



Draft Central Bedfordshire Council Park Home Site Licensing Fees Policy 2014

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Executive Summary

The Mobile Homes Act 2013 (MHA 2013) was introduced in order to provide greater protection to occupiers of residential caravans and mobile homes. It received royal assent on 26th March 2013 with some parts implemented on 26th May 2013. The MHA 2013 will introduce some important changes to park home site licensing on 1st April 2014 due to its amendments to Caravan Sites and Control of Development Act 1960 (the Amended Act). These changes include the ability for Local Authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees.

In order to be able to charge these fees the Council needs to publish them within a Fees Policy. This Central Bedfordshire Council Park Homes Fees Policy has therefore been formulated so that these fees can be incorporated within the Council's 2014/15 Fees and Charges Schedule. Publication of this Fees Policy by 1st April 2014 will enable fee recovery by the Council at the earliest possible point in time and enable Site Owners to recover these costs should they opt to increase pitch fees at the next pitch fee review date.

The fees associated with applying initially for a new site licence, for transfers/standard amendments of existing licences, site expansion amendments, and for annual fees are to be set initially as follows:

Initial Licence Fee = £53.61 per pitch

Transfer or Standard Amendment Fee = £249.88 per site/application

Site Expansion Amendment Fee = £27.87 per pitch

Annual Fee = £11.62 per pitch

Sites that are for holiday use only or are only allowed to have units stationed on them at certain times of the year are exempt from licensing fees. These are the only statutory exemptions, however, the Amended Act enables Local Authorities to fix different fees or to determine that no fee is required to be paid in certain cases or descriptions of case.

It was felt appropriate for Central Bedfordshire Council to make single pitch sites exempt from annual fees (but not other licensing fees) as these lower risk sites are less onerous to inspect and collecting annual fees from them would not be cost effective.

The MHA 2013 also introduced the ability for Local Authorities to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions from 1st April 2014. The Council would be able to charge fees in relation to this. The fee for Housing Act 2004 enforcement notices is already set at £208.10 for 2013/14 and is likely to remain the same for 2014/15. Due to the similarity of Housing Act and park home site enforcement notices the latter will be set to mirror the former. The

administration charge for works in default for park home site enforcement will be set at the same level as that for Housing Act enforcement works in default which is likely to remain at 20%.

Site Rule Regulations are due to come into force in Autumn 2013 which will set out the timescales (likely to be 12 months from that date) within which site owners will need to replace existing site rules with new ones that should be deposited with the Local Authority. Local Authorities will be able to require a fee when site rules are deposited and will be required to publish an up to date register of site rules. The fee for depositing site rules with the Council will be set at £30.91.

The MHA 2013 also makes provision for regulations to be made requiring site owners to be "Fit and Proper Persons" and for Local Authorities to keep up to date a registers of fit and proper persons to manage relevant protected sites. Local Authorities would be able to charge a fee for fit and proper person register applications. The fee for such applications will be set at £105.75.

1. Introduction

The Caravan Sites and Control of Development Act 1960 (CSCDA 1960) came into force on 29th August 1960. Part one of the Act introduced a licensing system, to be operated by Local Authorities to regulate the establishment and operation of caravan sites. Section 29 of this Act defines what constitutes a caravan and caravan site, and these are commonly known as park homes and park home sites.

The first schedule of the Act sets out cases where a site licence is not required, including:

- Local Authority-owned sites
- Use incidental to a dwellinghouse within the same curtilage
- Sites where a single caravan is stationed on land for not more than two nights and not more than 28 days in any 12 month period
- Sites where caravans are stationed on land not less than five acres for not more than 28 days and no more than three caravans are stationed at any one time
- Sites where caravans are solely for seasonal agricultural/forestry workers employed on land owned by the site owner
- Sites where caravans are solely for workers employed in building or engineering operations on that or adjacent land
- Sites used by travelling showmen who are members of a relevant organisation
- Sites occupied by organisations holding a certificate of exemption

Licences can only be issued to the owners of sites that have obtained valid planning permission.

As of October 2013 the Council was administering site licenses for 82 Park Home sites with the total number of units across all sites exceeding 1200. The extent of work with each site will vary according to size, complexity, and whether there are issues arising with residents.

