

Crawley Borough Council

Licensing Committee

Supplementary Agenda

Monday, 12 June 2023



Chief Executive

	Pages
5 Introduction of a Mobile Homes (Caravan Site) Licensing & Fees Policy	3 - 8
To consider report HCS/059 of the Head of Community Services.	
An addendum to the report is attached.	
8 Revisions to the Constitution: Licensing Committee Functions	9 - 16
To consider report HCS/062 / LDS/204 of the Head of Community Services/Head of Governance, People & Performance.	

NOTE: The Chair has agreed that, although this report and information was not available for at least five clear days before the meeting, there are special circumstances justifying its urgent consideration.



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EQUALITY IMPACT ASSESSMENT

Name of activity:	Caravan and Mobile Home Fees and Policy (The Policy)	Date Completed:	06/06/23
Directorate / Division responsible for activity:	Community Services	Lead Officer:	Kareen Plympton – Health, Safety and Licensing. Team Leader.
Existing Activity	<input type="checkbox"/>	Existing service, new / proposed strategy	<input checked="" type="checkbox"/>
		Changing / Updated Activity	<input type="checkbox"/>

What are the aims / main purposes of the activity?

The adoption of a Mobile Homes and Caravan Site Licensing Policy sets out the framework by which Crawley Borough Council will determine matters and includes a fee structure. The purpose is to include the requirements set out in the Mobile Homes (Site Licensing (England) Regulations 2014, and includes the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement For Manager of Site to be fit and proper person)England Regulations 2020, and its inter relationship with the Mobile Homes Act 2013

The Regulations require that should a Local Authority intend to charge fees, it must prepare and publish a Fee Policy. In in the case of Crawley Borough Council, this Policy also incorporates the “fit and proper person” requirement and reference to conditions applied to sites,

The adoption of the Policy fosters openness and transparency in the decision making process and provides a framework upon which decisions are made and also sets out the relevant matters to be considered by applicants seeking licences.

It is the new Policy and fee structure that is the subject of this equalities impact assessment, not existing services provided by the Council.

What are the main actions and processes involved?

The Policy provides the framework within which decisions are made in relation to mobile home and caravan site licensing and the fit and proper test in respect of site managers. It also sets out the fees to be charged for this activity (where relevant.)

Who is intended to benefit & who are the main stakeholders?

- Those persons or communities falling within the regulatory framework who by virtue of legislation must be licensed and that related activities are properly carried out and regulated.
- Persons and/or businesses wishing to apply for such a licence
- Persons occupying a site to ensure that specific standards and regulatory matters are complied with

Have you already consulted on / researched the activity?

The Council does not currently have any sites which would be impacted upon as a result of this Policy. If the Council wishes to charge a fee for any future operations, a Policy, inclusive of a fee structure must be adopted. Extensive research has taken place as to the practices adopted by other Authorities and this Council is a member of the Pan Sussex Caravan and Mobile Homes Group. Whilst each application is considered on its merits, this Council has mirrored the approach taken by the Pan Sussex Group to foster consistency of practice, alongside openness and transparency in decision making.

Impact on people with a protected characteristic

Protected characteristics / groups	Is there an impact (Yes / No)	If Yes, what is it and identify whether it is positive or negative
Age	No	Neutral – The focus of the Policy is to provide a framework, detailing the Councils approach in determining matters and the fees charged for services. It is not restricted to, or directed at, any particular group of people
Disability	No	Neutral – The focus of the Policy is to provide a framework, detailing the Councils approach in determining matters and the fees charged for services. It is not restricted to, or directed at, any particular group of people
Gender reassignment	No	Neutral – The focus of the Policy is to outline the Councils approach in determining matters and the fees charged for services. It is not restricted to, or directed at, any particular group of people
Marriage & civil partnership	No	Neutral – The focus of the Policy is to provide a framework, detailing the Councils approach in determining matters and the fees charged for services. It is not restricted to, or directed at, any particular group of people
Pregnancy & maternity	No	Neutral – The focus of the Policy is to provide a framework, detailing the Councils approach in determining matters and the fees charged for services. It is not restricted to, or directed at, any particular group of people
Race	No	Neutral – The focus of the Policy is to outline the service provision for all , and is not restricted to, or directed at, any particular group of people. There are provisions within the policy allowing for nil fees payable in specific circumstances as well as other exemptions brought about by legislation and regulations.

