

# **PRIVATE SECTOR HOUSING Caravan Site Licensing & Fees Policy 2021**

## **1. Introduction –**

The Caravan Sites and Control of Development Act 1960 requires that, with some exemptions, where land has planning permission to be used as a caravan site, the site must also be licensed by the council.

The Mobile Homes Act 2013 made amendments to the 1960 Act allowing for the council to charge a site licence fee for relevant protected sites – principally sites that are permanent residential sites operated on a commercial basis.

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 brought Section 8 of the 2013 Act into force, requiring the owner and/or manager of such a site to be registered as a Fit and Proper Person.

This policy sets out how Winchester City Council will assess applications for site licences and applications to be on the register of Fit and Proper Persons, and the information that will be required to inform that assessment, and the fees that will be applied for various processes.

## **2. Legislation, Regulations and Guidance** – the following is the legislation covering caravan and residential mobile homes site licensing, and guidance as to their application.

### **2.1 Legislation and Regulation**

- Caravan Sites & Control of Development Act 1960
- The Mobile Homes Act 2013
- Local Government (Miscellaneous Provisions) Act 1976
- The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- The Mobile Homes (Site Rules) (England) Regulations 2014

### **2.2 Guidance**

- Model Standards 2008
- Mobile Homes Act 2013 – Explanatory Notes
- Park Homes: Site Licensing – Definition of relevant protected site
- Mobile Homes Act 2013: A guide to local authorities on setting site licensing fees
- Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime
- Mobile Homes Act 2013: Advice to local authorities on the new regime for applications for the grant or transfer of a site licence

## **3. Wider Context**

The purpose of Caravan Site Licensing is to ensure that all sites meet a minimum acceptable standard and are suitably managed. This is particularly applicable to relevant protected sites (permanent residential Mobile Home, or Park Home sites) where for residents this is their permanent home.

A person's home environment has a significant influence on their overall health and wellbeing. Mobile homes on permanent residential sites are often occupied by some of the most vulnerable in society. In many, but not all cases, the occupier owns their caravan and has a pitch agreement with the site owner allowing them to station their caravan on the site. They may then be dependent on the site owner for the provision of key services such as water and electricity supply, and the site owner will have responsibility for the maintenance of the common parts of the site as a whole. Licensing of sites, in particular relevant protected sites, is aimed at better regulating standards in this type of tenure so as to lessen any widening of inequalities for those residents.

## **4. Objectives**

- To provide a service that is consistent, transparent, and proportionally targets relevant protected sites that are subject to licensing in accordance with the Mobile Homes Act 2013 & Parts 1 & 3 of the Caravan Sites & Control of Development Act 1960.
- To provide a service that complements and is consistent with the Council's current policies, strategies and corporate objectives.

- To ensure all charges related to the service are consistent, transparent, and proportionate, with due regard given to the specific nature and requirements of each relevant protected site licensed
- In addition, the policy aims to encourage site owners to maintain compliance with the conditions of the site licence and to undertake proactive maintenance so as to provide better standards across the site for the residents.

## **5. Scope of the policy**

This document outlines the policy adopted by Winchester City Council to respond to licence applications generally and the particular regulations applicable to relevant protected sites.

This policy is consistent with the Private Sector Housing Enforcement Policy and Regulatory Services Enforcement Policy which was produced in accordance with the principles of good enforcement that were prescribed within the Enforcement Concordat.

The Private Sector Housing service shall provide assistance, advice, education and the promotion of good practice to businesses, organisations and the public, in addition to taking enforcement action, where appropriate.

## **6. Licensing Scheme**

In accordance with the legislation mentioned previously, the council shall licence all caravan sites within the district, except where they meet one of the specified exemptions from the licensing requirements.

### **6.1. Exemptions**

Exemptions are specified in Schedule 1 of the Caravan Sites & Control of Development Act 1960 and are, subject to meeting the conditions in the Schedule:

- Where the use is incidental to, and within the curtilage of, a dwelling/house
- Where forestry workers, builders, or seasonal workers (like fruit pickers) stay in caravans on the site
- Where the site is being used by Travelling Showmen
- The site is 5 or more acres and there are 3 or less caravans there for 28 days or less a year
- The site is a member of an organisation like a caravan club and have a caravan exemption certificate
- The site is approved by an organisation with a caravan exemption certificate
- Members of an exempted organisation stay in their caravans on the site
- The site is used for a social get-together of members of an exempted organisation (a 'rally')
- Sites owned by the licensing authority

## **7. Responding to Licence Applications**

The council will endeavour to provide an initial response to all licensing applications within 5 working days following the day of receipt.

### **7.1. Inspections**

The council will endeavour to inspect, when it is considered necessary and subject to capacity, all relevant protected sites that are subject of a licence application before the licence is granted. The council is committed to ensuring suitable standards for residents and maintaining a strong stance in enforcing this commitment. For this reason, all inspections required in determining an application for a Caravan Site Licence will be undertaken by authorised officers of the council.

