

From: Mike Hill, Cabinet Member for Community and Regulatory Services
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To: Environment and Transport Cabinet Committee – 29 November 2019

Subject: Gypsy and Traveller Service: Proposed approach to the setting of fees and charges

Classification: Unrestricted

Past Pathway of Paper: n/a

Future Pathway of Pathway of Paper: n/a

Electoral Division: Canterbury City North, Cranbrook, Dover North, Malling Central, Malling North East, Sevenoaks Rural North East, Sevenoaks West, Sittingbourne North

Summary: This report updates the Environment and Transport Cabinet Committee on progress in the review of policies supporting the operation of the Council's Gypsy and Traveller Service. It follows the presentation of the draft Pitch Allocation and Site Management Policy to the Committee in October. This report presents the proposed approach to the setting of fees and charges, which along with the Pitch Allocation and Site Management Policy, will be subject to consultation in the New Year.

Recommendation: The Cabinet Committee is asked to discuss and make recommendations to the Cabinet Member for Community and Regulatory Services on the proposed approach to the setting of fees and charges to enable full cost recovery.

1. Introduction and background

- 1.1. Kent County Council (KCC) owns and manages eight settled Gypsy and Traveller sites and manages a further two sites on behalf of Maidstone Borough Council. Out of the 4,522¹ estimated Gypsy and Travellers living in Kent, approx. 343 residents² live on the eight sites owned and run by the KCC Gypsy and Traveller Service (GTS), and a further approximately 140 residents on the two GTS-managed sites in Maidstone.

¹ Office for National Statistics: Census 2011, CT0769 Metadata – Ethnic group: Gypsy, Traveller, Roma, Gypsy/Romany

² Gypsy and Traveller Service Census 2016, encompassing the eight KCC owned sites.

- 1.2. As reported to the Committee in July, the GTS is undertaking a fundamental review of both the sites it manages and the service it provides in order to deliver a more effective service whilst ensuring sustainability.
- 1.3. This report presents the latest development in this review – the proposed approach to the setting of fees and charges for Gypsy and Traveller sites that KCC owns and manages. It follows the presentation of the draft Pitch Allocation Policy to the Committee in October and will be followed in the New Year by a full draft fees and charges policy and schedule, and the asset management review of the full suite of sites.

2. Background

- 2.1. As a reminder to the Committee and as reported previously, the County Council has no statutory obligation to provide or manage Gypsy and Traveller sites. Rather, the responsibility for providing accommodation to the Gypsy and Traveller community rests with the district and borough councils through national planning policy, which KCC supports through the provision of 131 pitches in total across eight sites located in six districts. Therefore, it is critical that the service aims to achieve cost neutrality to the extent possible.
- 2.2. In running the service and its sites, a significant proportion of the GTS's activity is funded by income provided by pitch licence fees, which are intended to cover the costs of running and managing the sites.
- 2.3. Historically, however, the Council has been limited in what it could charge for pitch fees, as the process for setting fees was out of the Council's hands. The District Valuer Services (DVS) in the past have assessed and set 'rent' for Gypsy and Traveller sites.
- 2.4. Since 2016, it has been down to the local authority to set its own rent levels, albeit with a need to have regard to provisions in the Local Government Act and Mobile Homes Act (see para 3.2 below). Taking the historic rent levels set by the DVS as a baseline, pitch fees have been agreed with individual district authorities in line with the localised rent affordability calculations for social housing within any particular district or borough. The resulting pitch fee was calculated by comparing similar charges of rent in the locality and the condition of the accommodation.
- 2.5. Critically, the rent levels set covered only partial cost recovery for the service, to which the GTS has applied Retail Price Index (RPI) uplift only. As a result, fees have not kept in line with market rents and have fallen significantly behind in relation to actual costs.
- 2.6. In addition, whereas historically the service has been able to draw on a reserve for site maintenance, this reserve has been almost entirely exhausted in recent years, leaving the service very little budget for proactive or reactive maintenance of the sites, hence the need for an Asset Management Plan to inform fees and charges that allow sufficient proactive maintenance.

