



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

**2020-2021**

**Fees Policy for the Licensing of  
Residential Park Homes Sites**

1. Approved by:
2. Date:
3. Review date:

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## **1.0 Introduction**

- 1.1 Following the introduction of the Caravan Sites and Control of Development Act 1960, North Devon Council is required by law to license caravan sites and mobile homes, unless they fall into the category of exempted sites (see First Schedule of the Act).
- 1.2 The Mobile Homes Act 2013, which came into force on 1 April, 2014, was introduced as an addendum to the Caravan Sites and Control of Development Act 1960 (the 'Act'), and is intended to provide greater protection to occupiers of static residential caravans.
- 1.3 Caravans sites are separated into three main types; touring, static holiday and static residential. Following the introduction of the Mobile Homes Act 2013, the Council can now charge fees to licence static residential sites (also known as park homes and relevant protected sites).
- 1.4 Before the Council can charge a fee, it must prepare and publish a fees policy (see section 10A of the Mobile Homes Act 2013). Upon fixing fees, the Council will:
  - 1.4.1 act in accordance with its fees policy
  - 1.4.2 fix different fees in different cases
  - 1.4.3 determine that no fee is required in some cases
  - 1.4.4 state when the fee(s) are due.
- 1.5 The licensing scheme enables local authorities to monitor site licence compliance more effectively, and there is now a tool to enable the Council to take enforcement action where owners are not managing and maintaining their sites. This will ensure residents' health and safety is better protected and the value of their homes, safeguarded. The Mobile Homes Act 2013, introduced the ability for local authorities to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions. The fees and charges for enforcement action are included in this Fees Policy.
- 1.6 The Mobile Homes Act 2013 also introduced changes relating to site rules. Site owners will be able to replace existing site rules with new ones that should be deposited with the Council who must publish an up-to-date register of these rules. They may also charge a fee for their deposit (The Mobile Homes (Site Rules) (England) Regulations 2014). The fee for depositing site rules is included in this Fees Policy.
- 1.7 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 extended requirements to include the necessity for site owners to be fit and proper persons for which a fee may be charged for register applications.
- 1.8 The Council in setting the fees payable has had regard to 'The Mobile Homes Act 2013, A Guide for Local Authorities on Setting Site Licence Fees' issued by the Department for Communities and Local Government. It has also had regard to the Local Government Association's Guidance on Locally Set Fees which incorporates guidance in relation to compliance with the European Services Directive, and the more later GOV.UK guidance pertaining to fees for fit and proper person registration.

## **2.0 Consultation**

- 2.1 Consultation has yet to be undertaken on this fees policy, due to the sole fee being introduced thus far being that in respect of the fit and proper registration, however when the Council seek to proceed in making charges for the other areas identified, consultation will be completed with the licensed community and public more widely.

## **3.0 Policy Inclusions**

- 3.1 In line with the requirements placed upon the Council, this fees policy sets out the following matters:

The fees payable for:

- a. Applications for the grant of a site licence
  - b. Applications for the transfer of a site licence
  - c. Applications for alteration to the conditions of an existing licence
  - d. Annual fee payable for an existing licence
  - e. Deposit of site rules
- 3.2 The matters and appropriate costs taken into account in setting each type of fee.
- 3.3 The method of apportionment of those costs in setting those fees.
- 3.4 If an annual fee is payable, when it is to be paid.
- 3.5 How surpluses and deficits are to be treated; and
- 3.6 Such other matters as the local authority consider to be relevant.

## **4.0 Definition of a Residential Park Home Site**

- 4.1 A static residential site, park home or 'relevant protected site' is defined in the Act as any land to be used as a caravan site *other* than one where a licence is:
- 4.1.1 Granted for holiday use only.
  - 4.1.2 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), for example seasonal use of touring sites.
- 4.2 Any licensable caravan site will be 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 use as permanent residential.
- 4.3 A site's exemption will depend on what use the planning permission permits, or if the permission is silent on what the site licence permits. The actual use of the site in

those conditions is irrelevant. For example, if the land has planning permission for use as a holiday site and the residents live there full-time, the site will *not* be a relevant protected site.