Religion & belief	No	Neutral – The focus of the Policy is to outline the service provision for all and is not restricted to, or directed at, any particular group of people.
Sex	No	Neutral – The focus of the Policy is to outline the service provision for all c and is not restricted to, or directed at, any particular group of people.
Sexual orientation	No	Neutral – The focus of the Policy is to outline the service provision for all and is not restricted to, or directed at, any particular group of people.
Socio economic	No	Neutral – The focus of the Policy is to outline the service provision for all, and is not restricted to, or directed at, any particular group of people.

What evidence has been used to assess the likely impacts?

This is a new Policy and the impact has been assessed as part of the Pan Sussex Authority Working Group alongside the legal requirements placed upon the Authority to determine licences. The Policy provides a framework for decision making and fees, but each case is considered on its merits.

What resource implications are there to deliver actions from this EIA?

Officer time will be needed to assess applications, consider site suitability and licence conditions to be imposed as well as the assessment of the fitness and propriety of a site manager. Further resources may be called upon to determine regulatory matters to ensure compliance with the licensing regime and in the case of complaint investigation.

Outcome following initial assessment

Does the activity have a positive impact on any of the protected groups or contribute to promoting equality, equal opportunities and improving relations within target groups?	No	Neutral – The focus of the Policy is to outline the service provision for all clients, and is not restricted to, or directed at, any particular group of people..
Does the activity have a negative impact on any of the protected groups, i.e. disadvantage them in any way.	No	Neutral – The focus of the Policy is to outline the service provision for all clients, and is not restricted to, or directed at, any particular group of people..

Decision following initial assessment			
Introduce new / planned activity	Yes	Amend activity based on identified actions	No

Action Plan			
Impact identified	Action required	Lead Officer	Deadline
Any changes to service delivery that result from implementing the Policy may themselves need to be assessed separately for their impact on people with protected characteristics	Upon application, a separate equalities impact assessment may be required	Kareen Plympton	NA

Monitoring & Review	
Date of last review or Impact Assessment:	N/A
Date of next 12 month review:	N/A review if significant changes are made to the Policy
Date of next 3 year Impact Assessment (from the date of this EIA):	N/A– review if significant changes are made to the Policy
Signed by Person Completing:	Kareen Plympton
Date Sent to HR and Equalities Team:	06/06/2023
Approved by Head of Service:	Georgina Bouette



Crawley Borough Council Equality Impact Assessment

Completed Equality Impact Assessment	Key findings	Future actions
<p>Directorate / Division:</p> <p>Function or policy name:</p> <p>Officer completing assessment (Job title):</p> <p>Date of assessment:</p>	<p>Community Service</p> <p>Caravan and Mobile Home Fees and Policy (The Policy)</p> <p>Kareen Plympton</p> <p>06/06/23</p>	

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Crawley Borough Council

Report to Licensing Committee

12 June 2023

Report to Governance Committee

13 June 2023

Revisions to the Constitution: Licensing Committee Functions

Report of the Head of Community Services and the Head of Governance, People & Performance – HCS/062 / LDS/204

1. Purpose

- 1.1 Following an audit carried out by the Southern Internal Audit Partnership in the Hackney Carriage and Private Hire application process, which is due to conclude shortly, it was identified that an anomalous function is listed within Section 9 of the Council's Constitution (Licensing Committee Functions) that conflicts with current practice.
- 1.2 Upon examination by officers, it has also been identified that there are several other functions delegated to the Licensing Committee which require minor amendments, or sub-delegation to the Head of Community Services, to ensure there are no unnecessary delays in the determination of cases and associated decisions which would normally be delegated to officers, unless representations (objections) have been received.

2. Recommendations

Licensing Committee:

- 2.1 That the Licensing Committee provides its views on the proposed revisions to the Licensing Committee Functions (as per Appendix A).

Governance Committee:

- 2.2 That the Governance Committee, having considered the views of the Licensing Committee, recommends to the Full Council that it amends the Licensing Committee Functions (as per Appendix A).

3. Reasons for the Recommendations

- 3.1 The Southern Audit Partnership has been undertaking an audit of the new driver application process within the Licensing Service and an anomaly was identified within the Licensing Committee Functions which conflicts with decisions that have been delegated to the Head of Community Services in relation to fees and charges where no objections have been received.
- 3.2 The Licensing Committee is required to make decisions on fees and charges when objections have been received. If objections are not received, this is delegated to the Head of Community Services in consultation with the Chair of the Licensing Committee.

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- 3.3 Function A (below) has created an unintended conflict which means that all decisions relating to fees and charges for licensing functions are required to be made at Licensing Committee regardless of the receipt of objections.

