



Derby City Council

# **Mobile Homes Fee Policy**

**Version 2 – September 2021**

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# 1. Introduction

- 1.1 The Caravan Site and Control of Development Act 1960 (CSCDA60) introduced a licensing system enabling Derby City Council (the Council) to regulate the establishment and operation of caravan sites. All sites are subject to obtaining the correct planning permission.
- 1.2 Under the CSCDA60, the Council cannot charge a fee, or refuse a site licence application, even if there is poor standards and poor compliance with the Council's licence conditions. This existing legislation limits the enforcement action available to local authorities. In cases of non-compliance the only option to prosecute the site owner
- 1.3 The CSCDA60 has now been amended by the Mobile Home Act 20013 (MHA13). This Act was introduced in order to provide greater protection for the residents who occupy these park homes and caravans. It also introduced fundamental changes to the gifting, buying and selling of a park home, protection from harassment and eviction, the pitch fee review process, and introduced additional powers for local authorities.
- 1.4 These additional powers include charging fees for different licensing functions, the ability to serve enforcement notices and publish site rules relating to a site.
- 1.5 There is an expectation that councils will carry out annual inspections and use the additional powers afforded by the MHA13 to ensure site owners comply with the site licence conditions.

## 2. Scope

- 2.1 The changes introduced by the MHA13 came into force on 1 April 2014 and the fees that may be charged only apply to 'relevant protected sites'. A relevant protected site is defined in section 5A (5) and (6) of CSCDA60 (as amended). Guidance has been issued by the Department for Communities and Local Government (DCLG) and lists the types of sites which fall into the definition.
- 2.2 A 'relevant protected site' is defined in the CSCDA60 as any land to be used as a caravan site with planning consent, 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
- 2.3 Relevant protected sites to which the MHA13 applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites. It will not include sites where the caravans are occupied by employees of the site owner, or travelling sites where the residents are close family members.
- 2.4 Those sites that do not fall within the definition of relevant protected sites are still subject to the licensing requirements of CSCDA60, but the provision relating to the payment of fess do not apply.



- 2.5 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (FPP) came into force on 1 July 2021 and introduce a requirement that relevant protected sites are managed by a fit and proper person.
- 2.6 Under current legislation a fee can be charged for:
- Applications to grant a new licence;
  - Applications to transfer or amend an existing licence; or
  - Annual licence fees for administering and monitoring existing site licences.
  - Depositing site rules
  - Applications to register as a fit and proper person
  - Annual fee for monitoring the fit and proper person register
- 2.7 This policy details the level of fees Derby City Council will charge in relation to the different functions of the MHA13 and FPP.
- 2.8 The fee levels have been based on the estimated average time and costs involved in undertaking the activities involved. These fees include officer time and overheads. Guidance from Central Government outlines what the Council can consider in calculating the fee levels. These are detailed in Appendix 1.
- 2.9 The current fee rates set out in this policy can be found on the Council's website.

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

- 3.1 All sites are required to hold a licence (subject to the exemptions in the CSCDA60); failure to apply for a licence is an offence under section 1(2) of the CSCDA60. Under the new legislation, the Council can require a fee to accompany any new licence application.
- 3.2 The Council can only issue a licence to a site that has 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 that have the correct planning permission in place at the time of application must be processed within 2 months of receipt of a valid application. To be considered a valid application it must include the correct fee.
- 3.3 An applicant may make contact with the Council before making an application. Informal advice and any work given in advance of an application should be given free of charge.

### **4. Transfer of an existing licence**

- 4.1 Where an existing licence holder wishes to transfer the licence an application must be made to the Council. Any transfer application must be accompanied by the correct fee.



## 5. Amendment of conditions on an existing licence

- 5.1 If a site owner requests a variation to site licence conditions the Council can charge a fee.
- 5.2 It is envisaged any amendment to licence conditions will involve conducting a site visit, prior to the matter being presented and determined by the General Licensing Committee.
- 5.3 Any application to vary conditions must be accompanied by the correct fee.
- 5.4 If the Council considers it necessary to alter the conditions, no fee is payable.

## 6. Annual fees for existing site licences

- 6.1 Annual fees must be paid by all relevant protected sites. The fee will be due on 1 April every year.
- 6.2 The annual fee covers the permitted costs associated with an annual site inspection to ensure compliance with the site licence conditions, and a revisit to ensure compliance with any informal schedule of works. If any breach of licence conditions still remain further charges may be payable to cover any enforcement action. Enforcement action is covered in Section 7.
- 6.3 The fee is calculated using both the Council's historic data of time spent on previous site inspections and estimated time and costs to enforce the new licensing functions of the new legislation.
- 6.4 The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating fees. Given the historic data the Council has available, and to ensure transparency and fairness to residents and site owners, one annual fee will be charged. If a site owner fails to comply with the site licence conditions, the MHA13 allows the Council to charge extra fees for enforcement action, thus only affecting those site owners who do not comply with their licence conditions.
- 6.5 Invoices will be sent to the licence holders of the relevant protected sites at the start of the financial year and payment will be due within 30 days.
- 6.6 If 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 to the licence holder after the licence has been granted with the pro-rata payment being due within 30 days.
- 6.7 If an amended licence is issued part way through the year (including the addition or reduction of units), the change in annual fee would be calculated on a pro-rata basis for the remainder of the current year and the difference in fee would be adjusted against the following years annual fee.



