



CABINET – 4TH MARCH 2015

SUBJECT: ADOPTION OF POLICIES IN RELATION TO THE MOBILE HOMES (WALES) ACT 2013

REPORT BY: CORPORATE DIRECTOR OF SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of changes to the legislation applicable to mobile homes prior to presentation of the report to Council to amend the Council's Constitution to include The Mobile Homes (Wales) Act 2013.
- 1.2 To obtain additional authorisation for officers under the Mobile Homes (Wales) Act 2013.
- 1.3 To enable officers to progress with the implementation of the Mobile Homes (Wales) Act 2013 through the adoption of:
 - A Fees and Fines Policy (Appendix 1)
 - A Fit and Proper Persons Policy (Appendix 2)

2. SUMMARY

- 2.1 The National Assembly for Wales recently introduced the Mobile Homes (Wales) Act 2013 which came into force on 1st October 2014. This Act replaces legislation, originally implemented in the 1960s, to regulate sites accommodating residential mobile homes. It is designed to help improve regulation, so that conditions on mobile home sites are improved and the rights of residents are better protected.
- 2.2 There are 3 mobile home sites within Caerphilly county borough. Officers within the Public Protection Division require additional authorisation under The Mobile Homes (Wales) Act 2013 in order to enforce the legislation and carry out their duties.

This report also seeks approval for the adoption of:

- The Fees and Fines Policy (Appendix 1) including minimum charges for the taking of enforcement action, and
- The Fit and Proper Persons Policy (Appendix 2)

3. LINKS TO STRATEGY

- 3.1 Public protection is a statutory duty of the authority and contributes to the Prosperous, Healthier, and Safer Caerphilly Priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers, and Objective 1 of the Council's Strategic Equality Plan 2012.

4. THE REPORT

- 4.1 The National Assembly for Wales recently introduced the Mobile Homes (Wales) Act 2013 which came into force on 1st October 2014.
- 4.2 This Act replaces legislation, originally implemented in the 1960s, to regulate sites accommodating residential mobile homes. It is designed to help improve regulation, so that conditions on mobile home sites are improved and the rights of residents are better protected. There are currently 3 mobile home sites within Caerphilly county borough:-

Beddau Farm Residential Caravan Site St Cenydd
The Conifers Pandy Road Bedwas
Caravan Site Commercial Lane Pontymister

The main features of the new Act are:

- Site owners will be required to apply for a licence from their local authority to operate a site. The licence will last up to 5 years
 - Site managers will need to pass a 'fit and proper person' test before being awarded a licence
 - Site owners will no longer be able to block the sale of a mobile home. The mobile home owner will be free to sell their home to who they wish
 - Local authorities will be able to inspect sites and issue a fixed penalty notice to site owners if conditions on the site are not kept properly
 - In more serious instances, local authorities will be able to issue the site owners with a compliance notice to make sure that site conditions are upheld
 - Pitch fees will only be increased in line with the Consumer Prices Index
 - Site owners and residents will be able to appeal to the Residential Property Tribunal in certain circumstances
- 4.3 A copy of the new Mobile Homes (Wales) Act 2013 and the Explanatory Notes to the Act can be found on the Welsh Government website.
- 4.4 All mobile homes sites must have the relevant planning permission and as a result of the implementation of this legislation all mobile homes sites must have a site licence issued by the local authority. Existing site licenses issued under the original Caravan and Control of Development Act 1960 will remain in force. Local authorities are given a six month period to revoke existing licenses and relicence the sites.
- 4.5 The Model Standards 2008 for Caravan Sites in Wales are the conditions, 'normally expected as a matter of good practice on sites.' They apply only to residential caravans and can cover areas such as the layout of mobile home parks and the provision of facilities, services and equipment for them. These standards introduced a number of changes, the most significant relating to:
- dealing with park site boundaries
 - making clearer what should and should not be allowed within the six metre separation space between homes
 - permitting a single car to be parked between homes
 - requiring a concrete hardstanding for all homes
 - extending park drainage requirements to include the pitch
 - making sure that common areas of the site are maintained in a good condition
 - setting out the minimum standards required for the supply of water, electricity, drainage and sanitation
 - making it clear that land allocated for recreational space is required only when children live on the park

