

# LICENSING AND PUBLIC SAFETY COMMITTEE

TUESDAY, 10TH SEPTEMBER, 2019, 6.00 PM

CROSS ROOM, CIVIC CENTRE, WEST PADDOCK, LEYLAND, PR25  
1DH

## AGENDA

### 1 Apologies for Absence

### 2 Declarations of Interest

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

### Minutes of the Licensing and Public Safety Committee

- 3 **Minutes of meeting Tuesday, 11 June 2019 of Licensing and Public Safety Committee** (Pages 3 - 6)

### Minutes of the General Licensing Sub-Committee Panel

- 4 **Minutes of meeting Wednesday, 29 May 2019 of General Licensing Sub-Committee Panel** (Pages 7 - 8)
- 5 **Minutes of meeting Monday, 8 July 2019 of General Licensing Sub-Committee Panel** (Pages 9 - 10)
- 6 **Minutes of meeting Wednesday, 24 July 2019 of General Licensing Sub-Committee Panel** (Pages 11 - 12)
- 7 **Minutes of meeting Thursday, 8 August 2019 of General Licensing Sub-Committee Panel** (Pages 13 - 14)

### Minutes of the Licensing Panel

<b>8 Minutes of meeting Wednesday, 29 May 2019 of Licensing Panel</b>	(Pages 15 - 20)
<b>9 Mobile Homes Fee Policy</b>	(Pages 21 - 34)
Report of the Interim Monitoring Officer/ Legal Services Manager.	
<b>10 Exclusion of Press and Public</b>	
To consider the exclusion of the press and public for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.	
By Virtue of Paragraph 1: Information relating to any individual.	
<b>11 Licensing Activity Update Report</b>	(Pages 35 - 38)
Report of the Interim Monitoring Officer/ Legal Services Manager attached.	
<b>12 Use of Standing Order 35</b>	(Pages 39 - 44)
Report of the Interim Monitoring Officer/ Legal Services Manager attached.	

Gary Hall  
INTERIM CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillors Ken Jones (Chair), Renee Blow (Vice-Chair), Jacky Alty, Jane Bell, Derek Forrest, Mick Higgins, Jacqui Mort, Peter Mullineaux, Alan Ogilvie and John Rainsbury

The minutes of this meeting will be available on the internet at [www.southribble.gov.uk](http://www.southribble.gov.uk)

**MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE**

**MEETING DATE** Tuesday, 11 June 2019

**MEMBERS PRESENT:** Councillors Ken Jones (Chair), Jacky Alty, Jane Bell, Derek Forrest, Mick Higgins, Peter Mullineaux, Alan Ogilvie, John Rainsbury and Sarah Whitaker

**OFFICERS:** Mark Marshall (Head of Licensing), Tasneem Safdar (Senior Solicitor) and Coral Astbury (Trainee Governance and Member Services Officer)

**OTHER MEMBERS:** Councillor Susan Jones JP (Cabinet Member (Environment)), Councillor Keith Martin, Justin Abbotts (Licensing Officer) and Stephanie Fairbrother (Licensing Officer)

**PUBLIC:** 0

**1 Apologies for Absence**

Apologies were received from Councillor Jacqui Mort.

**2 Declarations of Interest**

None.

**3 Minutes of the General Licensing Committee**

RESOLVED: (Unanimously)

That the minutes of the General Licensing Committee meeting held on Tuesday 12 March 2019 to be agreed as a correct record for signing for by Chair.

**4 Minutes of the Licensing Act Committee**

RESOLVED: (Unanimously)

That the minutes of the Licensing Act Committee meeting held on Tuesday 12 March 2019 to be agreed as a correct record for signing for by Chair.

**5 Annual Report**

The Committee considered a report of the Head of Licensing which sought approval to be presented at the next full Council.

The report contained detailed information on all work undertaken by the Licensing authority over the past twelve months and focused on work undertaken in the areas of; hackney carriage/private hire drivers, Licensing Act 2003, Gambling and Scrap Metal. The report also made reference to the relatively untouched areas of work

relating to Licensed Premises and Gambling. Members were advised that the Action Plan 2018/2019 contained in Appendix 1 was used as a starting point for the Licensing Team and it was included within the report for Committee to compare against what had been achieved by the authority to date.

Members sought clarification of a mis type within the Annual Report and it was confirmed that on page 26 Section 9 the date should read as, "2019/20"

The report was received positively by members of the Committee who commented its comprehensiveness and detail, although it was suggested that the achievements of the Authority should be highlighted more. The Chair added that the report reflects all the hard work undertaken by both previous Committee Members and Officers.

Councillor Keith Martin, who was in the audience, asked a question in relation to the ongoing situation at the Mobile Home site at Penwortham Residential Park and asked for clarification on what action would be taken by the Licensing authority. The Head of Licensing explained that the Licensing Authority is responsible for enforcing the standards and conditions of the site, and would look at the amenability, combustibles and if there was any spacing issues.

The team would undertake an inspection with the fire authority to determine what, if any, action would be taken.

RESOLVED: (Unanimously)

1. That the report be noted.
2. That following the amendment of the typing error, the report be submitted to Full Council for approval.

## **6 Use of Standing Order 35**

The Committee received a report from the Head of Licensing which detailed the recent use of Standing Order 35 in relation to Moss Lane Convenience Store.