A) Review of fees and charges, including the annual review, in respect of functions of the Licensing Committee in order to recover the cost of the service as allowed by statute or where statutory provisions do not apply, by the limits set out in the Budget Strategy.

- 3.4 This has caused some confusion as to when and how a legal decision could be made to increase fees and charges outside of the Budget set at Full Council. The recommendation is to remove function A to retain current practice and to ensure the efficient adjustment of fees and charges can be made without requiring the Licensing Committee to convene each time.
- 3.5 Upon further review of the Constitution, it has been identified that minor amendments are required to ensure that the Licensing Committee is only constituted to make determinations on other application types listed in Appendix A where objections have been received, as those application types where no representations (objections) are delegated to the Head of Community Services, unless they feel the Committee is better placed to make the decision.
- 3.6 It is recommended that other functions listed within the Constitution and highlighted in Appendix A are removed as they are matters which do not relate to licensing, are purely administrative functions or that changes to legislation has meant they no longer require the Committee to consider cases in the same way, for example, pavement licensing.

4. Background Papers

- 4.1 Appendix A – Proposed Amendments to the Licensing Committee Functions
- 4.2 Appendix B – current Licensing Committee Functions (Section 9 of the Council's Constitution)

Report author and Contact Officer:

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PROPOSED AMENDMENTS TO THE LICENSING COMMITTEE FUNCTIONS

DECISIONS WHICH WILL BE TAKEN BY THE LICENSING COMMITTEE

All of the responsibilities of the Licensing Committee (detailed in Paragraph 2) are delegated to the Head of Community Services* except the following which are reserved to the Committee:

Function	Proposed action (i.e. delete, amend, add)	Reason for amendment
a) Review of fees and charges, including the annual review, in respect of functions of the Licensing Committee in order to recover the cost of the service as allowed by statute or where statutory provisions do not apply, by the limits set out in the Budget Strategy.	Delete	To reflect current practice whereby the review or fees and charges are included in the annual Budget and Council Tax report which is considered by Cabinet and approved by the Full Council.
b) Approval of fares for Hackney Carriages.	Retain	
c) Power to review and set fees for Private Hire vehicles, Private Hire Operators and Hackney Carriage vehicles (licences) where objections have been received and not withdrawn.	Retain	
d) Approval of all policy related documents regarding Hackney Carriages and Private Hire Vehicles.	Retain	
e) Approval of the Health and Safety Service Plan.	Delete	Delegated to Head of Community Services as this is a business-as-usual function.
f) Approval of the Food Service Plan.	Delete	Delegated to Head of Community Services as this as this is a business-as-usual function with the FSA largely dictating the content, and who externally audits this.
g) Power to issue licences authorising the use of land as a caravan site ("site licences").	Retain	
h) Power to license the use of moveable dwellings and campsites.	Retain	

Function	Proposed action (i.e. delete, amend, add)	Reason for amendment
i) Power to register pool promoters.	Amend	Would create unreasonable delays in determination. <i>Power to register pool promoters where objections have been received.</i>
j) Power to grant track betting licences and inter-track betting schemes.	Retain	
k) Power to grant permits in respect of premises with amusement machines.	Amend	Would create unreasonable delays in determination. There is also an automatic right to some classes of machines in certain settings and circumstances. <i>Power to grant permits in respect of premises with amusement machines where objections have been received.</i>
l) Power to register societies wishing to promote lotteries.	Amend	Would create unreasonable delays in determination. <i>Power to register societies wishing to promote lotteries where objections have been received</i>
m) Power to keep list of persons entitled to sell non-medicinal poisons.	Delete	This is an administrative function.
n) Power to licence all activities under the Animal animal trainers and exhibitors.	Delete	Delegated to the Head of Community Services within the context of the Animal Activities Licensing Regime
o) Power to grant permission for the provision of services, amenities, recreation and refreshment facilities on highways and related powers.	Delete	Delegated to the Head of Community Services as this is covered within the Street Trading Policy
p) Duty to publish notice in respect to propose the grant of permission under Section 115E of the Highways Act 1980.	Remove	Delegate to the Head of Community Services as the Pavement Licensing regime now covers

Function	Proposed action (i.e. delete, amend, add)	Reason for amendment
		this and could prevent application being determined.
q) Power to set fees for scrap metal dealer sites and mobile collector licences.	Delete	To reflect current practice whereby the review or fees and charges are included in the annual Budget and Council Tax report which is considered by Cabinet and approved by the Full Council.
r) Power to transfer enforcement functions to another enforcement authority under the Smoke-Free (Premises and Enforcement) Regulations 2006.	Retain	
s) Power to consider and license/refuse to license sex establishments in accordance with the Council's policy where objections have been received	Add	Not currently listed as a function.
t) Determination of licences under the Zoo Licensing Act 1981 where objections have been received.	Add	Not currently listed as a function.
u) Determination of applications for licences under the Dangerous Wild Animals Act 1976 where objections have been received.	Add	Not currently listed as a function.
v) Power to license performances of hypnotism where objections have been received.	Add	Not currently listed as a function.
w) Power to license pleasure boats and pleasure vessels where objections have been received.	Add	Not currently listed as a function.

