

Overview & Scrutiny Commission

Date: 8th March 2023

Call-in: Brickfield Road Traveller Site Annual Review of Weekly Licence Fee

Lead officer: John Morgan, Executive Director of Adult Social Care, Integrated Care & Public Health

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Steve Webb, Business Support and Relationship Manager

Recommendations:

- A. That the Panel review and consider the information provided in response to the call-in relating to the decision to increase the Brickfield Road Traveller Site Weekly Licence Fee.
 - B. That the Panel refer the decision back to the Executive Director of Adult Social Care, Integrated Care & Public Health for reconsideration, setting out the nature of the Panel's concerns; or
 - C. Decide not to refer the matter back to the Executive Director of Adult Social Care, Integrated Care & Public Health, in which case the original decision stands.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. On 10th February 2023, the Executive Director of Adult Social Care, Integrated Care & Public Health, in consultation with the Cabinet Member for Housing and Sustainable Development, made the decision that the weekly licence fee for the rental of a pitch on the council's travellers' site be increased by 7% from 3rd April 2023. (Appendix 1)
- 1.2. The decision was made in response to a report prepared by the Business Support and Relationship Manager, that set out the background and the reasons for the increase. (Appendix 2)
- 1.3. The decision was called-in on 20th February 2023 by Cllr Samantha MacArthur, Cllr Jil Hall and Cllr Anthony Fairclough.
- 1.4. The reasons for the call-in are:
 - respect for human rights and equalities
 - consideration and evaluation of alternatives

2 DETAILS

[Background information relating to the annual review of the weekly licence fee](#)

- 2.1. On 22nd March 2010, as part of a Large-Scale Voluntary Transfer, the council transferred its housing stock to Merton Priory Homes [MPH] (now Clarion Housing.)
- 2.2. The council retained ownership of the Brickfield Road Traveller Site and entered into a 30-year management agreement for MPH to manage the site on behalf of the council. The management agreement forms part of the legally binding Stock Transfer Agreement.
- 2.3. Under Sections 6 and 12 of the management agreement, it says

*6.1 The Council will set a weekly licence fee to be payable by the occupants of the Site provided that such fee shall be **no less** than such amount as may be recommended by the Company [MPH] (acting reasonably) from time to time*

6.2 Subject to clause 6.1, the licence fee shall be reviewed at least annually by the Council and notified to the Company.

12.1 The Company shall be entitled to collect and retain any charges payable by the occupants under their occupancy agreements including the licence fees and water charges.
- 2.4. As part of the Stock Transfer offer, the council made a number of “promises” to its residents. One of these 91 promises was a 5-year promise to not increase rents by more than the standard Homes and Communities Agency (HCA) formula in use at the time: RPI + 0.5% + £2.08 per week. This promise was applied to the traveller site as well as the former council homes that transferred to MPH.
- 2.5. Once the 5-year limitation had expired, there was still a need for MPH/Clarion to continue to seek a review of the weekly licence fee. Accordingly, each year the current HCA/Government Regulator formula has been adopted. This included years 2016 to 2019 where the rent setting formula at that time was a 1% decrease in the weekly rents.
- 2.6. In 2019 the Government changed the formula to be used from April 2020 to CPI+1.0%. This remained the formula for increases in April 2021 and April 2022.
- 2.7. In September 2022 the CPI was 10.1%. If the formula had remained unchanged this would have resulted in an increase of 11.1%.
- 2.8. The Government consulted with registered providers and, in December 2022, agreed a below inflation increase capped at 7%, to be applied from April 2023.