The Premises Licence holder had been brought before a Licensing Act Panel in November 2018 following concerns over illegal workers, a failed underage test sale and a lack of training documents for staff. As a result, the panel felt that the only appropriate measure was to revoke the licence. An appeal was then made to the Magistrates against the Licensing Authorities decision.

In early January 2019 the Licensing Authority was contacted by an interested party who wished to take over the business, with the licence being transferred. Clear severance from the previous business owner had been demonstrated and the Head of Licensing explained that the Section 35 order was used to reinstate the licence to the new owner and settle the current appeal on the premises.

RESOLVED: (Unanimously)

That the report be noted.

## **7 Exclusion of the Press and Public**

RESOLVED: (Unanimously)

That the press and public be excluded for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

By Virtue of Paragraph 1: Information relating to any individual.

## **8 Use of Standing Order 35**

The Head of Licensing presented a further report to the Committee on the use of Standing Order 35.

The Committee were advised that the authority had received disclosure from an operator regarding the emotional state of one of their drivers. Further investigation showed that the driver was struggling emotionally and accepted this, and surrendered his licences to the Authority. The Head of Licensing explained that although the driver had surrendered his licence it was necessary to use Standing Order 35 to revoke the licence so that his details and the circumstances were placed on a national register, making this information accessible if the driver was to reapply in the future.

RESOLVED: (Unanimously)

That the report be noted.

Chair

Date

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<b>MINUTES OF</b>	<b>GENERAL LICENSING SUB-COMMITTEE PANEL</b>
<b>MEETING DATE</b>	<b>Wednesday, 29 May 2019</b>
<b>MEMBERS PRESENT:</b>	Councillors Ken Jones (Chair), Jane Bell, Jacqui Mort, Peter Mullineaux and Alan Ogilvie
<b>OFFICERS:</b>	Mark Marshall (Head of Licensing), Tasneem Safdar (Senior Solicitor) and Coral Astbury (Trainee Governance and Member Services Officer)
<b>OTHER MEMBERS AND OFFICERS:</b>	Chris Ward (Licensing Officer), Stephanie Fairbrother (Licensing Officer) and Justin Abbotts (Licensing Officer)
<b>PUBLIC:</b>	0

## **1 Apologies for absence**

None.

## **2 Declarations of Any Interest**

None.

## **3 Exclusion of the Press and Public**

RESOLVED: (Unanimously)

That the press and public be excluded from the meeting during consideration of the following item of business as it involved the discussion of information defined as exempt from publication under paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, "information relating to any individual" and in which the public interest in maintaining the exemption outweighed the public interest in disclosing it.

## **4 Consideration of a Hackney Carriage and Private Hire Drivers Licence**

The panel received a report which detailed a number of complaints that had been received against a driver who held both a Hackney Carriage Licence and a Private Hire Licence.

The Chair referred those present to the circulated established procedure for hearings and the process that would be followed.

The Driver was not present at the hearing and therefore made no representations.

The Panel also received representations from the Council's Head of Licensing.

RESOLVED: (Unanimously)

That the Panel were of the view that by virtue of S61 (1) (b) of the Local Government Miscellaneous Provisions Act 1976 (LGMPA) for any other reasonable cause. Being that the Panel did not view that the Driver was a fit and proper person to hold a Hackney Carriage and Private Hire driver's licence and therefore by virtue of S61 (2B) of the LGMPA 1976 in the interest of public safety, the Hackney Carriage Drivers licence and the Private Hire Drivers Licence of the Driver should be revoked with immediate effect.

Chair

Date

<b>MINUTES OF</b>	<b>GENERAL LICENSING SUB-COMMITTEE PANEL</b>
<b>MEETING DATE</b>	<b>Monday, 8 July 2019</b>
<b>MEMBERS PRESENT:</b>	Councillors Ken Jones (Chair), Renee Blow (Vice-Chair), John Rainsbury, Jacky Alty and Derek Forrest
<b>OFFICERS:</b>	Tasneem Safdar (Senior Solicitor), Stephanie Fairbrother (Licensing Officer), Chris Ward (Licensing Officer) and Coral Astbury (Democratic and Member Services Officer)
<b>OTHER MEMBERS AND OFFICERS:</b>	Justin Abbotts (Licensing Officer)

## **5 Apologies for absence**

Apologies were received from Councillor John Rainsbury who was unable to attend the first hearing.

## **6 Declarations of Any Interest**

None.

## **7 Exclusion of the Press and Public**

RESOLVED: (Unanimously)

That the press and public be excluded from the meeting during consideration of the following item of business as it involved the discussion of information defined as exempt from publication under paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, "information relating to any individual" and in which the public interest in maintaining exemption outweighed the public interest in disclosing it.

## **8 Post-Conviction Report and Consideration of Granting a new Hackney Carriage Drivers Licence**

The Panel received a report which advised members of a recent conviction relating to a criminal conviction of plying for hire in respect of a Private Hire Driver. Members were requested to consider what action to take as a result of the conviction. Members were also asked to consider an application for a new Hackney Carriage licence in light of the recent conviction.

The Chair referred those present to the circulated established procedure for hearings and the process that would be followed.

The Driver, who was present at the hearing explained to the Panel that he had made a mistake and had learnt his lesson following the sanction imposed on his licence and financial penalty received from Preston Magistrates Court.

