

FEES AND DELEGATED POWERS FOR THE LICENSING OF RELEVANT PROTECTED SITES AS INTRODUCED BY THE MOBILE HOMES ACT 2013

1. INTRODUCTION

- 1.1 The Mobile Homes Act 2013 (MHA13) was introduced in order to provide greater protection to occupiers of residential caravans as the existing legislation had not been updated for more than 50 years. The MHA13 makes amendments to the Caravan Sites and Control of Development Act 1960 (the amended Act). New Forest District Council is a licensing authority under the amended Act.
- 1.2 The amended Act introduces some important changes to the buying, selling or gifting of a residential caravan and the pitch fee review process. In addition, it allows the Council to charge fees for its licensing function. There is an expectation that councils will inspect sites annually and use additional powers to ensure compliance with site licence conditions.
- 1.3 The amended Act requires a local authority to prepare and publish a fee policy where they propose to charge for licensing functions. This is presented as Appendix 1 to this report. The actual proposed fees for the year 2014/2015 are contained in this report.
- 1.4 A proposed scheme of delegation of the new enforcement powers to officers is also contained in this report.
- 1.5 The changes introduced by the MHA13 only apply to 'relevant protected sites'. A relevant protected site is defined in the legislation and this report deals only with this type of caravan site.

2. BACKGROUND

- 2.1 Although the original legislation refers to caravans, it is recognised that other names such as mobile homes or park homes are used. These homes are usually owned by the occupier and represent a considerable investment. The land on which they are sited is usually in the ownership of another person who is referred to as the site owner in this report.
- 2.2 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, or;
 - there is a restriction on its use as permanent residential.
- 2.3 Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the amended Act, but the new provisions relating to enforcement and fees do not apply.
- 2.4 The MHA13 amends existing legislation regulating the licensing of residential caravan sites. It brings the licensing regime that applies to relevant protected sites more closely in line with other local authority licensing regimes. The new enforcement powers also mirror those under the Housing Acts.

2.5 It is intended that the amended Act will raise standards in the industry across the country. In particular, to ensure the opportunity for site owners to block sales is removed and effective enforcement action can be taken against those operators who fail to comply with their licence obligations.

3. NEW FOREST DISTRICT COUNCIL FEES POLICY

3.1 In order to be able to charge fees for caravan site licensing the Council must first publish a fees policy. A fees document, titled 'New Forest District Council Relevant Protected Site Fees Policy' has been produced as Appendix 1 to this report. The policy proposes a methodology under which fees will be calculated.

3.2 The Fees Policy explains when we intend to charge fees for certain functions, and also details why we intend to charge. We do not intend to charge fees for all relevant protected sites, and the policy details the scope of the charging. The policy should be read in conjunction with this report.

3.3 The law requires the Council to have an agreed and published fees policy before it can begin charging fees. This must take place before 1 April 2014 to allow for an annual fee to be charged in the future.

3.4 It should be noted that the fees policy calculations have been produced as a means of recovering the costs associated with providing the service. It cannot be used as a mechanism to raise funds.

3.5 There are currently 30 sites in the district having a licence for more than one residential caravan. The total number of caravans permitted on these sites are 1142.

3.6 Should it be determined that the fee setting policy requires review in the future, it will be presented before the General Purposes and Licensing Committee for approval.

4. PROPOSED FEES 2014-2015

4.1 The proposed fees that will apply to relevant protected sites with effect from 1 April 2014 are contained within the Fee Policy. These have been calculated in accordance with the Fees Policy.

4.2 The proposed fees to have effect from 1 April 2014 are set out below:

Fee Type	Fee Payable
Application for a new single licensed site	£360
Application for a new multiple licensed site	£510
Annual Fee	£10.70 per caravan permitted on the site
Transfer of Site Licence	£148.00
Alteration of conditions on an existing licence	£302
Depositing Site Rules	£72.00

- 4.3 The proposed fees are considered fair and are comparable with those that have been published by other authorities.
- 4.4 These fees will be subject to annual review and member approval in accordance with other fees and charges. In doing this, consideration must be given to the extent of deficits or surpluses in the accounts for the annual fee for previous years.

