



NEW FOREST DISTRICT COUNCIL

RELEVANT PROTECTED SITE LICENSING FEES POLICY

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CONTENTS

1. Introduction	3
2. Summary of the Legislation	3
3. Relevant Protected Sites in the New Forest	4
4. Legal Scope and Limitation of Applying Fees	4
5. Exemption from Paying Fees	5
6. Recharging of Fees by Licence Holders	5
7. General Principles of Fee Calculation	5
8. Elements Included in Fee Setting	6
9. Method of Calculation for each Type of Fee and when it is Payable	6
10. Charges for Enforcement Notices and Works In Default	8
11. Fees for Fit and Proper Persons Register Applications	9
12. Current Fees and Charges	10
13. Revision of Fees and the Relevant Protected Site Licensing Fee Policy	10
14. Questions about the fees policy	11

1. INTRODUCTION

- 1.1 The Mobile Homes Act 2013 (MHA 2013) was introduced in order to provide greater protection to occupiers of residential caravans and mobile homes. Parts of it were implemented on 26 May 2013. The MHA 2013 introduced some important changes to park home site licensing on 1 April 2014 by amending the Caravan Sites and Control of Development Act 1960 (the Act). One significant change included the ability for Local Authorities to charge licence holders a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees. The MHA 2013 also enabled the Authority to serve enforcement notices and to carry out works in default to remedy breaches of site licence conditions.
- 1.2 The Mobile Homes (Site Rules) (England) Regulations 2014 came into force on 4 February 2014 and set out the timescale (12 months from that date) in which site owners had the duty to propose new site rules and consult with home owners and any qualifying residents' associations about these rules, which would replace any existing rules. After that date, any previously existing site rules would cease to apply. Any new rules must be deposited with this Authority and published on the Council website.
- 1.3 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require that a local authority must be satisfied that the owner of a mobile home site is a fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so. The local authority also has the power to appoint a fit and proper person to manage the site, with the owner's consent.
- 1.4 As with the provisions contained under the MHA 2013 and the Site Rules Regulations 2014, Local Authorities can also charge a fee for the assessment of applications to be a fit and proper person. In this way, a large proportion of the work related to residential caravan sites is self-financing.
- 1.5 In order to be able to charge fees the Council must publish them within a Fees Policy. This New Forest District Council Relevant Protected Sites Licensing Fees Policy was first approved by the Council in 2014 and is amended to include addition fees associated with the legislative changes in 2021 outlined above.
- 1.6 The purpose of publishing the fee policy is to show that the fees imposed are fair and transparent and to enable anyone required to pay a fee to understand the charges.

2. SUMMARY OF THE LEGISLATION

- 2.1 The Caravan Sites and Control of Development Act 1960 (the Amended Act) came into force on 29 August 1960. This Act introduced a caravan licensing system to be operated by Local Authorities regulating the establishment and operation of caravan sites. It worked in conjunction with planning requirements in that only a caravan site with valid planning permission can apply for a site licence.
- 2.2 The Mobile Homes Act 2013 (MHA 2013) amended the above Act, and from 1 April 2014 introduced a scheme to enable local authorities to recover the service delivery costs associated with licensing 'relevant protected sites'. It also provided local authorities with additional regulatory powers in relation to these sites.
- 2.3 A relevant protected site is in essence one that is residentially occupied all year round. Such sites may range from a single caravan on a plot of land to many caravans on land in single ownership and includes residential caravans on holiday sites.
- 2.4 In addition to allowing local authorities to charge for their regulatory work in relation to caravan sites The MHA 2013 introduced the ability for Local Authorities to serve compliance notices and to carry out works in default to remedy breaches of site licence conditions. The associated fees and charges are discussed later in this report.

- 2.5 The Mobile Homes Act 2013 also made amendments to the Mobile Homes Act 1983 Act in relation to site rules. The Mobile Homes (Site Rules) (England) Regulations 2014 gave site owners a 12-month period to propose and agree new site rules with site residents. Any new rules need to be deposited with the local authority, which will determine if the process has been properly followed and publish the rules on the Council website <https://newforest.gov.uk/1281>. At the expiry of the 12-month period any old site rules which had not been updated and agreed ceased to have effect.
- 2.6 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require that a local authority must be satisfied that the owner of a mobile home site is fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so. The local authority also has the power to appoint a fit and proper person to manage the site, with the owner's consent.

3. RELEVANT PROTECTED SITES IN THE NEW FOREST

- 3.1 As of May 2021, the Council was administering site licenses for 84 relevant protected sites of which 53 are single caravan sites. The total number of caravans on all these sites, excluding single caravan sites is over 1450.