With regards to the application for a new Hackney Carriage Licence, the Driver was advised of the policy and asked if he had any exceptional circumstances of which he could explain to the Committee as to why the application should be granted.

RESOLVED: (Unanimously)

1. A warning is to be placed on the Driver's Private Hire Licence.
2. That the application for a new Hackney Carriage Licence be refused.

## **9 Application for a Hackney Carriage Drivers Licence**

Councillor John Rainsbury arrived at the meeting and was present for the application hearing.

The Panel received a report informing them of a new application for a Hackney Carriage Drivers Licence and were advised that the application was brought before Committee due to the applicants convictions which had triggered the Licensing Policy.

The Chair referred those present to the circulated established procedure for hearings and the process that would be followed.

The Driver and his friend were also present at the meeting and both made representations.

The Panel also received representations from the Licensing Authority.

RESOLVED: (Unanimously)

That the application for a new Hackney Carriage Licence be refused.

Chair

Date

<b>MINUTES OF</b>	<b>GENERAL LICENSING SUB-COMMITTEE PANEL</b>
<b>MEETING DATE</b>	<b>Wednesday, 24 July 2019</b>
<b>MEMBERS PRESENT:</b>	Councillors Ken Jones (Chair), Jane Bell, Mick Higgins, Peter Mullineaux and Alan Ogilvie
<b>OFFICERS:</b>	Mark Marshall (Head of Licensing), Dave Whelan (Legal Services Manager/Interim Monitoring Officer) and Coral Astbury (Democratic and Member Services Officer)
<b>OTHER MEMBERS AND OFFICERS:</b>	Justin Abbotts (Licensing Officer), Stephanie Fairbrother (Licensing Officer) and Chris Ward (Licensing Officer)
<b>PUBLIC:</b>	0

## **10 Apologies for absence**

None.

## **11 Declarations of Any Interest**

None.

## **12 Exclusion of the Press and Public**

RESOLVED: (Unanimously)

That the press and public be excluded from the meeting during consideration of the following item of business as it involved the discussion of information defined as exempt from publication under paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, "information relating to any individual" and in which the public interest in maintaining the exemption outweighed the public interest in disclosing it.

## **13 Safe Guarding Complaint**

The panel received a report which detailed a referral from Lancashire County Council relating to a safe guarding complaint which had been made against a private hire driver.

The Chair referred those present to the circulated established procedure for hearings and the process that would be followed.

The Driver and his employer were both present at the hearing and made representations.

The Panel also received representations from the Council's Head of Licensing.

When considering their decision the Panel raised questions about how much training and guidance drivers received from Lancashire County Council for dealing with these situations. In this instance, there appeared to be some confusion and uncertainty over what the duties of the driver were and the duties and responsibilities of the Personal Assistant.

The Panel requested that Officers write to Lancashire County Council to outline their concerns surrounding what the role of the driver is and what training and guidance is provided.

RESOLVED: (Unanimously)

1. A one month suspension is to be placed on the Driver's Private Hire Licence.
2. The Driver is to be given a written warning to future conduct, and any similar incident in future would lead to the Council giving serious consideration to the immediate revocation of his licence.

Chair

Date

**MINUTES OF GENERAL LICENSING SUB-COMMITTEE PANEL**

**MEETING DATE** Thursday, 8 August 2019

**MEMBERS PRESENT:** Councillors Renee Blow (Vice-Chair, in the Chair), Jacky Alty, Jane Bell, Jacqui Mort and John Rainsbury

**OFFICERS:** Mark Marshall (Head of Licensing), Tasneem Safdar (Senior Solicitor) and Coral Astbury (Democratic and Member Services Officer)

**OTHER MEMBERS AND OFFICERS:** Chris Ward (Licensing Officer)

**14 Apologies for absence**

None.

**15 Declarations of Any Interest**

None.

**16 Exclusion of the Press and Public**

RESOLVED: (Unanimously)

That the press and public be excluded for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

By Virtue of Paragraph 1: Information relating to any individual.

**17 Application for a Hackney Carriage Driver's Licence**

The panel received a report which detailed an application for a new Hackney Carriage Licence. The application was brought before the panel as the applicant had provided a DBS certificate showing one caution for possession of a controlled drug.

The Chair referred those present to the circulated established procedure for hearings and the process that would be followed.

The applicant was present at the hearing and made representations, explaining to the panel that he had accepted the caution as the drug was found in his bag, albeit his friends property.

Representations were also received from the Council's Head of Licensing who explained that the applicant had been a licenced driver with the authority between 2008 to 2011 and there were no issues during this period.

In reaching their decision the panel took into account the Convictions Policy, specifically paragraphs 10.1, 10.5 and 18.1.

The panel were of the view that the applicant was of previous good character until the caution and that he did not pose a threat to the public. The panel were of the view that the circumstances were such which were exceptional and would allow them to depart from the policy.

RESOLVED: (Unanimously)

The panel agreed to grant the licence on the basis that they were of the view that on the balance of probabilities, the applicant is a fit and proper person.

