

NORTH SOMERSET COUNCIL

DECISION OF COUNCILLOR ELFAN AP REES

**EXECUTIVE MEMBER FOR HOUSING, STRATEGIC PLANNING, HIGHWAYS
AND ECONOMIC DEVELOPMENT with advice from the
DIRECTOR OF PEOPLE AND COMMUNITIES.**



DECISION NO: P&C 76 (2016/2017)

SUBJECT: Mobile Homes Act 2013 - Fees Policy 2017/18

Background

The Caravan Site 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) amended the legislation to provide greater protection to occupiers of residential park homes and caravans. There was an expectation that councils would inspect sites annually and use the additional powers to ensure compliance with site licence conditions. The Council was also able to charge fees for the different licensing functions. Charges can only be applied to certain sites, mainly residential sites.

The 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.

Appendix 1 details the policy including the amended fees which North Somerset Council would charge in relation to the different functions covered by the Act, in 2017/18. The fee levels have been calculated with the benefit of data obtained from the inspection regime this year i.e. officer time and cost of undertaking the activities involved. The costs are inclusive of officer time, travel, inflation and other overheads. The policy was drafted in line with guidance issued by the Department of Communities and Local Government.

An extensive consultation exercise was conducted in 2014 with site owners and residents who commented on the key principles, which was informative and helpful in finalising the policy. A site owner's consultation group has been established which regularly meet with the Council and the methodology for fee policy setting has been discussed and accepted.

The proposed fees are payable by site owners who must fund them from existing income. An inflationary element only for the annual fee can be passed onto residents. The fees are however considered to be appropriate when taking account of the levels proposed, the work required to deliver the service and the previous concerns raised by residents through the Park Homes Review in 2011.

The Equality Impact Assessment completed for the policy in 2014 has been reviewed and no amendments were considered necessary.

Decision:

To approve the Mobile Homes Act 2013 Fees Policy (2017/18) as set out in appendix A.

Reasons:

To enable the council to recover the costs of delivering the licensing regime.

Other Alternatives Considered

Not have a charging policy – it would not be possible to properly implement the licensing regime and as a result residents would not benefit from the improved regulation of their sites.

Financial Implications

The cost of delivering the service will be met through the proposed charges.

Implications for Future Years.

The costs of the service and fees policy must be reviewed annually. Charges have been applied now for three years and the cost estimates used in the first year have proved to be reasonably accurate. The council is not permitted to retain any surplus from this activity and appropriate adjustments have been made to the proposed fees.

Reviewed MAQS

Mark Hughes, Head of Housing and Strategy

Dated 3-5-17

Signed [Signature]

Councillor Eifan Ap Rees
Executive Member for Housing, Strategic Planning, Highways and Economic Development

Dated: 3/5/17

Confirmation of Advice Given:

Signed [Signature]

Sheila Smith, Director of People and Communities

Dated 3.5.17

Fee Policy for Protected Sites

Caravan Site and Control of Development Act 1960

Owner: Strategic Housing Service

Effective Date: April 2017

Review Date: March 2018

Version: 2

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Annex A – Elements included in fee setting

1. Executive Summary

This policy details the fee levels for functions associated with Park Home and Caravan site licensing under the Mobile Homes Act 2013. All fees are payable by the site owner.

The fees detailed in this document are:

New licence application fee £505.24 plus £33.31 per pitch
Fee to accompany an application to transfer a licence = £222.75
Fee to accompany an application to alter conditions = £280.46
Annual Fee = £12.77 per pitch
Hourly rate for enforcement costs = £40.10
Fee to deposit, vary or delete site rules = £82.01 each

These fees will be reviewed annually.

2. Introduction

The Caravan Site 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) gives protection to occupiers of residential park homes and caravans. The Act also controls 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 powers to ensure compliance with site licence conditions. The council can charge a fee for different licensing functions. The legislation allows the council to serve enforcement notices and requires the council to publish any site rules relating to a site.

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

This policy details the level of fees North Somerset Council will charge site owners in relation to the different functions covered by the Act.

The fee levels have been calculated based on the estimated time and cost involved in undertaking the activities. The costs include officer time and overheads, Annex A details what the council can consider in calculating the fee levels. Regard has been had for Department for Communities and Local Government guidance 'The Mobile Homes Act 2013, a Guide for Local Authorities on setting site licensing fees' (February 2014) in the production of this policy.

The fee rates set out in this policy cover the period 1 April 2017 to 31 March 2018 and each section details when a fee is payable. Where fees have been increased the figure used is 1.25% with the exception of annual fees, in line with council policy and may include rounding.

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 a 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 land. Any application made before the planning permission 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 two 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.

One new application has been processed during the previous financial year. The time involved was consistent with estimated costs. This fee is increased by inflation only.

New licence application fee = £505.24 plus £33.31 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.

No new applications were received during the previous financial year; therefore this fee has not been reviewed and has been increased by inflation only.

Fee to accompany an application to transfer a licence = £222.75

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.

No new applications were received during the previous financial year; therefore this fee has not been reviewed and it has been increased by inflation only.

Fee to accompany an application to alter conditions = £280.46

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 1 April 2016.

The annual fee covers the costs associated with an annual site inspection 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 annual licensing function for all sites in the district. The unit cost is multiplied by the actual number of units on each site to provide the annual fee payable. DCLG guidance has been considered and this approach adopted as it is considered to offer the most transparency and fairness to both residents and site owners.

All tasks involved in this process have been time monitored during the previous financial year to ensure accuracy in fee setting. 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 carried forward from the previous financial year and included in the fee policy for the following year.

Exemptions from Annual fees

Sites where there is only one unit are excluded from the annual licensing fee.

This category of site is exempt from the annual licensing fee as the council does 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 1 April to 31 March each financial year. Invoices will be sent to licence holders of relevant protected sites at the start of the financial year and payment will be due within 30 days.

Where a new site licence is issued part way through the year the annual fee will also be due in the same year. 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 will be calculated on a pro-rata basis for the remainder of the year and any changes reflected in 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.

2016/17 Summary

Deficit from 2015/16	£266
Estimated service delivery cost 2016/17	£11,878
Estimated total cost	£12,144
Actual cost to the council 2016/17	£11,930
Deficit from 2015/16	£266
Total cost 2016/17	£12,196
Income received 2016/17 – annual licensing fee	£11,737
Deficit 2016/17	£459

Annual Fee 2017/18

Deficit from 2016/17	£459
Estimated service delivery cost 2017/18	£12,106
Estimated total cost 2017/18	£12,565

Annual Fee = £12.77 per pitch.

7. Enforcement action

If it comes to the attention of the council that there is a breach in site licence conditions, the Council 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. For example, the duration of time it takes in deciding to serve and prepare a 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. This rate has been increased by inflation.

Hourly rate for enforcement costs = £40.10

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 sets out 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.

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. This fee has increased by inflation.

Fee to deposit, vary or delete site rules = £82.01 each

9. Revising the fee policy

The fees detailed in this policy have been determined based on experience of dealing with site licensing historically and time monitoring of different tasks carried during the first two years of operation.

This policy will be reviewed no later than March 2018.

Annex A

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 pre- programmed full site inspection;
- a follow – up inspection to check compliance following programmed inspection