The Department of Communities and Local Government (DCLG) launched a consultation in April 2012 on proposed major reforms to the relevant legislation with the aim of giving greater protection to occupiers of residential caravans and mobile homes. DCLG stated in their Impact Assessment of the consultation “A Better Deal for Mobile Home Owners - Changes to the Local Authority Site Licensing Regime” (published November 2012) that the existing legislation did not allow local authorities to charge fees for issuing and monitoring site licenses, or taking enforcement action if conditions were not met. They added that in practice, this severely limited local authorities’ resources to provide effective scrutiny of the sector.

As a consequence new legislation in the form of The Mobile Homes Act 2013 (MHA 2013) was introduced. This received royal assent on 26th March 2013 with some parts implemented on 26th May 2013. The MHA 2013 will introduce some important changes to park home site licensing on 1st April 2014 due to its amendments to CSCDA 1960. These changes include the ability for Local Authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. Site owners may recover the annual fees through an increase in pitch fees, however, residents will benefit as these fees will help Local Authorities to increase their activity in an area that has historically been under-resourced.

Section 10A (2) of the CSCDA 1960 as amended by the MHA 2013 (the Amended Act) requires a Local Authority to publish a Fees Policy before charging fees for the licensing of park home sites. The Central Bedfordshire Council Park Homes Fee Policy (the Fees Policy) has therefore been developed to enable the Council to begin charging these fees on 1st April 2014.

The MHA 2013 also introduced the ability for Local Authorities to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions from 1st April 2014. The associated fees and charges are therefore also included in the Fees Policy.

The MHA 2013 also introduced changes relating to site rules. Site rule regulations are due to come into force in Autumn 2013 which will set out the timescales (likely to be 12 months from that date) within which site owners will need to replace existing site rules with new ones that should be deposited with the Local Authority. Local Authorities will be able to require a fee when site rules are deposited and will be required to publish an up to date register of site rules. The Fees Policy sets out what this fee will be.

One further aspect of the MHA 2013 where Local Authorities would be able to require a fee is upon application from a site owner to be included in the Council's register of fit and proper persons for managing relevant protected sites. The MHA 2013 makes provisions for regulations to be made requiring site owners to be "fit and proper persons" and for Local Authorities to keep such registers up to date, and therefore it is prudent to include the relevant fee within the Fees Policy.

2. Fees for Initial Licence, Transfer/Amendment, Amendments for Site Expansion, and Annual Fees

2.1 Overview

Subject to the exemptions detailed in the introduction there is a requirement for site owners to ensure that their park home sites are licensed. Failure to do

so would be an offence under Section 1(2) of the CSCDA 1960 which can attract a fine not exceeding level 4 (currently £2500) on the standard scale upon summary conviction.

Section 3 (2A) of the Amended Act enables Local Authorities to require a fee in respect to a relevant protected site application.

Section 5A (1) of the Amended Act enables Local Authorities to require an annual fee to be paid by site owners in respect of relevant protected sites.

Local Authorities may also charge a fee for alterations to licence conditions where these are requested by a site owner or where an application to transfer the licence to another person/organisation is received (Section 8 (1B) and Section 10 (1A) of the Amended Act, respectively).

When requiring a licence holder to pay an annual fee the Council must inform them of matters to which they have had regard to in fixing the fee for the year in question, in particular the extent to which they have had regard to deficits or surpluses in the accounts for the annual fee for previous years. The costs associated with monitoring conditions on sites and dealing with licensing matters informally can be included within annual fees. However, annual fees should not take into account any costs incurred in relation to enforcement activities such as serving compliance notices, emergency action, and works in default as these costs can be recovered by other means. Costs relating to Local Authorities providing sites for caravans cannot be taken into account in fee determination either.

2.2. Exemptions from paying fees

Sites that are for holiday use only or are only allowed to have units stationed on them at certain times of the year are exempt from licensing fees by virtue of not falling within the definition of “Relevant Protected Sites”. These are the only statutory exemptions, however, Section 10A (3) of the Amended Act enables Local Authorities to fix different fees or to determine that no fee is required to be paid in certain cases or descriptions of case.