Chair

Date

## **MINUTES OF LICENSING PANEL**

**MEETING DATE** Wednesday, 29 May 2019

**MEMBERS PRESENT:** Councillors Renee Blow (Vice-Chair, in the Chair), Jane Bell and Alan Ogilvie

**OFFICERS:** Mark Marshall (Head of Licensing), Tasneem Safdar (Senior Solicitor), Chris Ward (Licensing Officer) and Coral Astbury (Trainee Governance and Member Services Officer)

**OTHER MEMBERS AND OFFICERS:** Stephanie Fairbrother (Licensing Officer) and Justin Abbotts (Licensing Officer)

**PUBLIC:** 0

### **1 Apologies for absence**

None.

### **2 Declarations of Interests**

A declaration of interest was made by the Chair, Councillor Ken Jones, as the premises under review fell within his ward.

As a result the meeting was adjourned for a short period to allow the Vice Chair, Councillor Renee Blow, to attend the meeting in the Chair's place.

### **3 Review of Premises Licence:- Turkish Delight**

The Panel met to determine a review application in respect of Turkish Delight, pursuant to the provisions of Section 52 of the Licensing Act 2003. The application for review had been brought by the Council's Head of Licensing on behalf of the Licensing Authority as a Responsible Authority.

The Premises Licence Holder (PLH) Abdoolah Hidari and his son, Farhad Hidari were also in attendance.

Mr Chris Ward, Licensing Officer presented the Committee report and confirmed that all notice and procedural requirements had been adhered to. The PLH confirmed that all evidence had been received in advance of the meeting.

The review had been instigated by the Licensing Authority on the basis that they were of the view that the licensing objectives had been undermined, in that licensing conditions were not being adhered to and potentially employment of an individual with no rights to work in the UK.

On 18 January 2019 a suspension letter was served at the premises for non-payment of the Annual Renewal Fee (ARF). Once a suspension is served the

licence becomes void or invalid rendering any licensable activity an offence under the Licensing Act 2003. The following day, 19 January hot food was sold after 11pm so Officers entered the premises to establish who was carrying on the activity.

Mr Marshall explained that he found three individuals on the premises. No-one took responsibility for the premises. Male 1 gave his details as Abdoolah Hodari and when questioned if he had received the suspension letter replied that he had not as he had been on holiday. Male 2 details were sought and his language skills were very poor and all that could be established was that he was a Syrian refugee. He was asked for his identity card which he could not provide and when asked about his rights to work in the UK, he stated that he did have those rights. As the details of Male 2 were being established, Male 3 appeared from the back of the premises with a pizza box in his hand. He was a British born Asian male who began to cause a conflict between staff and Officers. He provided that he was not a worker and merely visiting the premises. His identity was not established. Male 1 was asked to contact the owner. After being on the premises for approximately 30 minutes the owner of the business arrived.

The male who presented himself as the owner was Abdoolah Hidari who claimed he had owned the premises for almost 1 year and was unaware of the suspension and unaware he had to transfer the licence into his name. According to Council records, we had a Zayer Naseri as the licence holder. He was asked to provide the details of the staff. Male 1 provided his name as Talib Nori, Male 2 wrote his name down as Mohamad Ahmad Gamal with a dob of 1/9/99 and Mr Hidari wrote their details on a piece of paper which was handed to Mr Marshall. Members were referred to this document within their packs.

On the 21 January 2019 the licence fee was paid and the name transferred to Mr Hidari. Officers returned on the 22 January 2019 to establish the amount of sales made after 11pm, whilst the licence was suspended. CCTV was requested from the weekend of 18/19 January in order to assist enquiries with tracing the illegal worker and to establish the parameters of licensable activity over the weekend. A letter was sent to Mr Hidari requesting the CCTV footage to be provided within seven days.

Officers returned on the 31 January 2019 to collect the footage. However, no footage had been downloaded and the licence holder was unaware of how to use the system. When officers examined the system the CCTV only had the capacity to store footage for 9 days, therefore the images from the 18/19 January had been overwritten.

Mr Marshall provided that the premises licence has extensive conditions attached to it regarding the CCTV, stipulating that footage should be held for a minimum of 31 days and a staff member who is able to operate the system should be on the premises. As the CCTV was not forthcoming, further enquiries were made with Just Eat. On the 18 January two sales after 11pm were identified and two sales on the 19 January.

The Panel were advised by Mr Marshall that warnings had not been adhered to and the CCTV condition was still being breached. The CCTV condition was in place to not only protect the general public but also the licence holder and his employees.

A further concern that Mr Marshall also relayed to members was that Mr Hidari had been employing an illegal worker. The Home Office had identified Male 2 who was

present on the 19 January as Ahmad Mahmoud Abdul Ghani, a Syrian national who had claimed asylum but had been refused. He had since not reported for his bail conditions and had absconded. He had no rights to work in the UK and had paperwork to confirm this. Mr Marshall told the panel that it was hard to believe that the individual was not an illegal worker, as he was wearing an apron and cutting the donner meat off the machine when he arrived at the premises on the 19 January.

Mr Marshall explained to the panel that he was of the view that adding/modifying conditions or giving a warning to the licence holder would not have any effect.

Mr Farhad Hidari, on behalf of his father Mr Abdoolah Hidari explained that his father had bought the business in January 2018 and this was his first business, so he was unaware of the conditions attached to the licence or that he had to transfer the licence or pay an annual fee. It was explained that the suspension letter had not been opened by any member of staff nor was it forwarded on, despite it being marked "urgent" and "suspension of licence" and therefore the licence holder was unaware of the suspension. As a result, staff had been given warnings.