- 4.4 There are some sites where the planning permission and/or site licence permits both use for holiday and permanent residential purposes. Such sites *are* relevant protected sites, because the relevant consent is not exclusively for holiday purposes. However, there is an important exemption to this rule, which is that if a holiday site has permission for residential use too, and that use is only by the owner of the site (including family members) or employees working on the site, their permanent occupation does not make the site a relevant protected site. The caveat to this is that if the residential occupier/employee occupies the home under the agreement to which the Mobile Homes Act 1983 applies, the site will be a relevant protected site.

#### **4.0 Fee Types**

- 4.1 Local authorities are able to charge fees for the:

- 4.1.1 consideration of applications for the grant or transfer of a site licence
- 4.1.2 consideration of applications to alter conditions of a site licence
- 4.1.3 administration and monitoring of site licences, by way of an annual fee
- 4.1.4 deposit of Site Rules
- 4.1.5 application for fit and proper person assessment

- 4.2 Fees must be transparent and reasonable. Both the level of fees and how they are charged are, subject to legal restrictions, at the discretion of the Council. They should fairly cover the costs (or part of the costs) incurred by the Council under its functions in Part 1 of the Act, other than the costs of any enforcement action (which may be charged separately).

- 4.3 All time taken in establishing the information required to make an informed decision will be allowed to be included in the licence fee, whether or not the transfer or new licence is granted.

- 4.4 Travel time to and from the site, including fuel costs, can be taken into account. Time spent consulting with the site owner and third parties such as Planning, Fire & Rescue, Health & Safety, can also be taken into account when setting fees. Guidance suggests that the following can be considered in terms of officer time:

- 4.5 For a first *new licence application*:

- 4.5.1 An inspection of the site, at planning stage or on immediate planning approval, to discuss requirements with the site owner.
- 4.5.2 A second visit following the issue of a new licence, to check conditions and occupation of site. Note: this has not been included in the calculation of the

current fees. If after review at the next fee setting meeting this is deemed appropriate, a variation to the fee to encompass this will be made.

4.6 In the case of an *annual licence fee*:

4.6.1 A pre-programmed full site inspection.

4.6.2 A follow-up inspection to check compliance following programmed inspection. Note: this has not been included in the calculation of the current fees. If after review at the next fee setting meeting this is deemed appropriate, a variation to the fee to encompass this will be made.

4.6 In the case of an *application to amend a licence*:

4.6.1 A site visit to assess the specifics of the application, any implications for the licence or its contents and to assess whether undertakings need to be given.

4.7 In the case of an *application to transfer a licence*:

4.7.1 Generally, no site visit is required as the application is a desk top exercise only.

4.8 In the case of *depositing Site Rules*:

4.8.1 Only officer time can be considered, as this is a desk top exercise.

4.9 In the case of a *Fit and Proper Person Registration Assessment*:

4.9.1 An application fee can be charged to cover the cost of assessing applications to be included on the fit and proper register.

4.9.2 An annual fee if an application is granted subject to a condition, can be charged to cover the cost of monitoring the scheme or conditions attached to entries. The authority can decide and set the frequency of payments to cover their administrative costs. Breach of a condition requiring payment by annual fee is an offence.

4.9.3 In light of the small number of sites that will apply to no annual fee will be charged in addition to the application fee for ongoing enforcement, albeit that this decision will be kept under review.

