



## Draft Fee Policy for Protected Sites

### Caravan Sites and Control of Development Act 1960

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Appendix 1 – Elements included in fee setting

#### 1. Executive Summary

*To be completed after consultation process*

#### 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 updated 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 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 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), 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 into 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' DCLG 2014

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 within the CSCDA60, but the provisions relating to payment of fees do not apply.

This policy details the level of fees Bracknell Forest Council will charge in relation to the different functions covered by the Act.

The fee levels have been partly calculated based on work presently conducted within this area with estimated times and costs involved in undertaking the activities involved. The costs include officer time and overheads, Appendix 1 details what the council can consider in calculating the fee levels.

The fee rates set out in this policy cover the period 1st January 2015 to 31st December 2015 and each section details when a fee is payable.

### **3. 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. Any application made before the planning status has been awarded 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 licence application.

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

New licence application fee £402.00 plus £16.00 per pitch

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

Where a licence holder wishes to transfer the licence an application must be made to the council, for which a fee is payable (section 10(1A) of Caravan Site and Control of Development Act 1960 (as amended) allows for the local authority to charge a fee). The fee must accompany the application to transfer the licence.

Fee to accompany an application to transfer a licence = £170.00

## **5. Alteration of Conditions on an existing licence**

Where a site owner requests a variation to 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.

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

If the council deem it necessary to alter conditions there will be no fee payable.

Fee to accompany an application to alter conditions = £312.00

## **6. 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 1st January 2015 and annually thereafter.

The annual fee covers the costs associated with site inspections to ensure compliance with the site licence conditions and a follow up visit to ensure compliance with any informal schedule of works. If there is still a breach in site licence condition 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 7 - Enforcement Action.

The fee is calculated on a price per unit based on the total estimated cost to the council of carrying out its licensing function for all sites in the Borough. The unit cost is multiplied by the actual number of units on each site to provide the annual fee payable.

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

Charges for the first year (2015/16) have been based on estimates from experience in conducting inspections of sites varying type and size. The council is not permitted to make a surplus from this function section - 5A (2) of the Act requires all surpluses and deficits to be included in the fee 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.

## **Exemptions from Annual Fees**

Sites where there is only 1 unit are excluded from the annual licensing 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 would be dealt with as appropriate.

## **Charging arrangements**

Section 10A (5) of CSCDA60 (as amended) states the 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 December each financial year, reminders will be sent to licence holders of relevant protected sites in December and payment will be due by 31<sup>st</sup> January.

Where a new site licence is issued part way through the year the annual fee will also be due in the same year and a reminder will be sent after the licence has been granted for the pro-rata amount.

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 would be calculated on a pro-rata basis for the remainder of the year and difference in fee would be adjusted against the following year's annual fee.

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

**Annual Fee = £13.35 per pitch.**

## **7. Enforcement action**

Where there has been a breach in a site licence condition which comes to the attention of the council we 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. These include the time involved in deciding to serve and prepare the notice. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on the hourly rate detailed below, in addition to any other costs incurred.

**Hourly rate for enforcement costs = £48.00**

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.

If any prosecution were successfully taken, the council would have the power to carry out the works in default of the licence holder. An administration cost of 20% would be added to the cost of the works.

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

Site Rules are different to the site licence conditions and are put in place by the owner of a site to ensure acceptable standards are maintained which will be of benefit to occupiers or will 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 on-line.

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

The MHA83 (as amended by the MHA13) allows the council to charge a fee for depositing, varying or deleting site rules subject to regulations.

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. This is because the process will be very similar for all three types of deposits.

**Fee to deposit, vary or delete site rules = £107.00 each**

## **9. Revising the fee policy**

The fees detailed in this policy have been determined based on 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 estimates have been made as to the cost of providing these services. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government which may impact on the processes and the time involved and may therefore result in a revision to the proposed charges.

This policy will be revised no later than December 2015.

## Appendix 1

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/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from 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. Thus costs incurred in relation to holiday sites, for example, cannot be considered when setting fees.

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 Mobile Homes Act protected residential fall within the definition of relevant protected site and fees can, therefore, be charged. Equally functions relating to such sites can be taken into account in setting fees.

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.

Care should be taken not to include costs that have already been charged for by other service areas, for example in the case of a new licence application - what the planning application fee covers.