In respect of the asylum seeker, the panel were informed that the male came into the shop that evening to have a chat with the licence holder who has due to arrive around midnight. The panel were told that he was not working but was waiting to discuss a job opportunity and his level of experience. The licence holder told the panel that the asylum seeker was from London and that since the 19 January he had not seen him, nor had he returned to the premises. Further, the asylum seeker had told the premises licence holder on the night of 19 January that he did not have any rights to work in the UK, and therefore he was told that there was no job opportunity for him.

The licence holder was questioned about the non-compliance in respect of the CCTV conditions. It was accepted by the licence holder that this was a fault on his part and that he was waiting for an engineer to fix the problem, despite the fact that he had been given warnings in respect of this. He explained that he had been to see a solicitor who had explained the conditions to him, however, he still did not carry out monthly maintenance checks and neither were these documented as required by one of the conditions on the premises licence.

Mr Marshall submitted that revocation of the licence would be too harsh in the circumstances. However, it was suggested that some kind of action was required to ensure that the licence holder understood his obligations.

In reaching its decision the panel took into account the following:

1. Both written and oral evidence presented in connection with the hearing
2. The Licensing Act 2003
3. S182 revised guidance of the Licensing Act 2003
4. South Ribble Borough Council – Licensing Policy

RESOLVED: (Unanimously)

1. The Panel noted that there had been some issues at the premises, which had undermined the licensing objectives namely the prevention of crime and disorder.

2. The Panel carefully considered all the evidence provided by the parties at the hearing together with the S182 Guidance and the Council's licensing policy. Mr Hidari had been served with two letters in respect of compliance with the conditions on his licence, specifically in respect of CCTV. It was concerning to hear from the licence holder that despite having consulted with a solicitor and having had the conditions explained to him, he had still not carried out any maintenance checks. Furthermore, a definite date could not be provided to the panel as to when an engineer would rectify the problem with the CCTV. This panel felt was unsatisfactory as the licence holder had already had a substantial time period to rectify the problem. Paragraph 11.10 was taken into account:-

*"11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation."*

3. The panel understood that it was the licence holder's first business and that this could be demanding, however, ultimately, the responsibility for the premises was Mr Hidari's and he needed to be more proactive in understanding his obligations and meeting legal requirements.
4. Turning to the Syrian asylum seeker, the panel were not convinced with the licence holder's version of events. They found it extraordinary that an individual would leave London to come to Leyland of all places to find work. They were of the view that on balance the individual was more than likely working illegally at the premises, and had the CCTV footage been available this would have potentially been able to confirm this. The panel took into account Paragraph 11.27 and 11.28 of the S182 guidance which states:-

*"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:*

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- for the sale and distribution of illegal firearms;*
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- for prostitution or the sale of unlawful pornography;*
- by organised groups of paedophiles to groom children;*
- as the base for the organisation of criminal activity, particularly by gangs;*
- for the organisation of racist activity or the promotion of racist attacks;*
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;***

- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

*It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.”*

5. The panel accepted that Mr Hidari had complied with issues in respect of gas safety which the Environmental Health Team had asked him to deal with, at a cost of £3,000. However, the panel were of the view that these kind of issues should have been dealt with by Mr Hidari when he first took over the business in January 2018. It was his responsibility as the person in charge of the business to ensure that he was complaint with any issues which may arise in respect of gas safety, as potentially this was a risk to not only to members of the public but also to him and his employees.
6. The panel considered the steps it could take to address the undermining of the licensing objectives. It was obvious that there was a training need required, as the licence holder did not fully understand his obligations and training was required to assist him with this.
7. The panel were of the view that a further warning would not assist in the circumstances. In order to address the fact that the licensing objectives had been undermined, by the employment of an illegal worker and the non-compliance of the CCTV conditions, revocation of the licence was seriously considered. However, it was apparent to the panel that there was a need for training together with a deterrent in respect of any future conduct. In the circumstances, revocation was not the answer, as the panel wished to assist the licence holder.
8. Taking everything into account, the panel were of the view that a suspension was justified as an appropriate and proportionate response to the promoting of the licensing objectives. In that regard the panel made the following decision:-
  - a) *To suspend the premises licence (which will remain suspended) for a period of 1 month following the successful upgrade of the CCTV system to the satisfaction of the Licensing Authority.*
  - b) *To add the following condition:-*

*The PLH to attend training with the Licensing Manager to cover his obligations as a personal licence holder by the 30<sup>th</sup> June 2019.*

9. The Panel were of the view that the above mentioned conditions and the suspension of the licence, would address the issues raised and promote the licensing objectives. The Panel felt that after careful consideration of the case before them, an appropriate and proportionate decision had been reached. The panel wished to remind the personal licence holder that if the above conditions

are not complied with, then this may lead to a further review hearing, at which point revocation of the licence would be a serious consideration.

10. Any party who is aggrieved by the decision, has a right to appeal the decision to the Magistrates Court within 21 days.

Chair

Date

REPORT TO	ON
Licensing and Public Safety Committee	10 September 2019



TITLE	REPORT OF
Mobile Home Fees Policy	Interim Monitoring Officer/ Legal Services Manager

Is this report confidential?	<b>No</b>
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**PURPOSE OF THE REPORT**

1. To review the existing fees policy and extend the current structure relating to fees for a further 3 years.

**RECOMMENDATIONS**

2. To note the contents of the report and to consider any responses to the consultation.
3. To agree to extend the current fee structure for a further 3 years.

