

SUBJECT:	The Mobile Homes Act 2013
REPORT OF:	Officer Management Team - Director of Services Prepared by - Head of Health & Housing

1. Purpose of Report

- 1.1 To inform members of new local authority powers contained within the Mobile Homes Act 2013 (2013 Act) and to put in place required delegations and terms of reference in order to implement the new legislation.

2. Links to Council Policy Objectives

- 2.1 Implementation of the Mobile Homes Act 2013 is a statutory function of the authority and links to Councils Community Strategy and Corporate Plan Key Themes of “safe communities” and “improving health and well-being for all.”

3. Background

- 3.1 The Council currently has a statutory duty under the Caravan Sites and Control of Development Act 1960 as amended (1960 Act) to licence caravan sites (including mobile home parks) which have planning permission. There is no discretion regarding the issue of a licence where planning permission has been granted.
- 3.2 There are ten licensed permanent multiple residential caravan sites (i.e. with more than one caravan) and 14 licensed permanent single residential sites in the South Bucks District. New applications are received infrequently - less than one application per year.
- 3.3 The 2013 Act received Royal Assent on 26th March 2013. Its provisions partially came into force 26th May 2013, but the majority will be implemented with effect from 1st April 2014. The 2013 Act has been introduced as the current law relating to mobile homes was viewed as ineffective and outdated.
- 3.4 The 2013 Act aims to ensure local authorities are properly funded for exercising their powers and have sufficient tools for enforcement action. It aims to raise standards in the industry so to deliver a more professional service to home owners and to ensure the opportunity for blocking sales of homes on licensed sites by site owners is removed and effective enforcement action can be taken against those operators who fail to comply with their licence obligations. The new provisions in relation to local authority powers include:
- i. Power to charge fees for new residential site licences, licence transfers and variations
 - ii. Power to charge an annual fee to existing residential site licence holders
 - iii. Power to refuse a licence (or to refuse to transfer a licence)
 - iv. New enforcement powers to tackle breach of licence conditions

including powers to serve and enforce 'compliance notices' and undertake emergency works together with the power to recover expenses and costs relating thereto.

- v. Requirement to be the keeper of 'Site Rules' deposited with the authority by site operators and Registers.

4. Discussion

- 4.1 The Council is able to attach conditions to licences to ensure basic standards relating to the physical condition of the site including matters such as layout and the provision of services and equipment. In attaching conditions the Council has to have regard to the Model Standard Conditions produced by the Secretary of State the latest being published in 2008 and can also adopt its own conditions. The Council has not adopted its own conditions relying upon the Model Standard Conditions. A copy of the 2008 Model Conditions have been deposited in the Members Room and will be available at the Committee Meeting. It is recommended that these Model Standard Conditions as amended and updated from time to time be formally adopted by the Council as its pool of Caravan Site Licence Conditions.
- 4.2 The Act allows a local authority to charge fees in relation to the licensing of "relevant protected sites" within their district to enable them to recover the costs incurred in operating licensing schemes. A relevant protected site is a site requiring a licence other than one which is for holiday use only or is otherwise not capable of being used all year round (only residential sites). The 2013 Act requires that where a local authority intends to charge fees it must prepare and publish a fee policy which can be revised from time to time. However the guidance around the setting of fees is not expected to be issued until February 2014.
- 4.3 It is therefore proposed that no fees are charged in the first year 2014/15 and a fee policy is developed and adopted during the coming year to come into effect on 1st April 2015. The reasons for this are:
 - i. Timeframe: The timeframe between the availability of the guidance and the start of the financial year are too short to give full consideration to appropriate charges, leaving the authority at risk of challenge or non-payment. Delaying the introduction of fees for a year will enable the Council to enter in to effective consultation with site owners and also assess the costs in exercising this licensing regime. National case law will also provide more clarity as to the appropriate fee charges to apply.
 - ii. Numbers: As there are few sites, the potential income is not significant. The application process will therefore need to be low cost.
 - iii. Shared Service: Caravan site licensing will be dealt with by the new shared Chiltern and South Bucks licensing team. In the early part of 2014/15 resources will be focused on implementing the new service. The processes and costs of

administering caravan site licensing will need to reflect the resources available in the shared service.

