



Pendle Borough Council

Environmental Health

**Mobile Homes,
Charges for Residential Sites
Policy**

September 2018

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1.0 **Summary**

- 1.1 The Mobile Homes Act 2013 (MHA 13) was introduced to provide greater protection to occupiers of residential caravans, and park homes.
- 1.2 Royal Assent was received on 26th March 2013 with some parts introduced on 26th May 2013. The MHA 2013 introduced some important changes to park home licensing 1st April 2014, due to its amendment of the Caravan Sites Control of Development Act 1960.
- 1.3 Changes include the ability of Local Authorities to charge site owners a fee for:
- Applying for a site licence;
 - Amendments and transfers of existing licences;
 - Depositing site rules, and
 - Annual fees.

- 1.4 In order to be able to charge these fees the Council needs to publish them within a fees policy.

The fees associated with site licensing include:

- Applying for a new site licence,
 - Transfer of an existing licence;
 - Alteration of a condition of an existing licence; and
 - Setting of an annual fee.
- 1.5 Sites that are for holiday use only or sites where caravans are only to be permitted to be stationed on the land at certain times of the year are exempt from licensing fees. These are the only statutory exemptions.
- 1.6 It is felt that it is appropriate to make single pitch sites exempt from annual fees but not fees for applying, amending and transferring a site licence. These sites are considered to be lower risk and are less onerous to inspect and collecting annual fees from them would not be cost effective.
- 1.7 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 will be able to charge fees in relation to this.
- 1.8 Local Authorities are able to require a fee when the site rules are deposited with the Local Authority. Furthermore, the Local Authority will be required to publish an up to date site register of the rules.

2.0 **Introduction**

- 2.1 The Caravan Sites and Control of Development Act 1960 (CSCDA 60) introduced a licensing system to regulate the establishment and operation of caravan sites.

- 2.2 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 current legislation had been in existence for more than 50 years.
- 2.3 The MHA 13 introduces some important changes to the buying, selling or gifting of park homes and a pitch free review process.
- 2.4 Councils can now also charge a fee for their different licensing functions. There is an expectation that Councils will inspect sites annually and use additional powers to ensure compliance with site licence conditions. The legislation allows the Council to serve enforcement notices and to publish any site rules relating to a site.
- 2.5 The changes introduced by the MHA 13 only apply to 'relevant protected' sites, as defined by section 5A(5) and (6) of CSCDA 60. 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)

"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"
DCLG 2014.

- 2.6 Section 10A (2) of CSCDA 60 (as amended by MHA 13) requires a local authority to prepare and publish a fee policy, where they propose to charge for functions associated with the regulations of 'relevant protected sites'.
- 2.7 Sites which do not fall into within the definition of a 'relevant protected sites' are still subject to the licensing requirements contained within CSCDA 60 S6, but the provisions relating to payment of fees do not apply.
- 2.8 This policy details the level of fees Pendle Borough Council will charge in relation to the different functions covered by the legislation.
- 2.9 The fee levels have been calculated based on the time and cost involved in undertaking the activities involved. The costs typically cover officer time, overheads. Appendix 1 details what the Council can consider in calculating the fee levels.
- 2.10 The fee rates in this policy cover the period 1st January 2019 to 31st December 2019 and each section details when a fee is payable
- 2.11 Currently, Pendle Borough Council administers site licences for 5 mobile home sites with the total number of units across all sites exceeding 132 The extent of work with each individual site will vary according to the size, complexity and whether there are any issues arising with residents.

3.0 Application for a new Licence

- 3.1 All sites (subject to exemptions contained within the Act) require a licence to operate a residential park home site. Failure to make an application for a site licence is an offence under Section 1(2) of CSCDA 1960.
- 3.2 Section 3(2A) of the CSCDA 1960 amended Act, allows the local authority to require a fee to accompany applications for licences, and this should accompany any new application.
- 3.3 The Council may only issue a licence for a site with a valid and correct planning permission for the use of the land as a residential park home site. Any application made before the planning status must be processed within 6 weeks of the planning decision. Sites which already have the correct planning permission in place, must be processed within 2 months of the receipt of the site licence application.
- 3.4 The fee below reflects the fixed costs which would apply to any new licence application.

New Licence Application Fee - £320 per site.

4.0 Transfer of an Existing Licence

- 4.1 Where an existing licence holder or new site owner wishes to transfer a licence to a different person, an application must be made to the Council, for which a fee is payable (Section 10(1A) of the Caravan Sites and Control of Development Act 1960 (as amended), allows the Council to charge a fee for this function.

Fee to Transfer a Licence - £190

5.0 Change of Conditions on an Existing Licence

- 5.1 Where a site owner requests a variation of a site licence conditions. Section 8(1B) of the Caravan Sites and Control of Development Act 1960 (as amended), allows the Council to charge a fee for this function.
- 5.2 Applications can be made by the licence holders to amend, add or remove conditions, the fee is payable at the application stage.