**CORPORATE PRIORITIES**

4. The report relates to the following corporate priorities: (tick all those applicable):

Excellence and Financial Sustainability	<input checked="" type="checkbox"/>
Health and Wellbeing	<input checked="" type="checkbox"/>
Place	<input checked="" type="checkbox"/>

Projects relating to People in the Corporate Plan:

People	
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**BACKGROUND TO THE REPORT**

5. In February 2018 member's received an extensive report regarding the adoption of the Model Standards 2008 along with a proposed fees policy. The fees policy was due for revision annually and expired on the 31<sup>st</sup> March 2019.
6. It is right that fees and charges are kept under regular review to ensure fairness for the fee payer and to ensure the Local Authority are as much as possible covering their costs in relation to performing that function.
7. The current Fees Policy is attached as Appendix 1 with some minor amendments added for approval.

8. No amendments to the fee structure are proposed but the period of time the fees policy covers should be extended from 12 months to 3 years.

## **RATIIONALE**

9. Reviewing fees is an essential function and drastic variances should be remedied as soon as possible. The fee structure was implemented in March 2018 and estimated to cover the costs of performing the function over the financial year of 2018/2019.
10. There are 3 mobile home sites Licensed with the Council, each have received at least 2 visits in 2018/2019. However complaints or enquires that come in over the term of 1 year are more difficult to predict in terms of numbers and complexity. The Council dealt with some concerns from the residents from one site in 2018/2019 which involved numerous reassurance visits and follow up discussions with the site owners. Matters were resolved with no need for enforcement action but realistically took between 12-15 hours to resolve.
11. The approach to regulation from most if not all forms of guidance is for regulators to approach matters of compliance in an informal way seeking agreement where possible through negotiation and co-operation, jumping directly into enforcement action should only be done in the most serious of cases or where other more informal methods have failed.
12. The fees policy allows a Local Authority to charge enforcement costs, but enforcement begins when formal action is being considered, ie legal action or Enforcement Notices. Dealing with every day matters of such as complaints or compliance checks is funded from the Licensing fees.
13. If effective negotiation between the parties is achieved then complaints can be resolved, this should result in less time being spent at the site the following year therefore less cost being incurred to deliver the function.
14. Whilst the administration function of issuing the licence year on year is predictable the compliance matters outlined above are not. For this reason a year on year fees policy could swing one way or the other quite dramatically depending on the levels of activity.
15. A 3 year fees policy would allow the Council to aggregate the costs over a longer period to give a fairer and more stable structure. In addition to a fairer assessment the issue of renewing policy year on year comes with its own set of costs, such as report writing, attending hearings and consultation with effected parties. As this cost can be passed on to the Licence Holder it would mean fees potentially becoming more expensive especially if substantial resource has been directed in that financial year to dealing with the function.
16. Year on year fluctuation may also provide uncertainty for residents of the sites as the Licence Holders are permitted in law to recover the costs of the Licensing fee through the site fee that each resident has to pay annually.

## **OUTCOME OF CONSULTATION**

17. An advisory letter was sent to each of the 3 currently – licensed site operators on the 8<sup>th</sup> August 2019 asking for comments by no later than the 9<sup>th</sup> September 2019.

18. The Proposed revised fees policy has also been published on the Council web site.

## **FINANCIAL IMPLICATIONS**

19. There are no direct financial implications because the fees are remaining the same.

## **LEGAL IMPLICATIONS**

20. Fees must be set in accordance with the Act and should fairly cover the costs (or part of the costs) incurred by the Council under its functions in Part 1 of the Act, other than the costs of enforcement action.

## **COMMENTS OF THE STATUTORY FINANCE OFFICER**

21. Please see financial implications above.

## **COMMENTS OF THE MONITORING OFFICER**

22. There is no legal requirement to consult with mobile home owners. However, a consultation has been carried out to seek the views of those affected by the policy.

## **OTHER IMPLICATIONS:**

▶ <b>HR &amp; Organisational Development</b>	None identified
▶ <b>ICT / Technology</b>	None identified
▶ <b>Property &amp; Asset Management</b>	None identified
▶ <b>Risk</b>	None identified
▶ <b>Equality &amp; Diversity</b>	None identified

**There are no background papers to this report**

## **APPENDICES**

**Appendix A** – Proposed fees policy

David Whelan

Interim Monitoring Officer/ Legal Services Manager

Report Author:	Telephone:	Date:
Mark Marshall – Head of Licensing	01772 62(5401)	30 August 2019