- 4.6 As a result of the introduction of new legislation it is considered that the Council's Constitution should be amended to include The Mobile Homes (Wales) Act 2013. Adding this Act to the Constitution will allow authorised officers to deal with the re-licencing of the sites within the county borough and deal with any associated provisions contained in the Act.
- 4.7 A local authority may require an application for a site licence to be accompanied by a fixed fee. Before implementing the fees, the local authority must prepare and publish a fees policy. When fixing a fee for the purposes of the Act the local authority:-
- Must act in accordance with its fees policy
 - May fix different fees for different cases or descriptions of case, and
 - May determine that no fee is required to be paid in certain cases or descriptions of case.
- 4.8 The council will also need to agree a Fit and Proper Persons Policy for consideration during the application process for licence holders and/or managers.
- 4.9 When fixing the fee the Authority may not take into account any costs incurred by it in exercising its functions under sections 15 to 25 of the Act Any fees charged must fairly cover the costs (or part of the costs) incurred by the local authority in performing its functions under the Act, (excluding the costs of enforcement action or any function under any provision of the Act which is not a regulated site).
- 4.10 A fees toolkit has also been developed in conjunction with the Wales Heads of Environmental Health Licensing Expert Panel with the aim of providing a consistent and robust mechanism for the setting of licence fees. The toolkit includes full guidance notes on how to populate the spreadsheet to calculate the fees. It also provides a clear methodology for calculating the application fee and other fees set out in the Act. It has been designed to help set fees that are based on the full cost recovery of the work involved in the licensing of sites in a way that is transparent and robust.
- 4.11 Using this methodology, the following fees are proposed:-

Process	Fee
Application for Small site 1-10 caravans	£345
Application for Medium site 11-51 caravans	£398
Application for Large Site 51+ caravans	£597
Amendment/Variation Existing Licence	£200/260
Replacement Licence	£26
Lodge Site rules	£42

ENFORCEMENT CHARGES

- 4.12 The Council is entitled in accordance with section 19 and 22 of the Mobile Homes (Wales) Act 2013, and will seek to recover expenses incurred in carrying out enforcement action involved in the service of a compliance/emergency compliance notice and Fixed Penalty Notices (set at not exceeding level 1 of the standard scale for summary offences within the Act for the latter). These expenses include costs incurred in deciding whether to serve a notice, site inspections, preparing the notice and obtaining expert advice.
- 4.13 Where appropriate, the council will also seek to recover expenses incurred:-
- In taking action following conviction of the site owner for failure to carry out actions required by a compliance notice; or
 - In taking emergency action where there is an imminent risk of serious harm to any person on the site as a result of the site owner's failure to comply with licence conditions

- 4.14 Interest may be charged on any sums to be recovered as a result of enforcement action. The council will also be able to register any of the debts to be recovered for enforcement actions as a local land charge against the site.

Fixed Penalty Notices

- 4.15 Section 15 of the Mobile Homes (Wales) Act 2013 allows the Council discretion to issue Fixed Penalty Notices (FPN) to discharge certain minor breaches of site licence conditions. Fixed Penalty Notices must not exceed level 1 on the standard Scale of fines for summary offences (currently £200). A fixed penalty notice could be used by the Council to deal with minor infringements such as:-

- Failure to remove litter
- Non compliance with site rules
- Poor provision of adequate lighting around the site

- 4.16 It is proposed that the charge for the Fixed Penalty Notice is set at £100 with this reduced to £75 if paid within 10 days.

Compliance Notices

- 4.17 Section 17 of the Mobile Homes (Wales) Act 2013 allows the Council discretion to serve compliance notices on site owners where site licence conditions are breached. Such notices will set out what the site owner needs to do to correct the breaches and the timescales. Failure to comply with the notice would be a criminal offence, punishable by a fine and the site licence could be revoked upon a third or more subsequent prosecutions (section 18). Following a successful prosecution for breaching a compliance notice, the Council would be able to serve notice to enter the site and carry out the necessary works (Works in default).