3. Local and national context and constraints

- 3.1. In setting fees and charges for Gypsy and Traveller sites, the local authority may have more discretion than previously when the DVS set rates; however, the Council is bound by national legislation in the Mobile Homes Act 1983 and the Local Government Act 2003 and other national guidance in charging “reasonable” fees and charges. The Mobile Homes Act specifically sets out limitations as to the way in which pitch fees are set and allows for residents to object when setting new pitch fees, such that a court order may be required to implement the new fees.
- 3.2. The Local Government Act ensures that charges set by local authorities should not exceed the cost of providing the relevant service. It is therefore critical that the service is as robust as possible in developing any cost model and subsequent fees and charges policy.
- 3.3. As a result of these national legislative constraints, further engagement with the Ministry of Housing, Communities and Local Government (MHCLG) will be undertaken as part of the development of KCC’s proposed fees and charges policy.
- 3.4. In addition, it is critical that KCC engages with the district and borough councils given their statutory responsibility for providing accommodation to the Gypsy and Traveller community. This engagement is particularly crucial in respect of ensuring that links to the districts’ provision of Housing Benefit (HB) are effectively made.

4. Proposed approach to the setting of fees and charges

- 4.1. With those constraints in mind, however, the service is proposing an approach to setting fees and charges that is based on **full cost recovery**. This is a shift from the earlier approach adopted by the service which saw only the recovery of direct costs, and which has now become unsustainable.
- 4.2. In addition, the service is continuing to develop a **robust asset management approach** to the sites, from which an Asset Management Plan will be developed to help inform the fees and charges that are set by the service. In this way, the Service will be learning from and moving to the same principles of sound asset management that other KCC services have moved in recent years including Public Rights of Way and highways.
- 4.3. By moving to full cost recovery and an asset management approach, the service will be able to provide a more sustainable service and an appropriate standard of quality across all sites, and to ensure value for money in providing the service.
- 4.4. The service is also committed to providing a **transparent and fair approach** to the setting of fees and charges. It is specifically worth noting that the Gypsy and Traveller community is protected under the Equality Act 2010 as a protected characteristic, and therefore, particular care must be taken to ensure that all policies are fair.

4.5. To this end, as a discretionary service, fees and charges should balance a realistic 'not for profit' return for the local authority with a reasonable charge to the residents for the services provided. They should also compare fairly with rents set nationally and locally by Registered Social Landlords and peer councils providing Gypsy and Traveller accommodation.

4.6. The resulting framework will be developed against a full assessment of the cost of the service to provide the sites, and the Asset Management Plan which will be presented to the Committee in the New Year, currently planned for March. The basic elements of the proposed framework are highlighted in the following paragraphs:

4.7. **Principles:** It is proposed that the following **principles** underpin the approach to the setting of fees and charges:

- **Viability** – sufficient income is generated to support the work of the GTS, ensuring sites are managed effectively and efficiently, protecting the interests of all residents and ensuring sustainability of the service provided;
- **Transparency** – the system of setting and apportioning the pitch fees and charges is transparent; and
- **Fairness** – the fees and charges set are fair, eliminating discrimination and promoting equality of opportunity

4.8. **Basis of full cost recovery:** In order to assess the basis for full cost recovery, the service is reviewing all costs associated with the running of its sites in providing a reasonable standard of accommodation, including:

- Direct costs of the service, including staffing;
- Indirect costs of the service, including overheads for the provision of service, such as staff accommodation, ICT and management costs; and
- Costs of maintaining the sites, including proactive and reactive asset maintenance as defined by the Asset Management Plan

4.9. **Fees and charges:** It is current proposed that the direct and indirect costs of providing the service along with some elements of the maintenance of sites will be covered by the **pitch fee**, whilst the introduction of a **service charge** is proposed to cover the costs of maintaining communal areas and services. The exact composition of the pitch fee and service charge will be subject to confirmation in the final fees and charges policy.