# South Ribble Borough Council

## Mobile Homes Fees Policy

2019/2022



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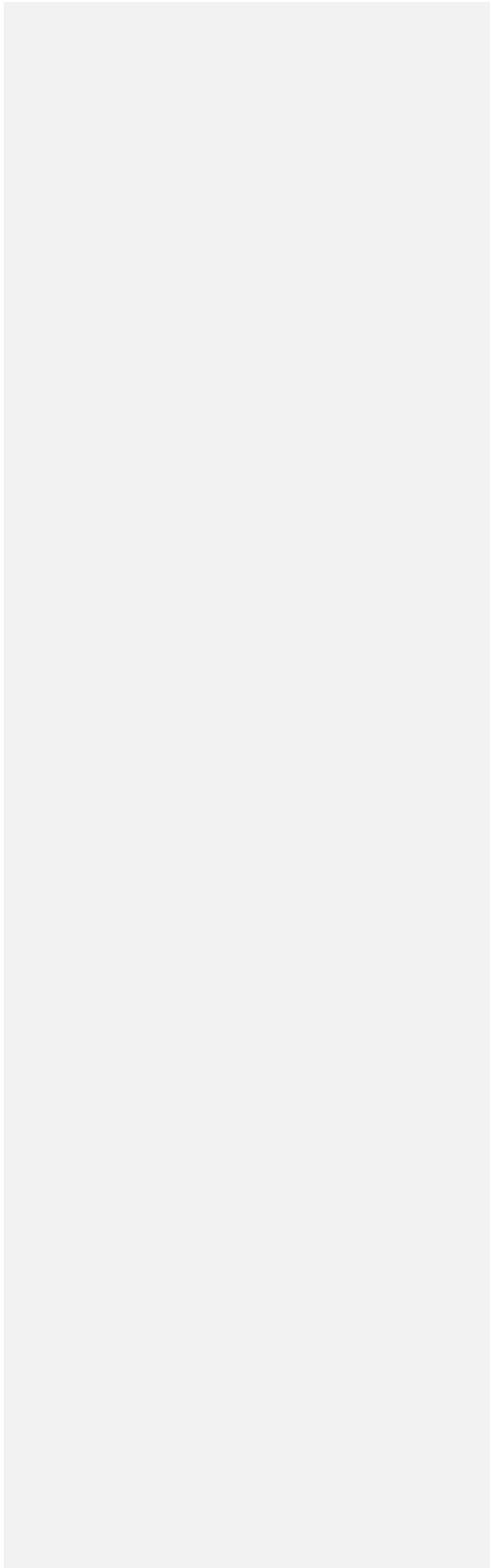
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1. Introduction
2. Fees charged for licensing
3. Application for a new site licence
4. Transfer/Amendment of an existing site licence
5. Annual fees for site licences
6. Enforcement Costs
7. Fees for depositing Site rules
8. Publishing and revising the fees policy

Appendix 1 – Elements which can be included in fee setting

Appendix 2 – List of current Mobile Home Sites with South Ribble

## **Related documents**

The following documents have been consulted when drafting this policy:

- The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)
- Mobile Homes Act 2013 (MHA 2013)
- Regulators Compliance Code
- RBC Corporate Enforcement Policy
- DCLG Guidance on Site Licensing Fee Setting
- [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285926/140227\\_\\_A\\_guide\\_for\\_Local\\_Authorities\\_on\\_setting\\_site\\_licensing\\_fees.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285926/140227__A_guide_for_Local_Authorities_on_setting_site_licensing_fees.pdf)

## **1. Introduction**

South Ribble Borough Council has granted Caravan site licences under **The Caravan Sites and Control of Development Act 1960** (as amended) (CSCDA60) for sites that have planning permission for a caravan site.

The CSCDA60 has now been amended by the **Mobile Homes Act 2013** (MHA 2013). The MHA 2013 was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the existing legislation had not been updated for more than 50 years.

This Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions.

The council can also now charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. The Fee generated by the MHA 2013 is not designed to include investigation of harassment or matters not related to the Site Licence – these should be dealt with through Residents Associations or other appropriate channels.

## **2. Fees charged for site licences**

The changes introduced by the MHA 2013 for Site Licensing came into force on 1st April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”. A relevant protected site is defined in the Act as any land to be used as a caravan site with planning consent, other than one where a licence is:

- Granted for holiday use only
- In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).

Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites and so on.

Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the CSCDA60, but the provisions relating to payment of fees do not apply.

Under the new Act, a fee can be charged for:

- applications to GRANT a new licence
- applications to TRANSFER or AMEND an existing licence
- Annual licence fees for administering and monitoring existing site licences.

This policy details the fees to be charged for all of these licensing functions.

The fee levels have been calculated based on the estimated average time and costs involved in undertaking the activities involved. (Appendix 1 details what the council can consider in calculating the fee levels)

The fee rates set out in this policy cover the period from adoption until 31st March ~~2019~~2022.

### **3. Application for a new site licence**

All sites require a site licence to operate (subject to exemptions in the CSCDA60); failure to apply for licence is an offence under Section 1(2) of CSCDA60.

The council may only issue a licence for a site with a valid and correct planning permission for the use.

Any application made before the planning status has been awarded must be processed within 6 weeks of the planning decision.

Sites which already have the correct planning permission in place must be processed within 2 months of the licence application.

The fee for a new site licence is currently **£260.57 fixed cost plus £6.50 per pitch** to reflect the variation in the cost of processing the application according to the size of the site.

### **4. Transfer / amendment of existing site licence**

Where a licence holder wishes to transfer the licence an application must be made to the council, for which a fee is payable. The fee must accompany the application to transfer the licence.

Similarly where a site owner requests an amendment to site licence conditions, the council can charge a fee for this function.

Applications can be made by licence holders to vary or cancel conditions; the fee is payable at the application stage.

If the council deem it necessary to alter conditions, there will be no fee payable.

The fee for an application for transfer or amendment of up to two site licence conditions is currently **£104.90**.

Where significant amendments to the site licence conditions are requested this is likely to involve a site visit so the fee for this licensing activity will increase to **£181.65**.