## **5.0 Factors Not Encompassed in Licence Fees**

5.1 The Council cannot take into account when setting fees the costs incurred in exercising their functions under:

5.1.1 Section 9A-9I of the Act (relating to enforcement due to breach of licence conditions).

5.1.2 Section 23 of the Act (prohibiting the siting of caravans on common land); or

5.1.3 Section 24 of the Act (the provision of caravan sites by local authorities).

- 5.2 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 or other non-permanent residential sites cannot be considered.
- 5.3 Sites which are in mixed use, i.e. partly holiday with some permanent mobile homes fall within the definition of relevant protected sites. Fees can, therefore, be charged. Equally, functions relating to such sites can be taken into account in setting fees.
- 5.4 Care will be taken not to include costs that have already been charged for by other service areas.
- 5.5 The Council cannot make a profit. Any charges will be limited to recovering the costs of exercising its licensing functions as they relate to relevant protected sites.

## **6.0 Fee Payment**

- 6.1 Payment for fit and proper person registration will be required at the time of application.
- 6.2 In terms of payment for other identified fees the period covered is to be confirmed. Invoices for these fees will be sent to the registered address (as per North Devon Council's Caravan Site Register) of the site owner for applicable sites.
- 6.2 The date that invoices will be sent will be confirmed, these invoices will require payment within 30 days, a period which the Council deems reasonable. Furthermore it will indicate the matters it took into account fixing the actual fee and to which it had regard to deficits and surpluses arising out of the previous year.

## **7.0 Refunds**

- 7.1 If the Council decides not to approve an application, the applicant is not entitled to a refund to the fee paid.

## **8.0 Enforcement Action**

- 8.1 The Act allows the Council to charge for enforcement which includes the cost to the local authority of taking formal action leading up to and including any enforcement. This is one reason why the cost of enforcement action against site owners cannot be taken into account when setting annual licence fees. It would also be unfair to include such costs when many site owners are not likely to require enforcement action.
- 8.2 Under Section 9C of the Act, the Council is entitled to recover its 'expenses' in relation to the service of a Compliance Notice. This includes costs incurred in inspections, preparing the notice and obtaining expert advice on it (including legal costs) and any interest the authority intends to charge. The demand for recovery is served with the Compliance Notice and that demand must break down the costs, so that the site owner knows what he is being asked to pay for, and why.
- 8.3 A site owner may not pass on costs of enforcement action to residents through the pitch fee.

- 8.4 The fees to be charged are to be confirmed and will be based upon a fixed hourly rate, and included in the Fees listed at Section 11.
- 8.5 Following completion of a Compliance Notice or Emergency Action and within two months, the Council proposes to issue an invoice to the licence holder to recover its expenses incurred in deciding whether to serve a Compliance Notice or take emergency action, in preparing and serving any notices and where relevant in carrying out the work. The demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered.
- 8.6 The invoice will include the total expenses, and a detailed breakdown of the expenses, the interest rate to be charged, an explanation of the site owners legal right to appeal.
- 8.7 The Council may require certain works to be undertaken to remedy a situation by the service of a legal notice on the owner, occupier or other person considered responsible. Under section 9F of the Act, this will include the expenses the interest rate to be charged and an explanation of the site owners legal right of appeal.
- 8.8 In certain circumstances, these works are undertaken by the Council, to remedy such a situation, for which reasonable charges are made.
- 8.9 The charges would include the actual cost of the works, by a third party if necessary, an appropriate sum for officer time, based upon the hourly rate stated, and the costs of the administration.

## **9.0 Surpluses and Deficits**

- 9.1 Section 5A (2) of the Act provides that the Council in setting annual fees must advise the site owner of the extent to which they have had regard to deficits and surpluses from the previous year.
- 9.2 The Council will not make a profit and can only pass on to the site owner, its costs incurred in carrying out the licensing function. Equally, the Council is not expected to make a loss in carrying out its licensing functions. Overall, licensing can be a self-financing function which local tax payers are not required to subsidise.
- 9.3 Each year the Council will assess its previous costs to determine if they were accurate. Where they spent less than predicted for that year, there will be a deficit of expenditure and the excess monies need to be reflected in the fee charged to the site owner in the next year.
- 9.4 Considering this year (2020/2021) is the first year for which fees (fit and proper registration only) are to be imposed there are no previous surpluses/deficits to consider as part of this policy, albeit it should be noted that the Council has under-recovered fees from licence holders since the amendments to the Act came into effect in 2014.