Respect for human rights and equalities

- 2.9. The impact of the Government’s rent setting formula is national and is applied to all social rented tenants, including groups with protected characteristics.
- 2.10. The decision was not accompanied by a specific Equalities Impact Assessment due to it being the implementation of a national formula, which

in itself had its own impact assessment. That said, to ensure compliance and transparency an EIA has been completed and is attached as Appendix 3

- 2.11. On completion of the EIA, we assessed that there is a potential negative impact with regards to Race and Socio-economic status
- 2.12. The mitigating actions are:
- (i) Romany Gypsies and Irish Travellers are protected against race discrimination. This is because Romany Gypsies and Irish Travellers are ethnic groups under the Equality Act. All households on the Traveller site are affected equally by this increase regardless of their ethnic group.
 - (ii) Any households experiencing financial hardship can continue to apply for Housing Benefit/ Universal Credit for the rent of their pitch and can seek support from Clarion Housing if they have difficulties.

Consideration and evaluation of alternatives

- 2.13. As set out in 2.1 to 2.8 above, the council has entered into a legal contract with Clarion Housing whereby the weekly licence fee increase “shall be no less than such amount as may be recommended by Clarion Housing (acting reasonably) from time to time”.
- 2.14. Given that the increase implemented each year was in accordance with the Government’s rent setting formula, and this year the recommended increase is also in accordance with the Government’s rent setting formula, the recommendation is considered to be reasonable. (Appendix 4)
- 2.15. Households experiencing financial hardship continue to be entitled to claim Housing Benefit / Universal Credit, which will help mitigate any negative impact. The increased costs are therefore subsidised through the benefits system as are increases elsewhere in the social housing sector.
- 2.16. An increase lower than the 7% recommended by Clarion Housing would not be compliant with management agreement, so is not recommended.
- 2.17. An increase higher than 7% has not been requested by Clarion Housing and would not benefit the residents or the council.

3 ALTERNATIVE OPTIONS

- 3.1. The travellers’ site management agreement states that the weekly licence fee “shall be no less than such amount as may be recommended by Clarion Housing (acting reasonably) from time to time”. The proposed increase of 7% is considered to be reasonable as this is the same rate that will be applied to the tenants in Clarion Housing stock and it follows the Government’s current rent setting formula.
- 3.2. Alternative licence fee increase of less than 7% would not be in accordance with the management agreement and so is not recommended.
- 3.3. An increase above 7% would not be in accordance with the Government formula and would not benefit the residents or the council.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Clarion Housing have recommended the new licence fee and consulted the council on the level of the new licence fee and seeks the council's agreement.
- 4.2. Clarion Housing or the council has not consulted directly with the residents concerned. This is because the level has been set by the Government / Regulator and the national formula has not been calculated locally.
- 4.3. The Government had consulted widely on the rent increase prior to reaching a decision.

5 TIMETABLE

- 5.1. The setting of the licence fee needs to be agreed before April 2023.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the council. The income from the weekly licence fee is collected and retained by Clarion Housing to cover the cost of meeting their obligations and commitments under the management agreement.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Under the management agreement, which forms part of the stock transfer agreement, the council has legal responsibility for reviewing and setting the weekly licence fee, based on the amount recommended by Clarion Housing (acting reasonably). The council will be in breach of the transfer agreement if it fails to fulfil this responsibility.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The impact has been considered as part of the EIA attached.
- 8.2. There is a potential negative impact with regards to Race and Socio-economic status. Mitigating actions are
 - (i) Romany Gypsies and Irish Travellers are protected against race discrimination. This is because Romany Gypsies and Irish Travellers are ethnic groups under the Equality Act. All households on the Traveller site are affected equally by this increase regardless of their ethnic group.
 - (ii) Any households experiencing financial hardship can apply for Housing Benefit for the rent of their pitch and can seek support from Clarion Housing if they have difficulties.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The level of weekly licence fee increase proposed will enable Clarion Housing to manage the site effectively, including carrying out routine repairs and maintenance and complying with Health & Safety regulations.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix 1 - Original Non-Key Decision by Executive Director of Adult Social Care, Integrated Care & Public Health

Appendix 2 – Original report to the Executive Director of Adult Social Care, Integrated Care & Public Health and Cabinet Member for Housing and Sustainable Development

Appendix 3 - Equality Impact Assessment

Appendix 4 - Consultation with Clarion Housing.

12 BACKGROUND PAPERS

12.1.

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