### **5. Annual fees for Existing Site Licences**

All relevant protected sites must pay an annual fee to the council (subject to any exemptions stated in this policy). The fee is due on 1st April each year and annually thereafter.

The annual fee covers the costs associated with administration, an annual site inspection to ensure compliance with the site licence conditions and a revisit to ensure compliance with any outstanding

works required. If there is still a breach in site licence condition at the point of the revisit further charges may be payable to cover the cost of any enforcement action which may be taken.

(See *Enforcement costs – section 6*)

~~The fee is currently £7.97 per pitch and is calculated on a price per unit based on the total estimated cost to the council of carrying out its annual licensing function for all sites in the Borough. The unit cost is multiplied by the actual number of units on each site to provide the annual fee payable.~~

The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating the annual fee:

- Option 1 – fee per pitch (A fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit)
- Option 2 – fee based on site size bandings
- Option 3 – fee based on a risk rating that takes into account the size of a site; the level of compliance on a site and confidence in management

Option 1 has been adopted as it is considered to offer the most transparency and fairness to both residents and site owners.

Initial charges have been based on average estimates. Fees will be assessed each year to determine accuracy as part of the Council's annual fees and charges setting process.

### **Conditions**

The conditions on the existing site licence will remain the same until the Council deem they are outdated or incorrect and then a review will take place or unless an application is made to amend conditions on the licence by the site owner.

### **Sites exempted from Annual Licensing fees**

- Sites that are not relevant protected sites
- Sites with 3 units or less
- Sites for the Site owner and their family (does not include sites that are run for financial gain)

These categories of site are exempt from the annual licensing fee as the council do not intend to carry out annual inspections of these sites, however, any complaints would be dealt with as appropriate.

### **Charging Arrangements**

For the purpose of this policy the period covered by the annual fee will be 1st April to 31st March each financial year.

The fee will be charged to the site owner / licence holder and invoices will be sent at the start of the financial year with payment due within 30 days. (Legislation allows the licence holder to pass on the annual fee cost to the resident's pitch fee)

Where a new site licence is issued part way through the year, the annual fee will also be due in the same year and an invoice will be sent after the licence has been granted for the pro-rata amount.

Where an amended licence is issued part way through the year (which included either additional units or a reduction in units), the change in annual fee would be calculated on a pro-rata basis for the remainder of the year and difference in fee would be adjusted against the following years annual fee.

In the event an annual fee is not paid within the terms of the invoice, the council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due.

## **6. Enforcement costs**

Where there has been a breach in a site licence condition which comes to the attention of the council we may serve a compliance notice.

The CSCDA60 details the elements which a local authority may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the notice. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on an hourly rate in addition to any other costs incurred for example legal costs.

### **Hourly rate for enforcement costs = £33.38**

Charges for enforcement costs cannot be passed onto the residents pitch fee.

If any works in the compliance notice are not carried out, the licence holder commits an offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court.

If a prosecution was successfully taken, the council would have the power to carry out the works in default of the licence holder.

## **7. Fees for depositing Site Rules**

Site Rules are different to the site licence conditions and are put in place by the owner of a site to ensure acceptable standards are maintained, which will be of benefit to occupiers or will promote and maintain community cohesion on the site.

The MHA13 changes the way site rules must be agreed between both parties. The council must keep an up to date register of site rules on relevant protected sites and publish the register on-line.

Before publishing the site rules the council will ensure the rules deposited have been made in accordance with the statutory procedure – a fee can be charged for this function.

Any site rules deposited with the local authority for the first time or applications to vary or delete existing site rules must be accompanied by the appropriate fee.

The fee is the same for either a first deposit or for a subsequent variation or deletion. This is because the process will be very similar for all three types of deposits.

The fee is currently **£81.14** and reflects the fixed costs for this function.

## **8. Publishing and revising the fee policy**

This fees policy will be published on the South Ribble Borough Council website at:  
[www.southribble.gov.uk](http://www.southribble.gov.uk).

The fees detailed in this policy have been determined based on experience of dealing with ~~site licensing historically with consideration of the changes the new Act has introduced. the function in 2018/2019~~

~~Some of the processes are new (for example the depositing of site rules) and therefore estimates have been made as to the cost of providing these services. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government which may impact on the processes and the time involved and may therefore result in a revision to the proposed charges.~~

**This policy will be revised no later than 31 March 2021~~29~~.**

## **APPENDIX**

### **Appendix 1 - Elements included in fee setting**

The DCLG guidance sets out the activities that the council can include when calculating its annual fee, these include:

- letter writing/ telephone calls etc. to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- handling enquiries and complaints;
- updating hard files/ computer systems;
- updating the EU Directive website if appropriate;
- processing the licensing fee;
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- review by manager or lawyers
- review any consultation responses from third parties;
- carrying out any risk assessment process considered necessary
- A pre- programmed full site inspection;
- A follow – up inspection to check compliance following programmed inspection

### **APPENDIX 2 – List of current Mobile Home Sites with South Ribble**

- Carrwood Park, Oakland Glen, Walton-le-Dale PR5 **(80 plots)**
- Croft Park, Wigan Road, Leyland PR25 **(Approx. 50 plots)**
- Penwortham Residential Park, Off Stricklands Lane, Penwortham PR1 **(78 plots)**

**TOTAL – 208 plots**

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