4. LEGAL SCOPE AND LIMITATION OF APPLYING FEES

- 4.1 Section 3 (2A) of the Amended Act enables Local Authorities to require a fee in respect to a relevant protected site application.
- 4.2 Local Authorities may also charge a fee for alterations to licence conditions where these are requested by a licence holder 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).
- 4.3 Section 5A (1) of the Amended Act enables Local Authorities to require an annual fee to be paid by licence holders in respect of licensed relevant protected sites.
- 4.4 The costs associated with monitoring conditions on sites for licensing matters can be included within annual fees. However, annual fees should not take into account any costs incurred in relation to enforcement activities such as serving compliance notices, emergency action, and works in default as these costs can be recovered by other means.
- 4.5 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.
- 4.6 Regulation 12 of The Mobile Homes (Site Rules) (England) Regulations 2014 permits a fee to be charged for the deposit, variation or deletion of site rules with a local authority.
- 4.7 Regulation 10 of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 permits the local authority to determine the fee for an application or registration for someone to be added to the register. These fees may only cover the costs incurred by the local authority under its functions in Section 12 of Part 1 of the Amended Act.

5. EXEMPTIONS FROM PAYING FEES

- 5.1 Caravan Sites that are for holiday use only or are only permitted to have caravans stationed on them at certain times of the year are exempt from all licensing fees by virtue of not falling within the definition of "Relevant Protected Sites".
- 5.2 Local Authority owned sites whilst being Relevant Protected Sites, are also exempt from licensing and are therefore excluded from paying fees.

- 5.3 A site is exempt from the fit and proper person test if it is only occupied by members of the same family and is not being run as a commercial residential site.
- 5.4 In addition to the above, Section 10A(3) of the Amended Act enables Local Authorities to fix different fees or to determine that no fee is required to be paid in certain cases.
- 5.5 Using this provision, New Forest District Council has decided to exempt sites with 2 or less caravans from annual fees. This is because such sites are much less complex than larger sites, often have fewer site licence conditions (e.g. separation distances do not apply to single sites) than multiple sites, and the planned monitoring of these sites will be less frequent than those attracting an annual fee. In addition, the collection of annual fees from single twin pitch sites would not be cost effective, and any costs will be met through existing budgets.

6. RECHARGING OF FEES BY LICENCE HOLDERS

- 6.1 Licence holders were able to recover the cost of the annual licence fee through the pitch fee review in the first year that the licence fee became payable by the licence holder. Since then, any fees charged have been absorbed into the overall pitch fee with increases limited to an amount in line with the Retail Price Index.
- 6.2 Any fees to accompany an application for site licence conditions to be amended, or consent to transfer a licence may not be passed on by the licence holder via the pitch fee.
- 6.3 There is no provision within the Regulations which allows the site owner to pass on the fees associated with the fit and proper person test.

7. GENERAL PRINCIPLES OF FEE CALCULATION

The methodology relating to the calculation of fees is explained in this policy.

- 7.1 For setting the annual site licence fee, the methodology involved finding the cost of providing the service to all sites and dividing this cost between the total number of pitches in the District. This then becomes the fee a licence holder pays for each pitch on the site.
- 7.2 A similar approach has been used for setting the fit and proper person application process fee. A flat rate fee has been set for the consideration of all applications, based on the average time to process the application.
- 7.3 This approach averages out the charge and ensures that residents will not be adversely affected by higher costs involved with the complexities on some sites resulting from poor management.
- 7.3 The yearly fee for existing entries on the fit and proper persons register differs, as it charges a fee based on the number of conditions applied to the register for a given entry. It recognises that a register entry with more conditions attached to it is likely to take up more time in terms of ongoing monitoring. Register entries with fewer conditions are not disadvantaged by having to pay a proportion of an overall charge.
- 7.4 Officer costs are used in calculations and are established by using an hourly rate for each officer which includes the Council's on costs. Where more than one officer is involved in any particular work activity, an average of their hourly rates is used.

8. ELEMENTS INCLUDED IN FEE SETTING

- 8.1 Government guidance sets out the activities that the council can and cannot include when calculating its caravan site licensing function fees. A Local Authority can include:
- handling enquiries and complaints;

- letter writing/calls etc. to make appointments and request documents or other information from the site owner or any third party in connection with the licensing process;
- updating hard files, computer systems, website and public register;
- processing application and annual fees;
- land registry searches
- time for reviewing necessary documents and certificates;
- time consulting the site owner and third parties;
- preparing reports on contraventions;
- preparing draft and final licences;
- preparing preliminary and final decision notices;
- review by manager / legal services;
- carrying out any risk assessment process considered necessary;
- reviews of decisions or in defending appeals;
- A pre-programmed full site inspection and follow-up inspection or visit to ascertain if conditions are being met.
- Preparing reports on breaches of conditions attached to fit and proper person register.