5. ENFORCEMENT

- 5.1 The amended Act provides officers with new enforcement powers to ensure site license conditions are met. In addition to existing powers which allowed for prosecution, officers will be able to serve compliance notices on site owners where site licence conditions are breached. They will also be able to undertake works in default, including emergency actions, the costs of which can be recovered from the site owner.
- 5.2 We will ensure that any enforcement action is carried out proportionately, and in line with the Council's Enforcement Policy.

6. REQUEST FOR DELEGATION OF POWERS

- 6.1 As the enforcement authority of the Caravan Sites and Control of Development Act 1960 as amended, the following powers are recommended to be delegated to the respective officer posts of New Forest District Council:

Source	Power Delegated	Delegated
Caravan Sites and Control of Development Act 1960 as amended	Sec 26 Authority to enter, to take other persons and to apply for a warrant to enter land, for the purposes of the Acts and to inspect at any reasonable time and enforce the relevant legislation for the purposes specified in the Acts which are delegated to the Committee.	Head of Public Health and Community Safety, or Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians.
	Sec 3 To determine applications for caravan site licences and under Sec 10 to transfer licences and to determine applications and under Sec 8 to change conditions attached to existing licences.	Head of Public Health and Community Safety, or Environmental Health Manager
	Sec 5A To apply to a residential property tribunal for an order requiring payment of an overdue annual fee, where this is not complied to apply to a residential property tribunal for an order to revoke a site licence Sec 9A To serve a compliance	Head of Public Health and Community Safety, or Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers.

notice and to revoke or vary where appropriate under.
Sec 9C Power to demand expenses in serving a compliance notice.
Sec 9D Power to take action following conviction of occupier.
Sec 9E Power to take emergency action.
Sec 9F To demand expenses for action under section 9D or 9E.
Sec 9I Recovery of expenses demanded under Section 9C or 9F.

- 6.2 Delegation of the above powers supersedes existing entries in the list of Council delegations and the following should be deleted; GP & L 116 (old ref 219) and Auth 5 (old ref 559).

7. CONCLUSIONS

- 7.1 This report has been produced as a result of legislative change in relation to caravan site licensing on relevant protected sites. It proposes a policy for the method of calculating fees in relation to relevant protected sites, as well as fixing the fees for the coming year.
- 7.2 New enforcement powers have been made available for officers to carry out regulatory work of relevant protected sites. The proposed delegation of powers that will be required to undertake this work is detailed in this report.

8. FINANCIAL IMPLICATIONS

- 8.1 The new fees policy will provide an income for the funding of annual monitoring of sites. Provisions also make enforcement costs recoverable. In addition, fees will be charged for the deposit of site rules, the issue and transfer of a licence together with a change of conditions attached to an existing licence. These fees are designed to fund the cost of the work involved as dictated by the legislation.

9. CRIME & DISORDER, EQUALITY & DIVERSITY AND ENVIRONMENTAL IMPLICATIONS

- 9.1 There are no crime and disorder, equality and diversity or environmental implications as a result of this report.

10. RECOMMENDATIONS

- 10.1 The Committee is asked to approve the proposed Relevant Protected Site Licensing Fees Policy contained in Appendix 1 and described in Section 3.
- 10.2 The Committee is asked to approve the proposed fees for 2014-2015 as set out in paragraph 4.2 of this report.

10.3 The Committee is asked to approve the proposed delegation of powers as set out in Section 6 and for its addition to the Council's scheme of delegations and the deletion of the entries identified in 6.2.

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Background Papers:

Published documents



ENVIRONMENTAL HEALTH (COMMERCIAL)

New Forest District Council
Relevant Protected Site Licensing
Fees Policy

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1 INTRODUCTION

This document sets out New Forest District Council's Fees Policy in relation to the Mobile Homes Act 2013. The Mobile Homes Act 2013 was introduced in order to provide greater protection to occupiers of residential caravans. It introduced important changes to residential caravan site licensing on 1 April 2014 amending the Caravan Sites and Control of Development Act 1960 (amended Act). One significant change includes the ability for Local Authorities to charge licence holders 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 fees the Council has to publish a Fees Policy. This Fees Policy describes how fees have been calculated and when they apply. The actual fee amount will be considered each year by the General Purposes and Licensing Committee.

Whilst this policy uses the term 'caravan' it is recognised that in many cases such homes are known as mobile homes or park homes.