- 4.10. In addition, the service will charge for services for the repair and replacement of facilities if caused by a resident either through intentional damage, neglect or unauthorised works.
- 4.11. **Benchmarking:** In order to ensure the fees set are compliant with national legislation and guidance, a benchmarking exercise will be undertaken to compare the fees identified from the above full cost recovery calculation.
- 4.12. By way of context, the tables at **Appendix 1** show an overview of current benchmarking against the Council's Peer Group (Table 1) as well as regional average social rents as charged by Registered Social Landlords (RSLs) (Table 2). It demonstrates that the service is currently charging less than most of its peers and even more so against RSLs.
- 4.13. **Support for residents unable to pay:** The service will continue to work with residents that are finding it difficult to pay their fees and charges. The service is proactive in supporting residents to access benefits and/or other financial assistance where required. Where the resident is experiencing difficulty paying, the service will seek to put in place a payment plan for any debt accrued, providing advice and support as required to ensure the payment plan is effective. This plan works with the resident's circumstances to try to ensure they are able to pay their debt as effectively as possible.
- 4.14. **Debt enforcement procedure:** The proposed approach will include a debt enforcement procedure which starts once a resident is in arrears on payment of a fee or charge, with the service working with the resident to put in place a payment plan as indicated in 4.12. Where a resident either does not engage with the development of a payment plan or does not follow such a plan, there are clear stages to escalating the collection of the debt. This is supported by the employment in the service of a compliance officer, part of whose job it is to actively pursue the collection of debts owed to the service.

5. **Equalities Implications**

- 5.1. An Equality Impact Assessment (EqIA) will be undertaken to inform the development of the draft Fees and Charges Policy.

6. **Financial, GDPR and HR Implications**

- 6.1. The financial implications of the draft policy will be presented alongside the resulting draft fees and charges policy and schedule which will be presented to Cabinet Committee in the New Year, currently planned for March. However, the policy's aim of moving to full cost recovery for the service provided in maintaining the sites should provide greater financial sustainability to the service.
- 6.2. Further financial modelling will be undertaken to ensure that: there are adequate mitigations in place should there be any increase in fees or charges, that residents

are not disadvantaged financially, and that residents are supported to meet their obligations. Mitigations could include the phased introduction of increases to fees and charges. If the proposed increases are significant, officers will include options for the phased introduction of the increases in the next report to this Cabinet Committee.

- 6.3. The proposed approach to the setting of fees and charges does not contain nor consider any personal data and therefore there are no GDPR implications to report.

7. Legal implications

- 7.1. Any charges requested by KCC are based on the provisions contained in the Local Government Act 2003. Charges should not exceed the cost of providing the relevant service.
- 7.2. Fees and charges will have to be set with regard to the Mobile Homes Act 1983 (as amended) and the Housing Act 2004, which sets out how Gypsy and Traveller Site pitch fees may be reviewed and changed.
- 7.3. To this end, as indicated at para 3.3, the GTS will be engaging with MHCLG in the development of the proposed policy and resulting schedule.

8. Risks

- 8.1. Whilst the early benchmarking in **Appendix 1** would suggest that the indicative fees and charges are comparatively low, with any increase in fees and charges, there is a risk of some residents being either unable or unwilling to pay. In the case of the former, the GTS will continue to work positively with residents to connect them to financial support/assistance where appropriate. Where residents are in debt, a first step is for the GTS to work with the resident to put in place a payment plan.
- 8.2. Where residents are unwilling to pay, a full debt enforcement procedure will be clearly set out in the draft policy, and a compliance officer is in place within the GTS who is actively pursuing the collection of debt where necessary.

9. Conclusion, Next Steps and Timescales

- 9.1. By delivering a fee and charge setting process that has parity with national benchmarking, the local market and social housing, KCC will be delivering a comparable and fit-for-purpose fee setting and charges policy.
- 9.2. The Service is currently underway with a full asset management review, informed by condition surveys of the eight sites in question. An Asset Management Plan will be developed on the back of this review, which will set out programmes of proactive and reactive maintenance. This Plan will help inform the draft fees and charges policy and schedule.

- 9.3. In addition, the Service will be engaging with MHCLG in developing the draft fees and charges policy in order to ensure compliance with the relevant legislation. The Service will also be engaging with districts as part of this process.
- 9.4. It is intended that the Service will present the resulting Asset Management Plan and draft fees and charges policy and schedule to the Committee in March.
- 9.5. An optional briefing for Members on the draft Pitch Allocation and Site Management Policy, the proposed approach to the setting of fees and charges and on wider priorities and work of the KCC Gypsy and Traveller Service will be organised for the New Year.
- 9.6. Finally, it is worth noting that the Service is also developing the Unauthorised Encampments policy which will also be presented to the Committee in the New Year.

Recommendation: The Cabinet Committee is asked to discuss and make recommendations to the Cabinet Member for Community and Regulatory Services on the proposed approach to the setting of fees and charges to enable full cost recovery.

Background Documents

Appendix 1 – Benchmarking with comparators

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