It was felt appropriate for Central Bedfordshire Council to make single pitch sites exempt from annual fees (but not other licensing fees) as there are less issues (e.g. spacing) to consider when carrying out routine monitoring compared with multiple pitch sites. In addition to this, collecting annual fees from single pitch sites would not be cost effective. The intention would be to monitor these sites less frequently than those attracting an annual fee due to the lower risk generally associated with single pitch sites. The costs associated with monitoring single pitch sites would be met through existing budgets.

2.3 Fees for Initial Licence, Transfer/Amendment, Amendments for Site Expansion, and Annual Fees

In addition to setting fees for the initial licence, transfer/amendment of licence, and annual fees there was a need to set an elevated level of fee for amendments to site licences relating to the expansion of sites to include additional pitches. The reason for the elevated level of fees is that these applications take significantly more time to deal with than a transfer or more straightforward amendment to a site licence, as they involve elements akin to the initial licensing of a site.

The calculation and methodology relating to the calculation of fees is explained in detail in Appendix A. However, in summary this involved a costing exercise using templates breaking down the amount of time taken for various steps in the processes. These templates included both fixed elements and elements (e.g. inspection time) that varied with the number of pitches. The templates were reviewed by officers responsible for licensing park home sites at Central Bedfordshire Council and other Local Authorities. Amendments to the templates were made as a result of initial feedback and subsequent feedback from the DCLG Working Group which indicated that it may be better to apply the cost of re-inspections through a surplus/deficit mechanism in the annual fee for subsequent years rather than including within the base annual fee. This would ensure that residents would not be adversely affected by the cost of re-inspections resulting from poor management, as site owners would only be able to take into account the base fee when recovering the cost of annual fees through pitch fees. Details of the initial benchmarking exercise are shown in Appendix B.

The average officer hourly rate was applied to the total time taken for the processes and other costs such as printing, postage and mileage were added. These templates were then used to create formulas that could be used in the calculation of the various fees.

Annual fees were calculated by determining the total cost of providing the service for all current non-exempted sites using the appropriate formula. This was then divided by the total number of pitches on these sites.

Annual Fee = £11.62 per pitch.

Amendment fees for expanding sites was calculated by using the relevant formula to determine the total cost of for processing such an application for all existing relevant protected sites. This was then divided by the total number of pitches on these sites.

Site Expansion Amendment Fee = £27.87 per pitch.

The fee for the transfer or standard amendment of an existing licence was calculated by using the relevant formula to determine the cost of processing such applications. As the cost is not dependant on the number of pitches a single figure per site was obtainable.

Transfer or Standard Amendment Fee = £249.88 per site.

We cannot accurately predict what new site licence applications the Council will receive going forward. It was therefore felt appropriate to work on the basis that new applications would broadly reflect the diversity with regards pitch numbers of the current relevant protected sites. As a consequence the fee for processing a new application for a site licence was calculated by using the relevant formula to determine what the total cost would be of processing new applications for all the existing relevant protected sites and then dividing that cost by the total number of pitches on these sites.

Initial Licence Fee = £53.61 per pitch.

When requiring a licence holder to pay an annual fee the Council will inform them of the matters to which they have had regard to in fixing the fee for the year in question, in particular the extent to which they have had regard to deficits or surpluses in the account for the annual fee for previous years. In determining the deficits or surpluses in the account any costs relating to the monitoring of conditions on sites, including informal action, will be considered by the Council unless they are specifically excluded by the Amended Act.

2.4 Time when Fees are payable

Section 10A(5) of the Amended Act states that the Fees Policy must include provision about the time at which the annual fee is payable. For the purpose of this policy the period covered by the annual fee will mirror the financial year (1st April to 31st March) and will be paid in advance. Invoices will be sent out during the month of April requiring payment within 30 days. Where a new site is licensed part way through the year then an invoice with the same payment terms will be sent shortly after the licence is issued for the pro-rata amount.

Where a site is expanded part way through the year to include additional units the corresponding higher fee would apply from that point. In such cases an invoice with the same payment terms, covering the difference between the original and increased fee for the remainder of the financial year will be sent shortly after the amended licence has been issued.