## **10.0 Register of Fit and Proper Persons**

- 10.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the owner/manager of a residential site to be a Fit and Proper Person.



10.2 From 1st July 2021, site owners operating a relevant protected site must apply for the relevant person (themselves or an appointed manager) to be included on the register of fit and proper persons. A site owner may only apply if they hold, or have applied for a site licence for the site.

10.3 The following factors will be considered when determining applications for fitness and propriety:

Whether the applicant is competent to manage the site;

Whether the management structure and funding arrangements are suitable;

Whether the applicant has:

- Offences relating to fraud, dishonesty, violence, firearms, drugs or any offence listed in Schedule 3 of the Sexual Offences Act 2003;
- Contravened any provision of the law relation to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- Contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- Not harassed any person in, or in connection with, the carrying on of any business;
- Not been within the past 10 years, personally insolvent;
- Not been within the past 10 years, disqualified from acting as a company director;
- The right to work in the United Kingdom and,
- A membership of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

10.4 The register is open for applications from 1<sup>st</sup> July – 30<sup>th</sup> September 2021. All site owners were sent a letter inviting them to make an application to be included on the register. Applications can be made online during the above period, and will be processed following receipt of the application fee and all the required information/documentation. Where fit and proper status is granted, the applicant will be included on the register for 5 years.

10.5 In some circumstances applications will be granted subject to conditions, which will be determined on a case by case basis.

## **11.0 Fee Calculations**

11.1 Calculations of the fees to be imposed for fit and proper person registration are included at Appendix A. The remaining fees are to be determined after consultation has been undertaken. Calculations will encompass different tasks for each of the different fees. Average times estimated to undertake tasks are then multiplied by the officer rate with on-costs.

11.2 There are a number of different options available to authorities in setting a fee structure, such as banding by risk or size of a flat rate charge, but it is important not to target individual sites because they require greater action in terms of enforcement.

11.3 The main cost associated with the fees calculated is in respect of officer time. Officer time includes direct and indirect costs. Direct costs include wages, pension contributions, National Insurance, etc. On-costs include the reasonable costs of providing heating and lighting in the office, general IT, photocopying, and other administrative services. They include business support such as Customer Services, Legal Services and HR. It is believed that using staff rates with on-costs is the fairest way to recoup these costs. Licence applications that take very little time will pay less

and the more complex applications will pay more. Financial Services have advised on hourly rates of staff and these have been used in preparing the calculations.

- 11.5 It is worthwhile noting that a local authority cannot charge separately for its advice or work in advance of receipt of a caravan site licence application. However the above guidance indicates that it can build into its fee structure for such applications the costs or likely costs, it incurs as a result of such pre-application advice, including where no formal application is subsequently submitted. Pre-application advice has been built into the proposed fee calculations.

## 12.0 Exemptions

- 12.1 There is a possibility to exempt certain types of site and in this instance it is not proposed to charge sites with single units. The rationale for this exemption being that such sites are low risk; the fact they tend to be family run; rarely for business purposes, and rarely if ever are they subject of complaints. The costs of inspection in these instances are likely to be outweighed by the costs of administering charges.

## 13.0 Fees and Charges

The fixed fees payable follow:

Application for fit and proper person registration	£165.10
Application for a site licence	£ TBC
Application to transfer a site licence	£ TBC
Application to vary the conditions on a site licence*	£ TBC
Annual licence fee	£ TBC
Deposit of site rules	£ TBC
Cost of enforcement action (Compliance Notices and Emergency Action)	£ TBC

*\*There are no fees payable where the Council deems it necessary to alter site licence conditions.*