introduce the requirement that a site licence holder (and anyone directly managing the site) is a fit and proper person;

- provide an effective process for site owners and site licence applicants to appeal against any decisions by the authority.
- 3.2 Any site owner who currently holds a licence in terms of the Act has until 1 May 2019 to apply for and obtain a new site licence otherwise the site will no longer be licensed. The requirement only applies to permanent sites and does not include sites, and parts of sites, that are only used for holiday lettings. Once an application has been received, the local authority is required to make a decision within 3 months from the date all the prescribed information is submitted together with the appropriate fee. A licence cannot be granted unless the site has planning permission. In the event the local authority fails to make a decision within 3 months the site licence will be deemed to have been granted.
- 3.3 The new regime is a significant change from the previous scheme where there was no requirement for licence renewal. Under the previous scheme, once a licence was granted there were limited powers for local authorities to address any failures to comply with site licence conditions, except through reporting the matter to the Procurator Fiscal. The new provisions require the owner of a site to apply for a renewal of the licence every 5 years. These new provisions will additionally provide local authorities with more options to enable the resolution of any breaches in site licence conditions through a range of enforcement powers.
- 3.4 There are currently 7 sites licenced for permanent residential homes across Aberdeen that will require a new licence for the site to continue to operate. The number of mobile homes on these sites varies from less than 10 to over 60.

Licence application and renewal process

- 3.5 The process for considering new applications for site licences, and any subsequent licence renewal, transfer or revocation, are set out in the Act and Regulations, and accompanying guidance issued by the Scottish Government. A key element of the new regime is the introduction of a Fit and Proper Person Test. The purpose of the test is to ensure that the person holding the site licence and the person managing the site (if they are not the same person) is an appropriate person to do so. The Act sets out the fit and proper person test considerations, although the local authority may consider other matters which it considers relevant.
- 3.6 The determination of any application or renewal will be made by Environmental Health Officers working within the Protective Services team of Operations and Protective Services. This is a continuation of the current arrangements contained within the Council's Powers Delegated to Officers. Determinations will remain objective and will consider information and evidence from other appropriate enforcement bodies and interested parties. Any recommendation to refuse an application or renewal will be reported to the Licensing Committee for consideration and determination. Applicants have the right to appeal to the sheriff against a local authority's decision to refuse to grant or renew a licence.

Fees

- 3.7 Under the changes to the Act local authorities can charge a fee for handling new licences and renewals. No fee can be charged for the transfer of a licence. The fees should be reflective of what the local authority considers are reasonable costs in determining new and renewal licence applications. A local authority can charge a different fee for a first site licence application and for a renewal. Different fee level can also be charged for different sizes of sites. The matters an authority can take into account when fixing a fee are set out in the Regulations. The fee should only cover the costs of determination of applications. It cannot be used to cover the costs of any subsequent enforcement action. The Act puts in place a separate procedure for recovering the costs of enforcement action.
- 3.8 The Scottish Government guidance provides an example of estimated costs associated with granting the licence. The proposed fees to be charged by Aberdeen City Council are detailed in Appendix 1 of this report. Some authorities, including East Lothian and Fife Councils have set higher fees while others such as Aberdeenshire Council have set lower fees. The authority should be open and transparent about the factors that have been taken into account in determining the fees to be charged. This information will be made available to the public on request and included in the Council's Scheme of Charges. Annual increases in fees will be in line with current arrangements for approval by Council.
- 3.9 The number of caravans on the existing sites in Aberdeen are variable with some sites having less than 10 caravans while others have over 50. For this reason a schedule of fees has been calculated based on a site of 40 caravans. The total cost per mobile unit from this calculation has then been used as a basis for determining a fee for sites of different sizes. The process is further explained in Appendix 1.
- 3.9 Although the licence fees proposed for sites within Aberdeen are slightly higher than the estimate provided in the guidance, they are considered to be a more accurate reflection of the work and impact on the local authority from determination of licence applications and renewals. It is also useful to recognise that the fees are calculated in terms of a base cost per mobile residential unit per year. This mean a site with a particularly small number of caravans is not overly burdened by the new licensing provisions.

Enforcement

- 3.10 A range of new enforcement powers have been introduced to the Act. Many of the offences are related to a failure of the site licence holder to meet the conditions placed on a site licence. The Scottish Government publishes model standards which provide advice on the site licence conditions a local authority may wish to apply. Site licence conditions attached to licences issued in Aberdeen will take account of these model standards and any other relevant guidance.