This will enable the council to identify and address issues on those sites that are not in compliance with the Model Standards 2008 or are otherwise prejudicial to health or in such a state as to cause a nuisance and to set appropriate site licence conditions.

### **7.2. Determining Applications**

All licence applications will be determined by an authorised officer of the council. The council aims to process, decide and (where granted) issue a site licence within 6 months from receipt of a valid application. An application will be considered valid at the point all of the following has been received:

- A completed application form
- Full payment of the correct licence application fee
- ALL supplementary paperwork as specified on the application form

Determinations will have due regard to the following criteria which must be satisfied:

- Compliance with the Model Standards 2008 or any other model standards that are applicable, and as are appropriate to the particular site (ascertained through site inspection).
- There are satisfactory arrangements for the management of the site
- The proposed site rules (if any) are in compliance with the site rule regulations.
- The site is owned/managed by a fit and proper person who has been entered on the fit & proper person register.

### **7.3. Provisions for Management of the Site**

Satisfactory provisions for management of the site include that:

- A clear and accessible system is in place for the site residents to report defects, including emergency repairs, and satisfactory arrangements exist for remedying such defects
- A system of periodic inspections by management is in place to identify repairs and maintenance matters pro-actively.
- the site owner provides a declaration where he/she is not the manager, that adequate funding will be provided to the manager to deal with repairs.

- the site owner / manager provides a declaration as to the time periods in which it is expected that all standard repairs and emergency repairs will be completed.

#### **7.4. Site Rules**

The council must be satisfied that the proposed site rules (should there be any) provided by the applicant must be in full compliance with the Mobile Homes (Site Rules) (England) Regulations 2013 and that systems are in place should the site owner / manager propose to alter, add or cancel a site rule so as to comply with the procedural requirements of the regulations.

#### **7.5. Fit and Proper Person**

Under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 the “relevant person” (owner and/or site manager) of relevant protected sites must apply for entry on to a Fit & Proper Person register held by the council except when they meet a specified exemption. This applies to new and existing sites alike.

An authorised officer of the council will undertake the assessment.

Further details of the assessment requirements, procedures, specified exemptions, details held on the register and duration of any entry can be found in Appendix 1.

As permitted under the regulations, the council may charge a fee for consideration of an application for entry onto the fit & proper person register and this must be paid in full before the application will be considered valid.

### **8. Duration of Licence**

As required under the Caravan Site & Control of Development Act 1960, where an application for a licence has been determined to grant a licence, the duration of the licence is required to be issued in perpetuity except where the planning permission granted for the site has a specified expiry date, then the site licence will be issued with an expiry date consistent with that on the sites planning permission.

### **9. Licence Conditions**

A site licence shall always have site licence conditions attached. These will be informed by the Model Standards 2008, however, discretion will be given to the authorised officer to amend or add to these model standards on a case-by-case basis where it is felt the particular circumstances of the individual site mean there is appropriate justification to do so.

### **10. Ongoing monitoring of compliance with licence conditions**

Every licensed site shall be inspected ideally at least once a year in order to identify any hazards and areas of non-compliance with the conditions attached to the site licence. The council aims to provide an inspection report to the site

owner / manager within 1 month of the inspection being carried out. Any hazards or areas of non-compliance will be brought to the site owner/manager's attention and a specified timescale to address the items identified given. Subsequent site visits may then be made to check that these have been complied with.

Inspections will assess the whole of the site and any hazards and non-compliance will be considered in reference to the Private Sector Housing Enforcement Policy, and may result in the service of a Compliance Notice under the Caravan Sites and Control of Development Act 1960 Section 9A.

As permitted under the Mobile Homes Act 2013, an annual fee will be charged to licence holders of relevant protected sites for the monitoring regime.

#### **11. Variation of Licence Conditions**

Licence conditions may be varied by the council, subject to the licence holder being invited to make representations. Variation may also be requested either by the licence holder or relevant person. Where a variation is requested by the licence holder or relevant person this must be completed and submitted to the council in writing. As permitted under the Mobile Homes Act 2013, the council may charge a fee for consideration of a variation request and this must be paid in full at the point of submitting the application for the request to be considered valid.

#### **12. Transfer of Licences**

A licence may be transferred by the council on agreement to a new licence holder upon request from the current licence holder. A transfer cannot be requested by the proposed new licence holder. Where a transfer is requested by the licence holder this must be submitted in writing. As permitted under the Mobile Homes Act 2013, the council may charge a fee for consideration of a transfer request and this must be paid in full at the point of submitting the application for the request to be considered valid. The proposed new licence holder must have also applied for fit & proper person assessment and been granted and entered onto the register accordingly.

#### **13. Revocation of Licences**

The council cannot revoke a site licence but may apply to a magistrate's court for an order of revocation where a licence holder has been convicted 2 or more times of relevant offences, such as defaulting on compliance notice(s), or may apply for a revocation if the First Tier Tribunal has made an Order following non-payment of the site licence fee, and that Order has not been complied with.

