

**Public Protection Partnership**

**Fee Policy for Relevant Protect Sites**

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

Date: August 2021

Version: 24 8 21

Classification: Internal, public

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A shared service provided by  
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West Berkshire Council and  
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## Document Control Information

Version	DATE	DESCRIPTION
13/8/21	13 8 21	complete for JMB
24 8 21	24 8 21	RG update

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## Appendix 1 Definitions

### **1. Executive Summary**

This policy sets out 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 Councils' 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 (MHA 13) 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 introduced 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 risk based assessment and use the additional powers to ensure compliance with the site licence conditions. The council can also 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 require the council to satisfy itself on the legitimacy of and publish any site rules relating to a site.

The charges introduced by the MHA 13 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 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
- Sites where conditions require that there are times of the year when no caravan may be stationed on the land for human habitation
- Sites are occupied only by the site owner and his/her family or by persons employed by the site owner except where under an agreement to which the Mobile Homes Act 1983 applies.

Section 10 (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 within 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 MHA 2013, 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.

It is based on the guidance issued by the Department for Communities and Local Government (DCLG) 'A Guide Local Authorities on setting site licensing fees'.

The fees in this policy are based on the Public Protection Partnership (PPP) hourly rate which is reviewed annually and presented to Council as part of the Fees and Charges, and is published on Council websites.

The number of caravans taken for the calculations are from the number of caravans applied for within the caravan site licensing application; or on the actual number of caravans on site deemed safe if not explicit on the licence

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

All sites (subject to exemptions contained within the Act) requires a site licence to operate; failure to apply for a licence is an offence under Section 1 (2) of CSCDA 60. 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. This amount per unit additional cost will be capped at 200 units as reflects the Government charging regime.

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

Where a licence holder wishes to transfer the licence an application must be made to the council. An application form produced by Public Protection Partnership (PPP) is available for this purpose. The fee must accompany the application.

## **6. Alteration of conditions on an existing licence (also known as a variation of site licence conditions)**

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

Applications can be made by licence holders to alter or cancel conditions. An application form produced by PPP is available for this purpose.

If the council instigates the process to alter the conditions, no fee is payable. The fee will be based on the direct work involved when considering the alterations.

As this fee is based on cost recovery an indication will be given in advance of an estimation of the time taken, this will be subject to change should subsequent matters that require consideration arise. The officers will attempt to keep the applicant aware of such issues. Areas of work that arise as a result of the application, but which are not relevant to the application for alteration, will not be included in the fee determination. The fee determination will relate to hours worked by officers of Public Protection Partnership.

## **7. Annual fees**

All relevant protected sites must pay an annual fee to the council (subject to any exemptions stated in this policy). The process will begin on 1<sup>st</sup> April each year.

Public Protection Partnership have adopted the DCLG (Ministry of Housing, Communities and Local Government) guidance in calculating the annual fee as it is considered to offer transparency and fairness to both residents and site owners.

The annual fee covers the costs associated with site inspections and reviews to ensure compliance with the site licence conditions and any follow up visit to ensure compliance with any informal schedule of works identified.

The fee takes into account the variation in size of the sites as it is based on the number of units on the site.

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.

The council is not permitted to make surplus from this function.

Exemption from annual fees; sites where there is only 1 unit and or 1 pitch 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. This is in line with the DCLG guidance.

Charging arrangements; the calculation is based on the number of caravans stated within the caravan site licensing application; or on the actual number of caravans on site deemed safe if not explicit on the licence, (this is in line with the DCLG guidance option 1).

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 by the date specified in the order; and the order may make provision about the manner in which the payment is to be made. Where a licence holder fails to comply with an order made by the First Tier Tribunal within the period of three months beginning with the date specified in the order for the purposes of that subsection, the local authority may apply to the First Tier Tribunal for an order revoking the site licence.

## **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 CSCDA 60 (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 site rules**

Site rules are put in place by the owner of a site to ensure acceptable standards which benefit residents and promote and maintain community cohesion on the site.

The Mobile Home Act 2013 (MHA 13) changes the way site rules must be agreed between both parties. The Council must keep an up to date register of site rules in relevant protected sites and publish the register on line.

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.

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

The fee policy for relevant protected sites will be reviewed as part of the wider review of the Public Protection Partnership Private Sector Housing Policy.

## **11. 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;
- 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 fee 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 fee 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 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.

## 12. Fit and Proper Person Register

For new and existing Caravan sites that fall into the scope of the Fit and Proper Person Register the application fee is set at a 2 hour fee based on existing hourly rate, plus hourly rate for each hour or part thereof should the application determination go over the 2 hours.

The fee for annual checking is directly cost recovery, based on the hourly rates and time taken.

## 13. Current Fees and Charges

Available on request, and on the Public Protection Partnership website. Please contact Public Protection Partnership on 01635 519912 or email [EHadvice@westberks.gov.uk](mailto:EHadvice@westberks.gov.uk) for a current list of fees and charges.

### Appendix 1

#### Definitions

For full interpretation/definition of terms please refer to:

The Caravan Sites and Control of Development Act 1960 (as amended)

The Mobile Homes Act 2013

The Mobile Homes Act 1983

The Mobile Homes (Site Rules) (England) Regulations 2014

A). "**caravan site**" has the meaning assigned to it by subsection (4) of section one of the Caravan Sites and Control of Development Act 1960.

B). **Pitch** is defined in Part 1 Chapter 1 of the Schedule 1 to the 1983 Act as meaning: the land, forming part of a protected site and including any garden area, on which an occupier is entitled to station a mobile home in terms of the agreement.

C). The term '**caravan**' refers to all caravans, mobile homes and park homes that do not fall under the definition of a 'dwelling' in the Housing Act 2004, but that meet the definition of a caravan in the Caravan Sites and Control of Development Act 1960 (CSCDA).

D). **Alteration or variation** of site licences are deemed as having the same meaning for the purpose of setting fees.