

Appendix 1

Swindon Borough Council

Mobile Homes Act 2013

Park Homes Fees Determination Policy

(2014)

Introduction

The Mobile Homes Act 2013 amends and modernises the Caravan Sites and Control of Development Act which was introduced in 1960.

It enables Local Authorities to charge fees and serve Enforcement Notices for the following:-

- A licence fee for applications to grant or transfer a licence or an application to alter the conditions on a licence.
- An annual licence fee for administering and monitoring licences (Including existing licenses issued under the previous regime.)
- Serving Compliance Notices in respect to any breach of site conditions (Councils are at liberty to charge owners in order to recover costs should this action be warranted.

****All local authorities are legally obliged to publish a fees policy, setting out how fees are calculated.***

Fees for New Licences, Transfer / Amendment and Annual Fees

(Including annual fees for existing sites.)

Under the new Act there is a legal requirement for site owners to ensure that mobile home sites are properly licenced. As under the previous regime set by the Caravan & Control of Development Act 1960, it is first necessary for the owner or manager to obtain the requisite Planning consent. Then on submission of an appropriate application a licence may be granted subject to certain conditions.

Swindon BC like most other councils has previously adopted the model licence conditions to control aspects of safety and amenity on its sites.

Breaches of the new Mobile Homes Act 2013 are a criminal offence, subject to the following penalties:-

1. Section 3 (2A) of the Act enables Local Authorities to require a fee in respect to a relevant protected site application (there are certain site exemptions such as holiday homes).

Failure to obtain a license would be a criminal offence and consequently subject to an unlimited fine upon summary conviction.

2. Section 5A (1) of the Mobile Homes Act 2013 enables Local Authorities to require an annual fee to be paid by site owners in respect of 'relevant protected sites'.

It is a criminal offence not to pay annual fees.

3. Local Authorities may also charge a fee for alterations to licence conditions where these are requested by a site owner or where an application to transfer the licence to another person/organisation is received (Section 8 (1B) and Section 10 (1A) of the Amended Act, respectively).

It is a criminal offence not to pay charges.

Where a licensing offence is committed by a company, its directors or secretary they can be liable to fines.

Other employees within or connected to the company can also be liable if it is held that the offence was committed with their consent or connivance, or occurred due to their negligence.

Calculating fees – General

In setting its fees Swindon Borough Council has referred to The Department for Communities and Local Government "Guide for local authorities on setting site licensing fees".

In respect to annual licensing fees we have calculated a price per Licensed Pitch (Unit) based on the total cost to the local authority in carrying out its annual licensing function for all sites within the Borough, divided by the total number of units over all our sites.

The unit price is then multiplied by the actual number of units on a particular site so that the owner is charged an annual fee based on the number of units on his site. This approach is considered to be most fair to licence holders.

Annual Site Licensing Fees for Existing Sites

The annual licensing fee for existing sites set by Swindon Borough Council must take into account the costs of administering the regime across all sites within the Borough.

This will 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/ IT systems;
- Updating the EU Directive website if appropriate;
- Processing the licensing fee;

- Time for reviewing necessary documents and certificates;
- Downloading and storing photographs;
- Preparing reports on contraventions;
- Review by managers and legal representatives.
- Carrying out consultation where required and reviewing responses from third parties;
- Carrying out risk assessment process considered necessary

*It has been determined this work will entail 7.5 hours (approximately 1 day) per annum @ £46 (average officer re-charge rate) = **£345***

(Applicable to all sites within the Borough).

There will be further additional costs for:

Carrying out Inspections

Initial / follow-up inspections relating to ALL sites (per annum.)

*4 hours @ £46 p/h = **£184***

(Applicable to all sites within the Borough.)

Travelling to inspections

In respect of 2 x site inspections per year at an average of 10 miles return journey, each involving 30 minute officer travelling time (applicable to all sites within the Borough).

*2 x 30 minutes @ £46 p/h = **£46***

*Car mileage = 10 miles (average site) @ 40 pence p/m (x2 inspections) = **£8***

(Applicable to all sites within the Borough.)

Consultations, meetings, informal advice etc.

Time spent consulting the site owner and third parties such as the Planning Services, Fire and Rescue Services and HSE.

*7.5 hours (approximately 1 day) per year @ £46p/h = **£345***

Applicable to all sites within the Borough.)

Total Administrative cost for monitoring licenses for all sites within the Borough is: **£928**

*Number of Licensed pitches on all sites within borough = **224***

Therefore Unit cost = £4.15

The Annual Licence fee will be the Unit Cost x the number of Licensed pitches (units) for any particular site.