* NB:

- *The Head of Community Services may further delegate these matters as they see fit.*
- *The Head of Community Services may decline to exercise any of the above functions in a particular case and must then refer the matter promptly to the Committee for consideration.*

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LICENSING COMMITTEE (15 Members)

1. PURPOSE

To discharge the functions of the Council as a Licensing Authority (with the exception of any functions which are reserved for the Full Council) relating to Hackney Carriages, Private Hire Vehicles, public safety, animal welfare, market and street trading, sex establishments, scrap metal dealing and other miscellaneous licensing and registration functions.

There is a split in the delegation of licensing functions between the Head of Community Services and the Licensing Committee. More information on the functions delegated to the relevant Head of Service and those functions reserved for the Licensing Committee can be found in this section and the Council Officer Responsibilities and Decision Making section of this Constitution.

Functions of the Council as a Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 have been delegated to the Licensing Sub-Committee (Hearings).

2. RESPONSIBILITIES OF THE LICENSING COMMITTEE

To discharge those functions relating to Licensing and registration as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Schedule 2 Paragraph 4 and as may be amended.

To exercise the powers and functions of the Council as a Local Licensing Authority that in law must not be the responsibility of the Cabinet which relate to Hackney Carriages, Private Hire Vehicles, public safety, animal welfare, market and street trading, sex establishments, scrap metal dealing and other miscellaneous licensing and registration functions.

All issues relating to Hackney Carriages and Private Hire Vehicles (including approval of policy documents) are solely the responsibility of the Licensing Committee.

To discharge those functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged, but not in the Council's capacity as an employer.

To discharge those functions relating to:

- Food safety under any "relevant statutory provision".
- Environmental Protection Act 1990.
- Anti-Social Behaviour, Crime and Policing Act 2015.
- Any associated legislation.

3. DECISIONS WHICH WILL BE TAKEN BY THE LICENSING COMMITTEE

All of the responsibilities of the Licensing Committee (detailed in Paragraph 2) are delegated to the Head of Community Services* except the following which are reserved to the Committee:

- a) Review of fees and charges, including the annual review, in respect of functions of the Licensing Committee in order to recover the cost of the service as allowed by statute or where statutory provisions do not apply, by the limits set out in the Budget Strategy.
- b) Approval of fares for Hackney Carriages.
- c) Power to review and set fees for Private Hire vehicles, Private Hire Operators and Hackney Carriage vehicles (licences) where objections have been received and not withdrawn.
- d) Approval of all policy related documents regarding Hackney Carriages and Private Hire Vehicles.
- e) Approval of the Health and Safety Service Plan.
- f) Approval of the Food Service Plan.
- g) Power to issue licences authorising the use of land as a caravan site ("site licences").
- h) Power to license the use of moveable dwellings and campsites.
- i) Power to register pool promoters.
- j) Power to grant track betting licences and inter-track betting schemes.
- k) Power to grant permits in respect of premises with amusement machines.
- l) Power to register societies wishing to promote lotteries.
- m) Power to keep list of persons entitled to sell non-medicinal poisons.
- n) Power to register animal trainers and exhibitors.
- o) Power to grant permission for the provision of services, amenities, recreation and refreshment facilities on highways and related powers.
- p) Duty to publish notice in respect to propose the grant of permission under Section 115E of the Highways Act 1980.
- q) Power to set fees for scrap metal dealer sites and mobile collector licences.
- r) Power to transfer enforcement functions to another enforcement authority under the Smoke-Free (Premises and Enforcement) Regulations 2006.

* NB:

- *The Head of Community Services may further delegate these matters as they see fit.*
- *The Head of Community Services may decline to exercise any of the above functions in a particular case and must then refer the matter promptly to the Committee for consideration.*

4. DOCUMENTS RELATED TO THE LICENSING COMMITTEE

- Council Officer Responsibilities and Decision Making.