

The Mobile Homes Act 2013
Implementation Policy
2014

1. BACKGROUND

The mobile homes Act 2013 came about when the Department of Communities and Local Government (DCLG) proposed major reforms to the caravan site legislation with the aim of giving greater protection to occupiers of residential caravans and mobile homes). DCLG stated in their Impact Assessment of the consultation “A Better Deal for Mobile Home Owners Changes to the Local Authority Site Licensing Regime” (published November 2012) that the existing legislation did not allow local authorities to charge fees for issuing and monitoring site licenses, or allow local authorities to take enforcement action if conditions were not met. They added that in practice, this severely limited local authorities resources to provide effective scrutiny of the sector.

The Mobile Homes Act 2013 (MHA 2013) was therefore introduced, receiving royal assent on 26 March 2013 with some parts implemented on 26 May 2013. The MHA 2013 introduced some important changes to park home site licensing on 1 April 2014 due to it's amendments to CSCDA 1960. These changes include the ability for Local Authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. Site owners may recover the annual fees through an increase in pitch fees, however, residents will benefit as these fees will help Local Authorities to increase their activity in an area that has historically been under-resourced.

Section 29 of the 1960 Act defines what constitutes a caravan and caravan site, and these are commonly known as park homes and park home sites. This definition was amended by the Mobile Homes Act 2013, (Park homes site licensing definition of relevant protected sites)

As part of the changes the Council must produce a policy on charging fees. This Policy therefore sets out the Councils policy for implementation of a fee charging structure, the park home sites licence conditions and procedures for enforcement under the Mobile Homes Act 2013.

2. THE APPLICATION OF THE MOBILE HOMES ACT 2013 IN CARLISLE

2.1 SETTING LICENCE FEES AND CHARGES

The Act enables Local Authorities to fix different fees or to determine that no fee is required to be paid in certain cases. The fees associated with applying initially for a new site licence, for transfers, standard amendments, site expansion amendments and for annual fees are detailed in Appendix 2.

In 1 January 2014 the Council was administering site licenses for 14 residential caravan sites, 5 of which are single mobile homes, plus 2 showman's guild sites, leaving 7 which unless exempt according to the list within appendix 1 fall under the mobile homes act 2013 licensing regime.

Licences can only be issued to the owners of sites that have obtained valid planning permission.

2.2 TIME WHEN FEES ARE PAYABLE

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. For the purpose of this policy the period covered by the annual fee will mirror the financial year (1 April to 31 March) and will be paid in advance. Invoices will be sent out during the month of April requiring payment within 30 days. Where a new site is licensed part way through the year then an invoice with the same payment terms will be sent shortly after the licence is issued for the pro-rata amount.

Where a site is expanded part way through the year to include additional units the corresponding higher fee would apply from that point. In such cases an invoice with the same payment terms, covering the difference between the original and increased fee for the remainder of the financial year will be sent shortly after the amended licence has been issued.

2.3 FIT AND PROPER PERSONS CHECKS

The MHA 2013 makes provisions for regulations to be made requiring site owners to be "fit and proper persons" and for Local Authorities to keep such registers up to date. At present it has not been clarified by government how the Local Authority would carryout such a check, so amendments maybe made in the future to this Policy should the position change. A relevant fees has been calculated within Appendix 2 should this be required in the future.

2.4 SITE RULES

Site rules are different to site licence conditions in that they are neither created nor enforced by Local Authorities. They are a set of rules created by the site owner which residents have to comply with. They may reflect the site licence conditions but will also cover matters unrelated to licensing. The Site Rule Regulations come into force on the 4 February 2014 and set out a 12 month period, within which site owners will need

to replace existing site rules with new ones. These rules will need to be deposited with the Local Authority. A fee is built into the charging structure for depositing these rules.

A detailed copy of site rules is contained within appendix 3 and sites should base any rules on this locally adopted set of rules.

Local Authorities will need to satisfy themselves that replacement or new rules deposited with them have been made in accordance with the statutory procedure. They will also be required to establish, keep up to date, and publish a register of site rule. And the Local Authority may levy a fee for the depositing of site rules, or the variation or deletion of site rules.

2.5 SITE CONDITIONS

The legislation allows the authority to adopt model standard for site conditions which will form part of the site licence. A copy of which can be found in appendix 6.

The extent of any remedial works that maybe required under new site conditions will vary according to size, complexity, and whether there are issues arising with residents. Any works required will be agreed with individual site owners and time scales agreed for implementation in line with the enforcement policy.

3. ENFORCEMENT OF THE MOBILE HOMES ACT 2013

Subject to those exemptions detailed in appendix 1 there is a requirement for site owners to ensure that their park home sites are licensed. Failure to do so would be an offence under Section 1(2) of the CSCDA 1960 which can attract a fine not exceeding level 4 (currently £2500) on the standard scale upon summary conviction.

From the 1st April 2014 The MHA 2013 introduces the ability for Local Authorities to serve enforcement notices and to carry our works in default to remedy breaches of site licence conditions. The legislation also allows Local Authorities to charge a fee in relation to this.

Any enforcement will be inline with the authorities existing enforcement policies and based on the principles of openness, clear standards, proportionality, consistency of approach, targeting to areas of greatest need, and transparency as contained in the Enforcement Concordat issued by the Cabinet Office. Guidelines for enforcement of caravan site licensing are contained with appendix 4.

From 1st April 2014, licensing appeals will be heard by the First Tier Tribunal (Property Chamber). Appeals may be made about, the Refusal to grant or transfer a licence, conditions attached to a new licence, variation or refusal to vary conditions in an existing licence, compliance notices- including the local authority expenses, emergency works, including the cost of the works and expense.

The details on how to appeal will be contained within licences and enforcement notices.

Onward appeals are to the Upper Tribunal (Lands Chamber)

4 CHARGES FOR ENFORCEMENT UNDER THE ACT

In order to set the charging fee at an appropriate level, research has been undertaken into similar fee structures within the Council and the charges reflected in this policy are based on The Housing Act 2004 enforcement notice fees. The charges are based on an hourly officer rate determined by how much time is taken to carryout the enforcement, the rate was set at £54.50 per hour 2013/14 and is likely to remain the same for 2014/15. Due to the similarity of Housing Act and park home site enforcement notices the two are to be set at the same level. As part of this policy any future amendments to officer rates will be automatic.

The cost associated with administering the works in default for park home site enforcement will be set at 15% of the total cost of the works. This cost will also be recoverable from the licensee.

Further detail on the charging structures for enforcement is set out in appendix 2.

5 DETERMINING INSPECTION FREQUENCY

Each site will be risk assessed annually using a risk rating tool. The risk the site presents will be categorised as Low, Medium and High.

Low risk sites will be inspected annually and therefore only pay one inspection fee. However medium sites will be inspected two times a year and their annual fee will therefore be double. A high risk site will be inspected four times a year and their annual charge will therefore be multiplied by four.

6 COMPLAINTS

In the event that an individual or company is not satisfied with the Service or they do not agree with the action taken by the investigating officer, they should first contact the relevant section manager who will then escalate the complaint to a Senior Manager if appropriate. If this does not resolve your complaint the Council also has a formal complaints system.

List of Appendices

- Appendix 1, Exemptions
- Appendix 2, Enforcement and Fee Charges detail
- Appendix 3, Site Rules
- Appendix 4, Enforcement Policy
- Appendix 5, Risk Assessment Method
- Appendix 6, Site Conditions