3. Charges for Enforcement Notices and Works in Default

3.1 Overview

Section 9A of the Amended Act allows Local Authorities from 1st April 2014 to serve compliance notices on site owners where site licence conditions are breached. These notices will set out what the site owner needs to do to correct the breaches and the timescales, and the notice will attract a charge. Failure to comply with the notice would be a criminal offence, punishable by a fine at level 5 on the standard scale (currently £5000), and the site licence

could be revoked upon a third or subsequent prosecution. Following a successful prosecution for breaching a compliance notice Local Authorities will be able to serve notice to enter the site and carry out the necessary works (Works in Default).

In addition to this, Section 9E of the Amended Act allows a notice to be served on site owners enabling the Local Authority to enter the site and take emergency action where there is an imminent risk of serious harm.

The cost of deciding whether to take action, preparing and serving the various enforcement notices and the actual work itself can be recovered by Local Authorities through charges for notices and recharging for works in default.

Unpaid charges can be placed as a charge against the site owner's land.

3.2 Charges for Enforcement Notices and Works in Default

As this is a new provision Local Authorities have little to base their charges for park home enforcement notices on. However, the processes involved are going to be very similar to those involved in the service of Housing Act 2004 enforcement notices. The level of charge for these notices was arrived at through a time and officer cost calculation and benchmarked against other Local Authorities in 2010. Since then this charge has increased annually by the same percentage as other charges in the Council's Fees and Charges Schedule and stands at £208.10 for 2013/14. This charge is likely to remain at the same level for 2014/15 and therefore the charge for park homes enforcement notices should mirror the charge for Housing Act 2004 notices at £208.10.

Similarly, the administration charge that is added to the cost of works when recovering expenses relating to works in default should mirror that set for Housing Act 2004 works in default at 20%. As the Council cannot recharge the VAT element of the cost of work in such cases setting the admin charge any lower than 20% may lead to site owners failing to comply with notices on the basis that the Council's charge would be cheaper than paying for a VAT registered contractor themselves to carry out the works.

4. Fees for Depositing Site Rules

4.1 Overview

Site rules are different to site licence conditions in that they are neither created nor enforced by Local Authorities. They are a set of rules created by the site owner which residents have to comply with. They may reflect the site licence conditions but will also cover matters unrelated to licensing. The Mobile Homes Act 2013 makes amendments to the Mobile Homes Act 1983 Act in relation to site rules. Site rule regulations are due to come into force in

Autumn 2013 which will require existing site rules to be replaced with new site rules to be deposited with the Local Authority within a specified timescale (likely to be 12 months from that date).

Local Authorities will need to satisfy themselves that replacement or new rules deposited with them have been made in accordance with the statutory procedure. They will also be required to establish, keep up to date, and publish a register of site rules. In doing so a Local Authority may levy a fee for the depositing of site rules, or the variation or deletion of site rules.

4.2 Fees for depositing Site Rules

Once an administrative system is in place for holding and publishing site rules it is estimated that it will take approximately 1 hour for officers to undertake their duties in relation to the deposited site rules. It is therefore appropriate to set a fee of £30.91 (based on the appropriate hourly rate) for the depositing of site rules by site owners. The relevant calculations can be viewed in Appendix A.

5. Fees for Fit and Proper Persons Register Applications

5.1 Overview

Section 8 of the MHA 2013 relates to “Fit and Proper Persons” in respect to relevant protected sites, however, it does not come into force until the Secretary of State (SoS) issues the necessary statutory instrument.

Should this come into force then it would enable the SoS to issue regulations making it an offence for a site owner to manage a site if the Local Authority does not consider them to be a fit and proper person. It would also enable the SoS to issue regulations requiring the Local Authority to establish, publish and keep up to date a register of persons they are satisfied are fit and proper persons to manage protected sites in their area, and enable them to charge a fee for applications for inclusion on the register.

5.2 Fees for Fit and Proper Persons Register Applications

The benchmarking exercise shown in Appendix B revealed that most of the Local Authorities that responded believed that proper fit and proper person checks would take 120 minutes. It is anticipated that updating and publishing a register would take a further 30 minutes. It is therefore appropriate to set a fee of £105.75 (based on the appropriate hourly rate) for making fit and proper person applications. The relevant calculations can be viewed in Appendix A.

6. Revising Fees

6.1 Revising Fees

The fees covered by the Park Homes Fees Policy will be increased annually by the same percentage that is applied to other fees in the Council's Fees and Charges Schedule. Should a more significant change in fees be required then the Park Homes Fee Policy will be revised and published.