- 4.18 In addition to this, Section 21 of the Act allows a notice to be served on site owners enabling the Council to enter the site and carry out emergency work where there is an imminent risk of serious harm.

- 4.19 The cost of deciding whether to take action, preparing and serving compliance and/or emergency action notices can be recovered (Section 19 and 22 respectively). The total expenses the local authority seeks to recover (the relevant expenses) can include, but not limited to:-

- Expert advice (including legal advice)
- Inspection costs
- Administration costs in serving notice

- 4.20 It is proposed that the costs of issue of a compliance notice will be a minimum set fee of £300 to cover the costs of qualified staff. Expert advice and other costs associated specifically with an individual case will also be chargeable on a case-by-case basis. A detailed breakdown of the relevant expenses will be outlined in the case demand schedule.

- 4.21 Interest may also be charged on compliance notice costs in accordance with the Act and set out in the policy.

5. EQUALITIES IMPLICATIONS

- 5.1 Officers from the Public Protection Division already carry out their enforcement duties taking due regard of any relevant equalities and language considerations. This new legislation is aimed at improving the conditions of mobile home sites and to better protect the rights of residents.

6. FINANCIAL IMPLICATIONS

6.1 There are no additional costs related to staffing.

The proposed charges are detailed below.

Process	Fee	Income
Application for Small site 1-10 caravans	£345	
Application for Medium site 11-51 caravans	£398	£1,194 (every fifth year)
Application for Large Site 51+ caravans	£597	
Amendment/Variation Existing Licence	£200/260	
Replacement Licence	£26	
Lodge Site rules	£42	
Issue of a compliance notice	£300.00	
Fixed Penalty Notice	£100 reduced to £75 if paid within 10 days.	

6.2 There are currently 3 mobile home sites within Caerphilly county borough and therefore additional income from application fees is estimated to be £1,194 every 5 years.

7. PERSONNEL IMPLICATIONS

7.1 None directly arising from the authorisation of officers under this Act where it is used to supplement existing enforcement activities.

8. CONSULTATION

8.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

9. RECOMMENDATIONS

9.1 That Cabinet note the implementation of this legislation and refer the recommended changes to the Council's Constitution to Council for determination. The Council's Monitoring Officer make the necessary amendments to the Council's Constitution.

9.2 That the Council's Constitution and Terms of Reference be amended by adding the following:

- The Mobile Homes (Wales) Act 2013

9.3 That Officers within the Public Protection Division be authorised under The Mobile Homes (Wales) Act 2013 in order to enforce the legislation and carry out their duties.

9.4 That Cabinet approve the Fees and Fines Policy (Appendix 1) including minimum charges for the taking of enforcement action.

9.5 That Cabinet approve the Fit and Proper Persons Policy (Appendix 2).

10. REASONS FOR RECOMMENDATION

10.1 In order to ensure proper and effective enforcement of the legislation and appropriate recovery of costs.

11. STATUTORY POWER

11.1 The Mobile Homes (Wales) Act 2013. The discharge of duties under the above legislation is a Cabinet function.

Author: Lyndon Ross, Senior Environmental Health Officer.

Consultees: Councillor David Poole, Cabinet Member for Community and Leisure Services
Dave Street, Director of Social Services
Rob Hartshorn, Head of Public Protection
Gail Williams, Interim Head of Legal Services
Lisa Lane Solicitor
Ceri Edwards, Environmental Health Manager
Graham North, Public Sector Housing Manager
Tim Stephens, Development Control Manager
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)
Sian Phillips, Human Resources Manager
Mike Eedy, Finance Manager

Appendices:

Appendix 1 Fees and Charges Policy for Licensing and Compliance of Residential Mobile Homes Sites

Appendix 2 A Policy to Establish a Fit and proper Person Criteria in relation to The Mobile Homes (Wales) Act 2013