

# **Cherwell District Council & South Northamptonshire Council**

## **Draft Mobile Homes Fees Policy 2015**

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### **Related documents**

The following documents have been consulted when drafting this policy:

- The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)
- Mobile Homes Act 2013 (MHA 2013)
- Regulators Compliance Code
- RBC Corporate Enforcement Policy
- DCLG Guidance on Site Licensing Fee Setting – (link on website)

## **1. Introduction**

Both Councils have granted caravan site licences under The Caravan Sites and Control of Development Act 1960 (as amended) for sites that have planning permission for a caravan site. The CSCDA60 has now been amended by the Mobile Homes Act 2013.

The MHA 2013 was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the existing legislation had not been updated for more than 50 years and was considered inadequate to deal with problems associated with such sites.

This Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions.

Local Authorities have the ability to charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. The fee generated by the MHA 2013 is not designed to include investigation of harassment or matters not related to the site licence – these should be dealt with through Residents Associations or other appropriate channels.

Charging of fees is optional for local authorities and therefore South Northamptonshire District Council and Cherwell District Council have decided to charge for their caravan site licensing function to ensure that costs for administering the licensing regime are covered and to ensure that the council has the resources available to monitor compliance with licence conditions. The fees are for the recovery of costs only and are not for profit. It is important to note that the local authority can refuse to issue a licence. In such circumstances the fee is still payable where the licence is not granted.

## **2. Fees charged for site licences**

The changes introduced by the MHA 2013 for Site Licensing come into force on 1st April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”. A relevant protected site is defined in the Act as any land to be used as a caravan site with planning consent, other than one where a licence is:

- Granted for holiday use only
- In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).

Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites and so on.

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.

Under the new Act a fee can be charged for:

- applications to grant a new licence
- applications to transfer or amend an existing licence

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- annual licence fees for administering and monitoring existing site licences.

In accordance with section 10(A) of the Mobile Home Act 2013, this policy therefore sets out the licensing fees structure for both South Northamptonshire Council and Cherwell District Council and details the fees to be charged for all of these licensing functions. Fee levels have been calculated based on the estimated average time and costs involved in undertaking the activities involved. (Appendix 1 details what the council can consider in calculating the fee levels).

The fees for both councils are set out in appendix 2.

The fee rates set out in this policy cover the period 1st April 2015 to 31st March 2016.

### **3. Application for a new site licence**

All sites require a site licence to operate (subject to exemptions in the CSCDA60); failure to apply for licence is an offence under Section 1(2) of CSCDA60. 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.

### **4. Transfer/amendment of existing site licence**

Where a licence holder wishes to transfer the licence an application must be made to the council, for which a fee is payable. The fee must accompany the application to transfer the licence.

Similarly where a site owner requests an amendment to site licence conditions the council can 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.

#### **Conditions**

The conditions on the existing site license will remain the same until the Council deem they are out-dated or incorrect and then a review will take place or unless an application is made to amend conditions on the license by the site owner. If the council deem it necessary to alter conditions there will be no fee payable.

### **5. Annual fees for existing site licences**

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 April 2015 and annually thereafter.

The annual fee covers the costs associated with administration, an annual site inspection to ensure compliance with the site licence conditions and a revisit to ensure compliance with any outstanding works required. If there is still a breach in site licence condition at the point of the revisit further charges may be payable to cover the cost of any enforcement action which may be taken. (See Enforcement costs – section 6.)

The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating the annual fee:

Option 1 – fee per pitch (a fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of units over all the sites which will give a price per unit);

Option 2 – fee based on site size bandings;

Option 3 – fee based on a risk rating that takes into account the size of a site; the level of compliance on a site and confidence in management.

Option 1 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 (2014/15) have been based on average estimates. Fees will be assessed each year to determine accuracy as part of the Council's annual fees and charges setting process.

Sites exempted from annual licensing fees:

- sites that are not relevant protected sites
- sites with 5 units or less
- sites for the site owner and their family (unless they are run for profit or as a business)

*These categories of site are exempt from the annual licensing fee as the council do not intend to carry out annual inspections. Any complaints however, would be dealt with appropriately.*

### **Charging arrangements**

For the purpose of this policy the period covered by the annual fee will be 1st April to 31st March each financial year. The fee will be charged to the site owner/license holder and invoices will be sent at the start of the financial year with payment due within 30 days. (Legislation allows the license holder to pass on the annual fee cost for 2014/15 to the resident's pitch fee).

Where a new site 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.

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 years 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 by a specific date. If payment is not received within 3 months from that date, the local authority may apply to the Residential Property Tribunal for an order to revoke a site licence.

## **6. Enforcement costs**

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. The CSCDA60 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 an hourly rate in addition to any other costs incurred for example legal costs. Charges for enforcement costs cannot be passed onto the residents pitch fee.

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 a prosecution was successfully taken, the council would have the power to carry out the works in default of the licence holder.

## **7. Fees for depositing site 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 – a fee can be charged for this function.

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.

## **8. Publishing and revising the fee policy**

This fees policy will be published on the Council's websites at <http://www.cherwell.gov.uk/> and <http://www.southnorthants.gov.uk/> (pages to be determined).

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. This policy will be revised no later than March 2016.

## **Appendix 1 – Elements included in fee setting**

The DCLG guidance sets out the activities that the council can include when calculating its annual fee, these 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;
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- review by manager or lawyers;
- review any consultation responses from third parties;
- carrying out any risk assessment process considered necessary;
- a full site inspection (by appointment);
- a follow up inspection to check compliance following programmed inspection.

## **Appendix 2 - Fees**

<b>Mobile Homes Stes (Licences Valid One Year 2015 – 2016 rates</b>	<b>Fee</b>
<b>NEW APPLICATION</b>	
1 to 10 pitches	£290.00
11 to 30 pitches	£420.00
31 to 99 pitches	£550.00
100 or more pitches	£680.00
<b>Annual Fee</b>	
1 to 10 pitches	£225
11 to 30 pitches	£290
31 to 99 pitches	£350
100 or more pitches	£420
<b>Transfer/Amendment</b>	<b>£160</b>
<b>Replacement Paper Licence</b>	<b>£10.50</b>
<b>Lodging Rules</b>	<b>£55.00</b>
<b>Enforcement</b>	<b>Case by case based on hourly rate</b>