8.2 A local authority cannot take into account when setting fees costs incurred in exercising their functions under

- Section 9A-9I Caravan Sites and Control of Development Act 1960 (the Amended Act) (relating to enforcement due to breach of licence conditions);
- Section 23 of the Amended Act (prohibiting the siting of caravans on common land); or
- Section 24 of the Act (the provision of caravan sites by local authorities).

8.3 In addition, section 10A(4)(b) of the Act prohibits a local authority from taking into account costs it incurs under the Act when setting fees, other than those relating to a relevant protected site.

8.4 No fees can be charged for holiday or other non-permanent residential sites. Sites which are in mixed use i.e. partly holiday with some permanent residential homes which fall within the definition of relevant protected site fees can therefore be charged.

9. METHOD OF CALCULATION FOR EACH TYPE OF FEE AND WHEN IT IS PAYABLE.

9.1 Application for a First Licence for a New Relevant Protected Single Caravan Site.

This fee relates to a new licence for a single caravan site. This is based upon the officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the licensing of a single caravan site. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.2 Application for a First Licence for a New Relevant Protected Multiple Caravan Site.

This fee relates to a new licence for a site with more than one caravan. This is based upon the officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the licensing of a multiple caravan site. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.3 Annual Fee for the Caravan Site Licensing Function

Annual fees are calculated by determining the total cost of providing the service for all licensed relevant protected sites with the exclusion of relevant protected single caravan sites. This is then divided by the total number of pitches on all these sites.

This calculation considers two main costs; firstly, fixed costs common to a monitoring visit at any site, such as pre and post visit administration, travelling and site meetings, and secondly, costs to inspect all pitches. In both instances the predicted time taken is multiplied by an officer average hourly rate. This generates an overall cost for the service at all sites. Annual fees do not take into account any costs incurred in relation to enforcement activities such as serving compliance notices, emergency action, and works in default as these costs can be recovered by other means.

This overall cost is divided by the total number of permitted caravans on all relevant protected sites licensed for more than one caravan in the district. This produces the annual fee per permitted caravan payable by the licence holder.

The annual fee payable by each licence holder is calculated by multiplying the cost per pitch by the total number of pitches on the site defined in the site licence conditions.

The annual fee for the period 1 April – 31 March is payable on or before 1 September of that year for all relevant protected sites that are licensed for more than two caravans.

9.4 Alteration of conditions attached to a site licence

This fee relates to an application by the licence holder for changes in site licence conditions and/or the approved plan of the site as a result of increasing the number of caravans, changing the layout or increasing the land area of a site.

The method of fee calculation uses a predicted average cost for work involved in processing the application. This is based upon the average officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the amendment of conditions attached to a site licence. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.5 Transfer of Site Licence

This fee relates to an existing licence which is to be changed into a new owner's name. A fee will not be charged where the site name or address of the licence holder is changed or where a joint licence holder is deleted from the licence and no new name is added.

The method of fee calculation uses a predicted average cost for work involved in processing the application. This is based upon the average officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs.

The fee is payable on submission of an application for the transfer of a site licence. If the Council decides not to approve the application the applicant is not entitled to a refund of the fee paid.

9.6 Fees for deposit of Site Rules for relevant protected sites

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 to which residents have to comply. They may reflect the site licence conditions but will also cover matters unrelated to licensing.

The Authority will need to satisfy itself that replacement or new rules deposited with it have been made in accordance with the statutory procedure. This prescribes how the site owner shall consult with homeowners and any residents' association. The Local Authority is also required to establish, keep up to date, and publish a register of site rules. In doing so the Authority may levy a fee for the depositing of site rules, or the variation or deletion of site rules.

The method of calculating the fee is derived from a predicted average cost of carrying out the necessary work by officers, including review of the process followed and publishing of the site rules.

It is payable each time there is a deposit, variation or deletion of site rules with this authority.

10. CHARGES FOR ENFORCEMENT NOTICES AND WORKS IN DEFAULT

- 10.1 Section 9A of the Amended Act allows Local Authorities to serve compliance notices on the occupier of the land where site licence conditions are breached. These notices will set out what the site owner needs to do to correct the breaches and the timescales, and the notice will attract a charge. Failure to comply with the notice would be a criminal offence, punishable by a fine at level 5 on the standard scale (currently £5000), and the site licence could be revoked upon a third or subsequent prosecution. Following a successful prosecution for breaching a compliance notice the Authority would be able to serve notice to enter the site and carry out the necessary works in Default.
- 10.2 In addition to this, Section 9E of the Amended Act allows a notice to be served on the occupier of the land enabling the Local Authority to enter the site and take emergency action where there is an imminent risk of serious harm.
- 10.3 The occupier of the land has the right to appeal to a residential property tribunal against a notice and charges imposed.
- 10.4 Section 9I of the Amended Act enables a local authority to charge interest from the operative date of a demand for expenses at a rate fixed by the authority.
- 10.5 Unpaid charges can be placed as a charge against the land. Enforcement costs are therefore not included in the calculation of the fees fixed by this Fees Policy.
- 10.6 Local Authorities have the power to reclaim expenses associated with carrying out necessary compliance works and/or emergency action. The charges would include the actual cost of the works, by a third party if necessary, and an appropriate sum for officer time, based on an hourly rate, and the cost of the administration of the charge.