2 SUMMARY OF LEGISLATIVE CHANGES

The Caravan Sites and Control of Development Act 1960 came into force on 29 August 1960. This Act introduced a caravan licensing system to be operated by Local Authorities regulating the establishment and operation of caravan sites. It worked in conjunction with planning requirements in that only a caravan site with valid planning permission can apply for a site licence.

The Mobile Homes Act 2013 (MHA 2013) amends the above Act, and from 1 April 2014 introduced a scheme to enable local authorities to recover the service delivery costs associated with licensing 'relevant protected sites'. It also provides local authorities with additional regulatory powers in relation to these sites.

A relevant protected site is in essence one that is residentially occupied all year round. Such sites may range from a single caravan on a plot of land to many caravans on land in single ownership, and includes residential caravans on holiday sites. For the purposes of this policy relevant protected site(s) are referred to as 'site(s)'.

The MHA 2013 introduced the ability for Local Authorities to serve compliance notices and to carry out works in default to remedy breaches of site licence conditions. The associated fees and charges are discussed in Section 11 of this report.

3 RELEVANT PROTECTED SITES IN THE NEW FOREST

As of January 2014 the Council was administering site licenses for 82 relevant protected sites of which 52 are single caravan sites. The total number of caravans on all these sites excluding single caravan sites is 1142.

4 LEGAL SCOPE AND LIMITATION OF APPLYING FEES

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

Local Authorities may also charge a fee for alterations to licence conditions where these are requested by a licence holder 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).

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

The costs associated with monitoring conditions on sites for licensing matters 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.

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.

Regulation 12 of The Mobile Homes (Site Rules) (England) Regulations 2014 permits a fee to be charged for the deposit, variation or deletion of site rules with a local authority.

5 EXEMPTIONS FROM PAYING FEES

Caravan Sites that are for holiday use only or are only permitted to have caravans 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”.

Local Authority owned sites whilst being Relevant Protected Sites, are exempt from licensing and are therefore excluded from paying fees.

In addition 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.

New Forest District Council has decided to exempt single pitch sites from annual fees. This is because such sites have fewer licence conditions (e.g. separation distances do not apply) than multiple sites, and the planned monitoring of these sites will be less frequent than those attracting an annual fee.

The collection of annual fees from single pitch sites would not be cost effective, and any costs will be met through existing budgets.

6 RECHARGING OF FEES BY LICENCE HOLDERS

Licence holders will be able to recover the cost of the annual licence fee through the pitch fee review in the first year that the licence fee becomes payable by the licence holder. It may be added to the pitch fee in the first year it arises. Thereafter, the fee can be included as part of the pitch fee but increases are limited to an amount in line with the Retail Price Index.

Any fees to accompany an application for site licence conditions to be amended, or consent to transfer a licence may not be passed on by the licence holder via the pitch fee.

7 GENERAL PRINCIPLES OF FEE CALCULATION

The methodology relating to the calculation of fees is explained in this policy.

For setting the annual fee, the methodology involved finding the cost of providing the service to all sites and dividing this cost between the total number of pitches in the District. This then becomes the fee a licence holder pays for each pitch on the site.

This approach averages out the charge and ensures that residents will not be adversely affected by higher costs involved with the complexities on some sites resulting from poor management.

Officer costs are used in calculations, and are established by using an hourly rate for each officer which includes the Council's on costs. Where more than one officer is involved in any particular work activity, an average of their hourly rates is used.

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.

8 REVISION OF FEES

The actual fees covered by this Fees Policy will be revised annually. The fees will be considered by the General Purposes and Licensing Committee for approval before publication. In doing this, consideration will be given to the extent of deficits or surpluses in the accounts for the annual fee for previous years.

9 METHOD OF CALCULATION FOR EACH TYPE OF FEE AND WHEN IT IS PAYABLE.

9.1 Application for a First Licence for a New Relevant Protected Single Caravan Site.

This fee relates to a new licence for a single caravan site. This is based upon the officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the licensing of a single caravan site. . If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.2 Application for a First Licence for a New Relevant Protected Multiple Caravan Site.

This fee relates to a new licence for a site with more than one caravan. This is based upon the officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the licensing of a multiple caravan site. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.3 Annual Fee

Annual fees are calculated by determining the total cost of providing the service for all licensed relevant protected sites with the exclusion of relevant protected single caravan sites. This was then divided by the total number of pitches on all these sites.