- 3.11 The use of enforcement powers will always be in context to the nature and severity of any breaches of legislation or site licence conditions and usually only used after informal measures have been undertaken.
- 3.12 Where informal approaches are not successful, or where issues are more serious or urgent, the following formal options are available:
- Improvement Notices
 - Penalty Notices
 - Revoking a licence
 - Appointment of interim management
 - Emergency action on site
 - Report to the Procurator Fiscal for prosecution
- 3.13 Local authorities will also have the power to recover the costs of enforcement.

Conclusions

- 3.14 The changes that have been introduced to regulate and licence permanent mobile home sites are welcomed in providing greater options for protecting the safety and welfare of residents on these sites. It is however essential that the costs to the authority to implement the new scheme are paid for by site licence holders. The proposed charging scheme detailed in Appendix 1 of this report is considered a reasonable reflection of the costs to the authority to process new and renewal licence applications.

4. FINANCIAL IMPLICATIONS

- 4.1 There is no funding provided for the implementation of the new scheme. Provisions are prescribed in the legislation and associated guidance for local authorities to charge fees to cover the costs of administering the licencing process. Proposed fees are detailed in Appendix 1 to this report which reflect the estimated costs to Aberdeen City Council. Local authorities can also recover costs of additional enforcement action which may be required at other times. This includes expenses associated with the issue of Improvement, Penalty or Emergency Action Notices and, should a site licence be revoked, the appointment of an interim manager. Expenses can also include the cost to an authority of obtaining expert advice, including legal advice.

5. LEGAL IMPLICATIONS

- 5.1 Statutory duties for local authorities to licence permanent caravan sites are prescribed in the Act and Regulations. There are no direct legal implications associated with the proposed Scheme of Charges or changes to the legislation. A range of new enforcement powers have been introduced, primarily relating to a failure of the site licence holder to meet the conditions placed on a site licence. There may be future legal implications should the authority determine to refuse

a site licence or undertake formal enforcement action where site licence conditions are breached. These implications cannot be prescribed at this time.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	Cost of processing new and renewal applications and undertaking any future enforcement actions	L	The proposed charging scheme has been developed to cover all costs to the Council to process new and renewal applications. The legislation also provides provisions for the recovery of expenses incurred pursuing enforcement action.
Legal	Legislation places a statutory duty on local authorities to licence permanent caravan sites and provides a process to manage any non-compliance with site licence conditions	L	Officers will follow this process for determining licences. Enforcement action would only be considered when informal action has failed to address concerns and in liaison with legal services.
Employee	Competency of staff to inspect caravan sites and process licensing regime.	L	Staff are trained on the implementation of the new regime. Procedures within national guidance and Model Standards will be followed when processing applications and renewals and undertaking any necessary enforcement action
Customer	Failure to protect the health and welfare of the public residing on permanent caravan sites	L	The purpose of the new regime is to provide local authorities with a range of powers in relation to the granting, management and revocation of permanent caravan site licences and thereby protect residents

Environment	Protection of the living environment of residents dwelling on permanent caravan sites.	L	The requirement of owners of existing sites to apply for a new application will ensure the living environment of current residents is of an acceptable standard
Technology	None		None
Reputational	Failure to implement the licensing regime or recover costs could result in reputational damage	L	Procedures to implement the scheme and recover costs are proposed in line with national guidance

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous People	Implementation of the new scheme will protect the health, safety and living conditions of the public living in permanent mobile homes sites
Prosperous Place	The proposed licensing scheme will support the continued provision of permanent mobile home sites in Aberdeen

Design Principles of Target Operating Model	
	Impact of Report
Governance	The new regime will be implemented by officers within Protective Services of Operations and Protective Services through existing arrangements within the Council's Powers Delegated to Officers.
Workforce	The implementation of the new licensing scheme will initially increase the workload of Protective Service through the processing of new applications. This can be managed with existing staff resources. There should be limited medium or long term staffing implications.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required
Privacy Impact Assessment	Not required. Applicants for a new licence will be required to provide specified personal information on an application form.
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. BACKGROUND PAPERS

The Caravan Sites and Control of Development Act 1960
Part 5 of the Housing (Scotland) Act 2014
Licensing of Relevant Permanent Sites (Scotland) Regulations 2016
Guidance to Local Authorities on the Licensing System for Mobile Home Sites with Permanent Residents

10. APPENDICES

Appendix 1: Permanent Mobile Home Site Licence Fee – Schedule of Charges (including Explanation of Fee Calculations)

11. REPORT AUTHOR CONTACT DETAILS

Name: Aileen Brodie
Title: Principal Environmental Health Officer
Email: ailbrodie@aberdeencity.gov.uk
Tel: 01224 522216

Appendix 1

Permanent Mobile Home Site Licence Fee – Schedule of Charges (including Explanation of Fee Calculations)

Table 1 summarises the proposed schedule of fees for new and renewal applications.