*Thus, for a 60 unit site the annual Licence fee will be: **£249.00***

New site license fees

Matters that Swindon Borough Council has considered in determining the approval of a new site license can be summarised as follows:-

- An inspection of the site, at planning stage or on immediate planning approval, to discuss requirements with site owner (2 hours @ £46 p/h = **£92**).
- A second visit, following the issue of a new licence, to check conditions and occupation of site (2 hours @ £46 p/h = **£92**).
- Dealing with all initial enquiries (process 0.5 hour @ £46 p/h = **£23**)
- 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 (2 hours @ £46 p/h = **£92**)
- Sending out all necessary forms (0.5 hours @ £46 p/h = **£23**)
- Updating hard files / IT systems (0.5 hour @ £46 p/h = **£23**).
- Land Registry Search charge (**£5** standard charge)
- Reviewing necessary documents and certificates (0.5 hours @ £46 p/h = **£23**)
- Preparing draft and final licences (1 hours @ £46 p/h = **£46**)
- Review decisions by Manager / Legal team etc. including any necessary review of consultation responses from third parties (1 hours @ £60 p/h = **£60**).
- Updating public register (0.5 hours @ £46 p/h = **£23**).
- Carrying out any risk assessment process considered necessary (2 hours @ £46 p/h = **£92**).
- Making enquiries as are necessary in connection with the application, such as those relating to management and financial standing; outstanding licensing issues and debts; and undertakings. (1 hour @ £46 p/h = **£46**).

The total cost of administering a new licence application will be the sum of the above costs:

Therefore:

The Total Cost for grant of a New Site License will be: **£640.00**

Transfer or Amendment of an existing site license

The Council will charge a fee of **£200.00** to transfer or amend an existing license.

This reflects relevant administration costs (detailed above) incurred in processing such applications.

Making Site License Rules

The Mobile Homes (Site Rules) (England) 2014 came into force on the 4th February 2014. Site owners will need to replace existing site rules with new ones that should be deposited with the Local Authority by the 3rd February 2015.

Local Authorities will be able to request a fee when site rules are deposited to cover their administrative costs. They will also be required to publish an up to date register of all site rules held.

The fee for depositing site rules with the Council will be set at **£25.00**

Enforcement powers under the Mobile Homes Act 2013

The Mobile Homes Act 2013 also enables Local Authorities to serve enforcement notices, and to carry out works in default in order to remedy breaches of site licence conditions as from 1st April 2014.

These new enforcement powers, tailored specifically for Park Homes, closely mirrors enforcement action that Councils have used for many years to help improve privately rented properties under the Housing Act 2004.

The Council will be able to charge fees in order to recover costs for pursuance of serving Enforcement Notice's based on the actual costs involved in each case..

Enforcement Notices and Works in Default

Section 9A of the Amended Act allows Local Authorities from 1st April 2014 to serve **Compliance Notices** on site owners where site licence conditions are breached.

Compliance Notices will outline precise breaches of site conditions, and detail improvement required to mitigate breaches and comply with the Notice.

The Notice will specify target work commencement and completion dates.

Failure to comply with a compliance notice would be a **criminal offence**, punishable on conviction to an unlimited fine, which has been introduced in accordance with Section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

A site licence can be revoked upon a third or subsequent prosecution.

Only following a successful prosecution for breaching a compliance notice, Local Authorities will be able to serve further notice in order to enter a site and carry out “**works in default**” of an Enforcement Notice.

In addition to this provision, Section 9E of the Mobile Homes Act 2013, allows a notice to be served on site owners enabling the Council to enter the site and pursue emergency action where there is an imminent risk of serious harm.

Local Authorities can **recover costs** for serving an Enforcement Notice and where necessary for carrying out works in default, which includes powers to force a site sale should an owner fail to pay costs when required to do so.

Site owners will have recourse to submit an **appeal** against a Compliance Notice to the First Tier Tribunal (Property Chamber), formerly referred to as the “Residential Property Tribunal”.

Charges for Works in Default

The full cost of carrying out works in default can be recovered from the licence holder. This will include an administration charge that is added to the cost of works when recovering expenses relating to works in default. This charge will cover the cost of officer time from the date when the notice has been breached.

Unpaid charges can be placed as a **charge against the site owner's land**, and enforced site sale pursued if the debt remains unpaid.

Time when Fees are payable

Section 10A(5) of the Amended Act states that the Fees Policy must include provisions as to 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 (1st April to 31st March) and will be paid in advance.

Invoices will be sent out during the month of April each requiring payment within 30 days. Where a new site is licensed part way through the year, an invoice with the same payment terms will be sent shortly after the licence is issued, pro rata from this date to the beginning of the next financial year.

Transfer or amendment fees will be a one off payment at the time of the transfer or amendment.

Summary of fees structure:

- New License - **£640.00** (per license)
- Annual fees - **£4.15** per licenced unit
- Transfer/amendment of an existing License - **£200.00**
- Deposit of site rules - **£25.**

Annual review of fees

All local authorities are legally obliged to assess and review licensing fees annually to determine whether they remain reasonable and accurate.

Any expenditure surpluses / deficits that are identified within the licensing fee structure will be adjusted to the following year's fees.

***Agreed by Cabinet Member for Housing & Public Safety, October 2014**