This calculation considers two main costs; firstly, fixed costs common to a monitoring visit at any site, such as pre and post visit administration, travelling and site meetings, and secondly, costs to inspect all pitches. In both instances the predicted time taken is multiplied by an officer average hourly rate. This generates an overall cost for the service at all sites.

This overall cost is divided by the total number of permitted caravans on all relevant protected sites licensed for more than one caravan in the district. This produces the annual fee per permitted caravan payable by the licence holder.

The annual fee payable by each licence holder is calculated by multiplying the cost per pitch by the total number of pitches on the site defined in the site licence conditions.

The annual fee is payable on or before 1 September for all relevant protected sites that are licensed for more than one caravan.

9.4 Alteration of conditions attached to a site licence

This fee relates to an application by the licence holder for changes in site licence conditions and/or the approved plan of the site as a result of increasing the number of caravans, changing the layout or increasing the land area of a site.

The method of fee calculation uses a predicted average cost for work involved in processing the application. This is based upon the average officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the amendment of conditions attached to a site licence. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.5 Transfer of Site Licence

This fee relates to an existing licence which is to be changed into a new owner's name. A fee will not be charged where the site name or address of the licence holder is changed or where a joint licence holder is deleted from the licence and no new name is added.

The method of fee calculation uses a predicted average cost for work involved in processing the application. This is based upon the average officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the transfer of a site licence. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.6 Fees for deposit of Site Rules for relevant protected sites

The method of calculating the fee is derived from a predicted average cost of carrying out the necessary work by officers and administrative assistants.

It is payable each time there is a deposit, variation or deletion of site rules with this authority.

10 FEES FOR RELEVANT PROTECTED SITES WITH EFFECT FROM 1 APRIL 2014

Fee Type	Fee Payable
Application for a new single licensed site	£360
Application for a new multiple licensed site	£510
Annual Fee The total estimated time for all work is multiplied by an average hourly officer rate to reach a total cost of £12,220. When divided by the total number of permitted caravans on multiple caravan relevant protected sites (1142), a fee per permitted caravan on the site is reached. £12,220 / 1142 = £10.70	£10.70 per permitted caravan
Transfer of Site Licence	£148.00
Alteration of conditions on an existing licence	£302
Depositing Site Rules	£72.00

11 CHARGES FOR ENFORCEMENT NOTICES AND WORKS IN DEFAULT

Section 9A of the Amended Act allows Local Authorities to serve compliance notices on the occupier of the land where site licence conditions are breached.

The council will make a charge for costs involved in serving notices. The charge covers the reasonable expenses incurred in the preparation and service of the notice. The expenses are in connection with the time taken to inspect the site, preparation of the notice, its service and associated administration.

Failure to comply with the works detailed in the notice within the specified timescale would be an offence.

Following a successful prosecution for breaching a compliance notice, Local Authorities are able to serve notice to enter the site and carry out the necessary works (referred to as works in default).

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

Local Authorities have the power to reclaim expenses associated with carrying out necessary compliance works and/or emergency action. The charges would include the actual cost of the works, by a third party if necessary, an appropriate sum for officer time, based on an hourly rate, and the cost of the administration of the charge.

The occupier of the land has the right to appeal to a residential property tribunal against a notice and charges imposed.

Section 91 of the Amended Act enables a local authority to charge interest from the operative date of a demand for expenses at a rate fixed by the authority.

Unpaid charges can be placed as a charge against the land.

Enforcement costs are therefore not included in the calculation of the fees fixed by this Fees Policy.

12 REVISION OF THE RELEVANT PROTECTED SITE LICENSING FEE POLICY

Should the method of fee calculation or any other aspect of this policy require revision it will be amended and appropriate member approval obtained before publication.

13 QUESTIONS ABOUT THIS FEES POLICY

If you have any queries or require clarification on any aspect of this Fees Policy you can contact Environmental Health Commercial at eho.office@nfdc.gov.uk, phone 023 8028 5230 or by post to Environmental Health (Commercial), New Forest District Council, Appletree Court, Beaulieu Road, Lyndhurst, Hampshire, SO43 7PA