Fee to Alter Licence Conditions - £125 per application

6.0 Annual Fees

- 6.1 All 'relevant protected sites' must pay an annual fee to the Council (subject to any exemptions). The first fee is due on 1st January 2019 and annually thereafter. (See section 8.3 for fees for part years payments)
- 6.2 The annual fee covers the costs associated with an annual site inspection to ensure compliance with site licence conditions and a follow up visit to ensure compliance with any formal schedule of works. 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 costs of any enforcement action which may be taken. Further details can be found in Section 7- Enforcement Action.
- 6.3 DCLG Guidance offers a variety of suggested options for local authorities in calculating the annual fee and Option 1 has been adopted as it is considered to be the most transparent and fairest to both residents and owners.
- 6.4 The fee is calculated on a price per pitch based on the total estimated cost to the Council of carrying out its annual licensing function for all 'relevant protected sites' in the Borough. The unit cost is multiplied by the actual number pitches on each site to provide the annual fee payable.

Annual Fee - £235 + £5 per Pitch Fee

- 6.5 Charges for the first year (2018/19) will be based on estimates. The Council is not permitted to make surplus from this function section – 5A(2) of the Act requires all surplus and deficits to be included in the fees policy. These will be calculated and included in future revisions of the fee policy i.e. any deficits or surpluses from this activity will be carried forward at the end of the financial year to the next financial year and will affect the charges for the next financial year.

7.0 Exemptions from Annual Fees

- 7.1 Sites where there is only one park home are excluded from the annual licensing fee.
- 7.2 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 received will be dealt with as appropriate.

8.0 Charging Arrangements

- 8.1 Section 10A(5) of CSCDA 60 (as amended) states that fees policy must include provision about the time at which the fee is payable. For the purpose of this policy the period covered by the annual fee will be 1st January to 31st March in each financial year.

- 8.2 Letters will be sent to licence holders of 'relevant protected sites' at the start of the financial year and payment will be due within 30 days.
- 8.3 Where a new licence is issued part way through the year the annual fee will also be due in the same year and an invoice will be sent after the licence has been granted, for the pro-rata amount.
- 8.4 In the event of an annual fee not being paid within the terms of the letter. The Local Authority will seek to recover all incurred court costs from the licence holder. The Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder pay the amount due.
- 8.5 Method of payment can be found on the Council's website.

9.0 **Enforcement Action**

- 9.1 Where there has been a breach of the site licence condition, which comes to the attention of the Council, the Council will investigate the breach and may serve a Compliance Notice.
- 9.2 Section 9(c) of the CSCDA 60 (as amended) details the elements which the local authority may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the Compliance Notice. A detailed breakdown of the relevant expenses would be provided with the Compliance Notice.
- 9.3 Charges would be based on an hourly rate, in addition to any other costs incurred.
- 9.4 Where the works identified within the Compliance Notice are not carried out by the site licence holder the licence holder commits an offence and the local authority may consider taking legal proceedings. Failure to comply with the notice would be a criminal offence, punishable by a fine on the standard scale (currently £5000), Any costs associated with this process would be at the discretion of the court.
- 9.5 A site licence could be revoked upon a third or subsequent prosecution.
- 9.6 Where the prosecution is successfully taken, the Council would have the power to serve a notice to enter the site and carry out the works in default of the licence holder. An administration cost of 15% would be added to the cost of the works.
- 9.7 A local authority may enter the site and take emergency action where there is imminent risk of serious harm to residents or the wider community.
- 9.8 Unpaid charges can be placed as charge against the site owners land.

10.0 Site Rules – Fees for Depositing, Amending or Deleting Site Rules

- 10.1 Site rules are different to the site licence conditions and are put in place by the owner of the site to ensure acceptable standards are maintained. For the benefit of residents to promote and maintain community cohesion on the site.
- 10.2 The MHA 13 changes the way in which the site rules must be agreed between the site owner and residents.
- 10.3 Before publishing the site rules the Council will ensure the rules deposited have been made in accordance with the Statutory Procedure.
- 10.4 The Mobile Home Act 1983 (as amended by the MHA 13) allows the Council to charge a fee for depositing, amending, or deleting site rules.
- 10.5 The Council must keep an up to date public register of site rules on protected sites and publish the register on-line.

Fee to Deposit, Amend or Delete Site Rules - £80

11.0 Revising the fee policy

- 11.1 The fees detailed in this policy have been determined based upon experience of dealing with site licensing historically with consideration of the changes the new Act has introduced. Some of the processes are new (for example the depositing of site rules) and therefore the estimates have been made as to the cost of providing these services.
- 11.2 This policy will be reviewed no later than September 2020.

12.0 Appendix One – Guidance from MHCLG Setting Out Activities to be included when setting Site Licensing Fees

- 12.1 The MHCLG - Mobile Homes Act 2013- A Guide for Local Authorities on Setting Licence Fees - sets out activities that the Council can include when calculating its site licensing fee, these include the following:-

Setting Site Licensing Fees

- Initial enquires;
- Pre-application advice;
- Letter writing/telephone calls etc. to make an appointment and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- Sending out forms;
- Land registry searches;

- Handling enquires and complaints;
- Updating hard files/computer systems;
- Processing the licence fee;
- Time for reviewing necessary documents and certificates;
- Downloading photographs;
- Preparing draft and final licences;
- Updating public register;
- Preparing reports on contraventions;
- Review by manager or lawyers;
- Review of any consultation responses from third parties;
- Carrying out any risk assessment process considered necessary;
- Consultation with Planning and Fire and Rescue Services;
- A pre-programmed full site inspection; and
- A follow-up inspection to check compliance following a programmed inspection