- 4.4 It is proposed that the preparation, adoption and publishing of the fees policy be delegated to the Head of Health & Housing in consultation with the Chair of Licensing Committee.
- 4.5 The provisions set out that where an annual fee under this section has become overdue, the local authority may apply to a residential property tribunal for an order requiring the licence holder to pay by the date and in the manner specified. Where a licence holder fails to comply with an order from the tribunal made under this section within 3 months, the local authority may apply to a residential property tribunal for an order revoking the site licence. The 2013 Act also provides for a right of appeal for the site owner to a residential property tribunal rather than the Magistrates Court regarding conditions attached to site licences, compliance notices and demands for expenses and costs.
- 4.6 **Suitability of an Applicant:** Within the 2013 Act there is a provision to apply the 'fit and proper person' test to confirm that the occupier (licence holder) or an appointed person is fit and proper to manage the site. However this is not being introduced with the rest of the 2013 Act on 1st April 2014 as it requires further legislation to be enacted in order for this to come into force. The government has decided to delay this section and review it over a three year period.
- 4.7 **Site Rules:** Site rules are made by the occupier to outline the management and conduct of the site and anything else to be prescribed. Every site rule will be included in the pitch agreement between the occupier and the mobile home owner. However, there is no requirement for site rules at all. Under the new sections, the Secretary of State may also make provisions in regulations:
- i. rendering existing site rules of no effect by such date as set out in the regulations;
 - ii. prescribing matters in relation to which site rules may not be made;
 - iii. about the resolution of disputes arising between site owners and mobile home occupiers. This may be in the form of a consultation procedure through the Licensing Authority.
 - iv. requiring local authorities to keep and publish an up-to-date register of site rules in their areas.

The regulations to accompany the 2013 Act are due to be released in March 2014 so we cannot be sure if these provisions will be exercised at this moment in time.

- 4.8 **Scheme of Delegation:** The Council's Scheme of Delegation will need to be amended to reflect the new powers in the 2013 Act, for example the powers to serve a Compliance Notice and powers to undertake emergency action. It is proposed that authority to exercise the Councils functions

under the 2013 Act is delegated to the Head of Health and Housing.

5. Resources, Risk and Other Implications

- 5.1 **Financial Implications** - The Government's intention is that the cost of administering the licensing regime will be met from fee income. The costs of investigation and enforcement will not form part of the cost recovery but be met by the Council.
- 5.2 The number of existing sites is low and it is considered that the additional workload imposed will be absorbed within existing resources, however there is a risk that should the investigation and enforcement burden be more than expected there will be a shortfall which would be considered should it arise.
- 5.3 **Legal Implications** - The 2013 Act imposes new legal duties on the Council. Failure to discharge these duties adequately may result in legal challenge from Mobile Home Site Holders, residents, members of the public and aggrieved parties.

Equalities Impact - This change does not impact on equalities

6.0 Recommendation

- 6.1 Licensing Committee is asked to recommend to Full Council:
- i. To note the new local authority powers in the Mobile Homes Act 2013.
 - ii. That the terms of reference of the Licensing Committee be amended to include the new functions introduced by the Mobile Homes Act 2013.
 - iii. That the terms of reference of the Licensing Sub-Committee be amended to include conducting hearings and making determinations in relation to the licensing of caravan sites and related enforcement matters in circumstances where the Head of Health & Housing is unable or unwilling to make a decision under the terms of the Scheme of Delegations to Officers.
 - iv. To agree that a fee policy is considered and developed during 2014/2015 and to take effect from 1 April 2015, but that no fees are to be charged for the year 2014/15.
 - v. To agree a new delegation to the Head of Health & Housing in consultation with the Chair of Licensing Committee to prepare, adopt and publish a fees policy in accordance with the Mobile Home Act 2013.
 - vi. To adopt the 2008 Model Standard Conditions for Caravan Sites in England including any future replacement Model Standards specified and published by the Secretary of State as the Council's pool of Caravan Site Licence Conditions.

- vii. To agree that the scheme of delegation be amended to give authority to the Head of Health & Housing to exercise the functions under the Caravan Sites and Control of Development Act 1960, as amended by subsequent legislation and the new functions introduced by the Mobile Homes Act 2013 with cases of doubt or difficulty being referred to the next available Licensing Sub-Committee for a decision.

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Background Papers:	Mobile Homes Act 2013 http://www.legislation.gov.uk/uksi/2013/1966/pdfs/uksi_20131966_en.pdf