11. FEES FOR FIT AND PROPER PERSONS REGISTER APPLICATIONS

11.1 Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person. Local authorities are required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations.

A local authority must be satisfied that either the site owner is a fit and proper person to manage the site or, if the owner does not manage the site, that a person appointed to do so by the site owner is a fit and proper person to do so or has, with the site owner's consent, appointed a person to manage the site.

Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.

11.2 Initial Application Fee

Regulation 10 permits the local authority to charge a fee for the processing of applications and this fee is published on the Council website:

<https://www.newforest.gov.uk/article/1280/Caravan-site-licensing>. This is to cover the cost of processing applications and will be reviewed annually.

The method of fee calculation uses a predicted average cost for work involved in processing the application. This is based upon the average officer hourly rate multiplied by the predicted time taken to complete the work, as well as additional administrative costs. It will be a fixed fee per application as it is deemed that the amount of work to process an application will be similar, regardless of the number of caravans on the site. Although most applications are likely to be relatively straightforward, it is recognised that a small number may require additional work, including the setting of conditions, and the preparation of preliminary and final notices. The predicated costs of dealing with such cases is included within the fixed fee.

The fee is payable upon application and consideration will only be given to an application when it is accompanied by the correct fee. If the correct fee is not included, the application will not be valid. The fee covers the application and is not refundable if we decide not to approve an application.

11.3 Annual Fee for an existing entry on the register

The authority may also decide the amount and frequency of any additional payments required by way of an annual fee. The purpose of the annual fee is to monitor the existing entries on the fit and proper persons register, including a review of attached conditions. As most entries on the fit and proper person register are for a period of 5 years, an annual fee would be payable on years 2, 3 and 4, unless the conditions are deleted as part of an annual yearly review.

It is proposed that all register entries will have a standard condition attached requiring the occupier to notify the local authority of any changes to the management arrangements, including any offences committed by the 'relevant person'. There will be no annual fee for register entries with this standard condition only.

Additional specific conditions attached to a register entry, in addition the standard condition above, will attract a fee. The method of calculating the fee is derived from a predicted average time taken to carry out the necessary work by officers including administration, multiplied by their hourly rate. It assumes that the time taken to monitor a register entry will be proportional to the number of conditions associated with that entry.

When additional specific conditions are added, they are accompanied by a further condition requiring payment each year of the annual fee. This condition is disregarded when calculating the annual fee. There will be a fixed fee for one additional condition, twice this fee for two additional conditions, and three times the fee for three or more additional conditions, as illustrated in the table below.

The Council website shows the current fee:

<https://www.newforest.gov.uk/article/1280/Caravan-site-licensing>. depending on the number of additional specific conditions applied.

The annual fee is payable on or before 1 September for all fit and proper person register entries with one or more specific conditions.

11.4 Appointed Manager

Where the authority has, with the occupier's consent, appointed a person to manage a site, the authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10.

Costs that will be recovered will depend upon the agreement made by the local authority with the site owner. Advice will be sought from legal services prior to entering into any discussions or agreements relating to the appointment of a manager.

12. CURRENT FEES AND CHARGES

Current fees and charges are published on the New Forest District Council website: <https://newforest.gov.uk/1280/Caravan-site/licence>.

13. REVISION OF FEES AND THE RELEVANT PROTECTED SITE LICENSING FEE POLICY

- 13.1 The fees covered by this Fees Policy are subject to annual review to ensure that the functions they cover do not generate a profit. Adjustments will be made to the following year's fee as necessary to address any underspend or overspend.
- 13.1 Should a significant change in fees be required, then this Policy will be revised showing the reasons for any significant change and how any surpluses or deficits have been taken into account, and appropriate member approval obtained before publication.

14. QUESTIONS ABOUT THE FEES POLICY

- 14.1 If there are any queries or clarification required on any aspect of this Fees Policy you can contact Environmental Health at eandr@nfdc.gov.uk, by phone 023 8028 5230 or by post to Environmental and Regulation, New Forest District Council, Appletree Court, Beaulieu Road, Lyndhurst, Hampshire, SO43 7PA