Table 1 Proposed Permanent Mobile Home Site License Fee

Number of Residential Units	Cost of New (first) Application	Cost of Renewal Application
1-10	£357	£315
11-20	£714	£630
20-40	£1428	£1260
41-70	£2499	£2050
70-100+	£3570	£3150

Process for setting the Schedule of Fees

The following information describes the process that has been applied to calculate the fees in Table 1.

Tables 2 and 3 describe the indicative costs envisaged in processing new and renewal site licence applications. The cost per hour is full staff recovery costs for appropriately qualified and competent officers. It is not a salary cost.

The costs in Tables 2 and 3 are based on a site of up to 40 mobile units. The total cost has been used to calculate a cost per mobile unit. This cost has then been used as a basis for determining a cost for sites of varying number of mobile units. This is calculated by dividing the total costs by the maximum number of mobile units, divided by 5 years.

The estimated cost to process new applications is $£1428.19 \div 40$ (mobile units) $\div 5$ (years licence period) = £7.14 per mobile unit per year.

For all other new applications, the figure of £7.14 is multiplied by the maximum number of mobile units multiplied by 5 years (licence period) to give the licence fee for that category.

The same principle is applied for renewal applications, with the total figure in Table 3 being used as the calculation basis. This gives a price of £6.30 per mobile unit. For the other categories this is multiplied by the maximum number of mobile units multiplied by 5 years.

The calculations are provided for illustrative purposes based on costings determined in 2018/19. For subsequent financial years there will be appropriately inflationary increase in fees.

Table 2 New (First) Application Costs

Task	Indicative Time (FTE hours)	Cost per hour	Cost	Total Cost
Statutory Minimum Application Criteria				
Receiving, logging and storing applications and fees processing (including checking the application is complete, requests for further information etc)	7	£28.16 (EHO)	£0	£197.12
Checking and consultation with other bodies (e.g. planning, waste, housing and external agencies where necessary: - electrical, fire, water)	7	£28.16	£0	£197.12
Fit and Proper Person Test				
Compiling information, reviewing records	7	£32.21 (Principal EHO)	£0	£225.47
Visiting Site, Reporting and Determination				
Transportation costs	N/A		£20	£20
Visit x 2 officers (costs for 2 officers to visit over 2 half days)	14	£28.16		£394.24
Reporting	7	£28.16		£197.12
Determination of application, informing Site Owner (drafting licence approval and conditions, processing appeals, legal advice and support)	7	£28.16		£197.12
TOTAL COST				£1428.19
Statutory Minimum Application Criteria				£394.24
Fit and Proper Person Test				£225.47
Visiting Site, Reporting and Determination				£808.48

Table 3 Renewal Costs

Task	Indicative Time (FTE hours)	Cost per hour	Cost	Total Cost
Statutory Minimum Application Criteria				
Receiving, logging and storing applications and fees processing (including checking the application is complete, requests for further information etc)	7	£28.16 (EHO)	£0	£197.12
Checking and consultation with other bodies (e.g. planning, waste, housing and external agencies where necessary: - electrical, fire, water)	4	£28.16	£0	£112.64
Fit and Proper Person Test				
Compiling information, reviewing records	7	£32.21 (Principal EHO)	£0	£225.47
Visiting Site, Reporting and Determination				
Transportation costs	N/A		£20.00	£20
Visit x 2 officers (costs for 2 officers to visit over 2 half days)	14	£28.16		£394.24
Reporting	7	£28.16		£197.12
Determination of application, informing Site Owner (drafting licence approval and conditions, processing appeals, legal advice and support)	4	£28.16		£112.64
TOTAL COST	£1259.23			£1259.23
Statutory Minimum Application Criteria				£309.76
Fit and Proper Person Test				£225.47
Visiting Site, Reporting and Determination				£724.00