- 6.8 If 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 fee due.
- 6.9 The Council is not permitted to make a surplus from the licensing function. The MHA13 requires the surpluses and deficits to be included in the fee policy (section 5A (2)). These must be calculated and included in all future revisions of the fee policy.

Any surpluses or deficits will be carried forward and affect the following financial year's fees.

## **7. Enforcement action**

- 7.1 If breach in the site licence conditions comes to the Council's attention, a compliance notice may be served on the site licence holder, and a charge made.
- 7.2 The charge may include officer time involved in deciding to serve and prepare a notice. A detailed breakdown of the relevant expenses would be included with the notice. Any charge would be based on an hourly rate. This is in addition to any other costs incurred.
- 7.3 If the works identified in the enforcement notice are not carried out then an offence has been committed and the local authority may consider instigating legal proceedings. Any recovery of the costs incurred with such action would be at the discretion of the court.
- 7.4 If the prosecution was successful, the Council would then have the power to carry out the works in default of the site licence holder. An administration cost of 7% would be added to the cost of the works.

## **8. Fees for depositing, varying or deleting site rules**

- 8.1 Site rules are different to the site licence conditions and are put in place by the site owner to ensure acceptable standards are maintained throughout the site and to the benefit of the occupiers or will promote community cohesion on the site.
- 8.2 The MHA13 changes the way site rules must be agreed between the site owner and the occupiers.
- 8.3 The Council must maintain a register of site rules on relevant protected sites and publish the register on their website.
- 8.4 Before publishing the site rules the Council must ensure the site rules have been made in accordance with the statutory procedure. A fee may be charged for this function.
- 8.5 Any site rules deposited with the Council for the first time, or any application to vary, or delete existing site rules must be accompanied by the appropriate fee. The fee for either of these functions is the same as the process is similar for each.



## 9. Application to register as a fit and proper person

- 9.1 From 1 July 2021, the Council must be satisfied that the occupier of the land used as a relevant protected site or a person appointed by the occupier to manage the site is a fit and proper person.
- 9.2 The Council must establish and maintain a register of persons they are satisfied are fit and proper to manage a relevant protected site in their area.
- 9.3 An application to be included in the register must be accompanied by the fee to cover the cost of administering this function and an application will not be valid until the fee is paid.
- 9.4 If the Council are satisfied that an applicant is a fit and proper person they can be included in the register for up to 5 years. The regulations include that a person may be included in the register subject to condition(s).
- 9.5 Such conditions may be varied or removed or the person may be removed from inclusion in the register at any time if new evidence relevant to the person's inclusion in the register becomes available.
- 9.6 There is also provision for the Council to appoint a person to manage a site, with the site owner's consent. In this instance any costs incurred or to be incurred in making the appointment will be recharged to the site owner on the same basis as enforcement costs are calculated.
- 9.7 The regulations do permit the Council to set an annual fee to cover any administrative costs incurred in monitoring the scheme and maintaining the register and also as a condition of inclusion in the register.

## 10. Revising the fee policy

- 10.1 The fees detailed in this fee policy have been based on experience of dealing with the previous licensing function and historical data held by the Council.
- 10.2 Some of the functions are new to the council, such as, the depositing of site rules and some estimates have been made as to the cost of providing these services.
- 10.3 This policy will be revised every 5 years .



## Appendix 1 – Permitted Elements of the Fee Setting

The Department for Communities and Local Government sets out the activities that the Council can include when calculating annual site licensing fees. 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 risk assessment process considered necessary
- pre-programmed full site inspection
- follow-up inspections to check compliance following a programmed inspection.

In addition to the above list the following activities can be included for specific applications:

- land registry searches (new)
- inspection of the site at the planning stage or on immediate planning approval, to discuss requirements with the site owner (new)
- second visit, following the issue of a new licence, to check conditions and occupation of site (new)
- initial enquiries (new and transfer)
- preparing draft and final licences (new and transfer)
- Updating public register (new and transfer)
- reviews of decisions or on defending appeals (new and transfer)
- inquiries relating to management and financial standing, outstanding licensing issues and debts, and undertakings (new and transfer)
- site visit to assess the specifics of the application (amendment to existing licence).

General costs can be included:

- travel time and fuel costs to and from site
- consultations with the site owner and third parties, such as planning, fire service etc
- meetings with the site owner, proposed licence holder or their representatives
- informal advice and assistance given to site owners or their representatives around licensing issues.



## **Elements included in setting the fee for applications to the fit and proper person register**

It is recommended that the Council take into account the following matters when determining its fee policy for consideration of applications for entry on a fit and proper register:

- Initial enquiries
- Emails/ letters/ 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 fit and proper process
- sending out forms
- updating files/ computer systems and websites
- processing the application fee
- land registry searches
- time for reviewing necessary documents and certificates
- preparing preliminary and final decision notices
- review by manager or legal
- review any representations made by applicants or responses from third parties
- updating the public register
- carrying out any risk assessment process considered necessary
- reviews of decisions or in defending appeals.

## **Elements included in setting the annual fee for monitoring the register (if required)**

Emails/ letter/ 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 fit and proper process:

- handling enquiries and complaints
- updating files/ computer systems and website
- processing the annual fee
- time for reviewing necessary documents and certificates
- preparing reports on breaches of conditions attached to an entry
- review any representations from an applicant or third parties, including reviews carried out by manager or legal
- carrying out risk assessment where considered necessary
- time spent on consulting the site owner and third parties
- time spent on meetings/discussions and in giving informal advice and assistance to site owners.

Please note the above lists are not exhaustive







