

A Shared service provided by Bracknell Forest Council, West Berkshire District Council and Wokingham Borough Council

## Fee Policy for Protected Sites

### Caravan Sites and Control of Development Act 1960 & Mobile Homes Act 2013

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#### 1. Executive Summary

This Policy sets out the fees for the licensing process under the Caravan Sites and Control of Development Act 1960. These fees have been arrived at in accordance with guidance issued under the Mobile Homes Act 2013 and will be reviewed regularly as part of the Council's annual review of its fees and charges.

#### 2. Introduction

The Caravan Sites and Control of Development Act 1960 (CSCDA60) introduced a licensing system to regulate the establishment and operation of caravan sites.

The Mobile Homes Act 2013 (MHA13) was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the enforcement provisions had received no significant update since the original legislation. This Act also introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process which enhances the civil law provisions pertaining to the contract between the site owner and home owner.

There is an expectation that councils will inspect sites regularly in line with a risk based assessment and use the additional powers to ensure compliance with site licence conditions. The council can also now charge a fee for different licensing functions. The legislation also allows the council to serve compliance notices upon the site owner, take on works in default and requires the council to satisfy itself on the legitimacy of and publish any site rules relating to a site.

The charges introduced by the MHA13 only apply to relevant protected sites. A relevant protected site is defined in section 5A (5) and (6) of CSCDA60 (as amended), and further guidance has also been issued by the Department for Communities and Local Government (DCLG) entitled 'Park Homes: Site Licensing, Definition of relevant protected sites' (January 2014), and lists the types of sites which would fall within the definition. In summary:

'any licensable caravan site is a 'relevant protected site' unless it is specifically exempted from being so. A site is exempted if:

- it has planning permission or a site licence for exclusive holiday use
- there is a restriction on use as permanent residential

Section 10A (2) of CSCDA60 (as amended) requires a local authority to prepare and publish a Fee Policy where they propose to charge for functions associated with the regulation of relevant protected sites.

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

### **3. Fee Structure**

The Council has calculated fees in accordance with the provisions of MHA13 which allows a local authority to include all reasonable costs and this includes administrative costs, officer visits to the site, travel costs, consultations, meetings, undertakings and informal advice.

All rates of pay are set at full cost recovery. In arriving at the fees the tasks detailed in Appendix A were considered together with information collected upon the Council time recording system which relates to the relevant work carried out as part of the licensing process. Each task was apportioned a time based on those records and a rate based upon the cost of the person carrying out that action.

The fees will be considered annually and will be published for consultation by the Council's along with all other fees and charges that the Council's makes.

### **4. Application for a new licence**

All sites (subject to exemptions contained within the Act) require a site licence to operate; failure to apply for licence is an offence under Section 1(2) of CSCDA60. Section 3(2A) of the amended Act allows the local authority to require a fee to accompany applications for licences, and this should accompany any new application. The council may only issue a licence for a site with a valid and correct planning permission for the use.

The fee reflects the costs which would apply to any new licence application plus an amount to reflect the variation in the cost of processing the application according to the size of the site.

### **5. Transfer of an existing licence**

Where a licence holder wishes to transfer the licence an application must be made to the council. The fee must accompany the application.

## **6. Alteration of conditions on an existing licence**

Where a site owner requests a variation to site licence conditions the council will charge a fee.

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

If the council instigates the process to alter conditions no fee is payable.

## **7. Annual fees**

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 the 1st April each year.

Charges are based on estimates from experience associated with the administration responding to enquiries and conducting inspections of sites varying in type and size. The council is not permitted to make a surplus from this function.

The annual fee covers the costs associated with site inspections to ensure compliance with the site licence conditions and any follow up visit to ensure compliance with any informal schedule of works identified. If there is still a breach in site licence conditions at the point of the follow up visit further charges may be payable to cover the cost of any enforcement action which may be taken. Further details can be found in section 8 - Enforcement Action.

DCLG guidance offers a variety of suggested options for local authorities in calculating the annual fee and this approach has been adopted across the council as it is considered to offer transparency and fairness to both residents and site owners.

The fee is calculated to reflect the variation in cost due to the size of the site and in line with agreed fees and charges set out by each councils' area.

### **Exemptions from annual fees**

Sites where there is only 1 unit are excluded from the annual fee. This category of site is exempt from the annual licensing fee as the council do not intend to carry out annual inspections of these sites, however, any complaints or enquiries would be dealt with as appropriate.

### **Charging arrangements**

Where a new site licence is issued part way through the year the annual fee will be pro-rata for that year.

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 will be calculated on a pro-rata basis for the remainder of the year

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

## **8. Enforcement Action**

Where there has been a breach in a site licence condition the Council may serve a compliance notice. Section 9C of the CSCDA60 (as amended) details the elements which a local authority may include when imposing a charge for enforcement action. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on the hourly rate for the relevant officers.

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.

## **9. Fees for depositing, varying or deleting sites rules**

Site rules are put in place by the owner of a site to ensure acceptable standards which benefit occupiers and 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 online.

Before publishing the site rules the council will ensure the rules deposited have been made in accordance with the statutory procedure.

The Council can charge a fee for depositing, varying or deleting site rules.

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 as the process is very similar for all three types of deposits.

## **10. Revising the Fee**

The fees detailed in this Policy have been determined based on full recovery of costs. The costs have been assessed according to past experience of dealing with site licensing with consideration of the likely impact of the changes the MHA13 has introduced.

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, further regulation by government may impact on the processes and the time involved and therefore may result in a revision to the charges.

The fees will be reviewed as part of the annual review of Council fees and charges.

## **Annex A - Elements included in fee setting**

The DCLG guidance sets out the activities that the council can and cannot include when calculating its annual fee. A Local Authority **can** include:

- letter writing/calls etc. to make appointments and request documents or other information from the site owner or 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;
- land registry searches
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- preparing draft and final licences
- review by manager or lawyers
- review any consultation responses from third parties;
- updating public register
- carrying out any risk assessment process considered necessary
- reviews of decisions or in defending appeals
- A pre-programmed full site inspection;
- A follow-up inspection to check compliance following programmed inspection

A local authority **cannot** take into account when setting fees costs incurred in exercising their functions under

- Section 9A-9I Caravan Sites and Control of Development Act 1960 (the Act) (relating to enforcement due to breach of licence conditions);
- Section 23 of the Act (prohibiting the siting of caravans on common land); or
- Section 24 of the Act (the provision of caravan sites by local authorities).

In addition, section 10A (4) (b) of the Act prohibits a local authority from taking into account when setting fees costs it incurs under the Act, other than those relating to a relevant protected site.

No fees can be charged for holiday or other non permanent residential sites. Sites which are in mixed use i.e. partly holiday with some permanent residential homes which fall within the definition of relevant protected site fees can therefore be charged.

A local authority cannot make a profit. Any charges must be limited to recovering the costs of exercising their licensing function as it relates to relevant protected sites.

## **Annex B**

### **Current Fees & Charges**

Available on request. Please contact the environmental health section of the Public Protection Partnership on 01635 519912 or email [ehadvice@westberks.gov.uk](mailto:ehadvice@westberks.gov.uk) for a current list of the fees and charges relating to caravan site licensing.