#### **14. Appeals against decisions**

The council will not unreasonably refuse a licence, impose unreasonable licence conditions or refuse any request for variations to conditions, or to transfer a licence. Where such a refusal is made or conditions considered unreasonable, the applicant may appeal to the First Tier Tribunal within 28 days of the decision being made.

The address for the First Tier Tribunal (Property Chamber) is:

The Court House,  
Havant Justice Centre,  
Elmleigh Rd,  
Havant  
PO9 2AL

01243 779394

## **Appendix 1.0 Fit & Proper Person Assessment**

### **1.1 Regulations**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, requires the council to assess applications and keep a register of whether the “relevant person” (owner or site manager) is a fit and proper person to manage a relevant protected site.

### **1.2 Offences**

The regulations create three offences. These being:

- Operating a site in contravention of the fit & proper person regulations, i.e. where the site owner or their appointed manager has not been assessed by the council as a fit & proper person.
- Withholding information or including false or misleading information in a registration application.
- Failing to comply with a condition.

The council are responsible for enforcing the regulations. Any site owner the council believe to have committed one of the above offences may be prosecuted and on summary conviction would be liable to a level 5 (unlimited) fine.

If a site owner is convicted for operating a site without they or their appointed manager having been assessed by the council as a fit & proper person, the council may apply to a tribunal (or a magistrates court if convicted twice or more) for an order to revoke a site licence.

### **1.3 Exemptions**

Under the above regulations there are specified sites which are exempt from the requirement of the fit & proper person assessment. These are listed below:

- Non-commercial family-occupied sites are exempt from these regulations.
- Holiday and touring sites (on the grounds that they are not a relevant protected site)

### **1.4 Applications**

Site owners will be required to apply for inclusion onto the fit and proper person register. Once received, the council may:

- Grant the application unconditionally,
- Grant the application subject to conditions, or
- Reject the application

A fee may be charged for consideration of an application and only on receipt of full payment of this fee will an application be valid. A Criminal Records Certificate (also referred to as DBS) issued no more than 6 months before the date of application must be supplied along with the application.

#### **1.4.1. Assessment**

The assessment will be undertaken by an authorised officer and due regard will be given to the following matters when making assessment.



- Any previous convictions relating to offences involving fraud, violence, arson or drugs, or listed in Schedule 3 of the Sexual Offences Act 2003 (offences attracting notification requirements)
- Contravention of any provisions of law relating to housing, caravan sites, mobile homes, public health, planning, environmental health or of landlord and tenant law
- Contravention of the Equality Act 2010 in, or in connection with, carrying out of any business.
- Having harassed any person in, or in connection with, the carrying on of any business. The council will have regard to any previous complaints from site residents in this regard, and the outcome of subsequent investigations.
- Having been personally been insolvent within the past 10 years
- Having been disqualified from acting as a company director within the past 10 years
- Has the right to work in the UK
- Being a member of any redress scheme for dealing with complaints in connection with the management of the site
- Where any other local authority has rejected an application for the relevant person to be included in a register

In addition to the above the council will take account of other relevant matters including, but not limited to, whether the applicant has:

- Secured proper management of the site in terms of compliance with the site licence and long-term maintenance of the site.
- Whether the relevant person has a sufficient level of competency to manage the site.
- Whether there is a sufficient management structure and funding arrangements in place.
- Been refused a licence or convicted of breaching the conditions of a licence
- Been in control of a caravan site where work in default was carried out by a local authority and the debt is outstanding.

#### **1.4.2. Decision**

Once an application has been received, the council must make a decision as soon as reasonably practicable to either;

- Grant the application unconditionally, include on to the register for a period of up to 5 years and serve a final decision notice on the applicant; or
- Serve a preliminary decision notice on the applicant (either refusal of the application or grant of the application subject to conditions)

Applicants receiving a preliminary decision notice may make written representation to the council within 28 days, beginning on the day after the notice was served.

Where a preliminary notice has been served, the council must make a final decision and serve a final decision notice as soon as reasonably practicable after the 28 day representation period.



## **1.5 Register**

The council are required to establish & maintain an up-to-date register of the persons who have been assessed to be fit and proper persons to manage a site. The register must also contain information on rejected applications.

The register is required to be available for inspection by members of the public and to be published online.

### **1.5.1. Information contained in the register**

The register must contain the following details:

- Name & business contact details of the relevant person
- Name & address of the site to which application relates
- The status of the person
- The dates of first & last day of the period the persons' inclusion in the register is effective.
- Whether any condition is attached to the persons' inclusion in the register
- Where any condition is attached the number of any such condition(s)
- The dates of the first & last day of the period on which the condition applies (if applicable)
- The date any condition is varied or satisfied (if applicable).

Where an application has been rejected the following information must be included on the register

- Name & Address of the site to which the application relates
- That an application in respect of the site has been rejected
- The date on which the application was rejected

### **1.5.2. Period of Entry**

Where an entry on to the register has been granted this will be for a period as determined by the council and for no longer than 5 years, at which point re-application and assessment will be necessary.

Where information regarding a rejected application is included on the register, this shall remain until such time as a successful fit & proper person application is made in respect of the owner or manager of the site.

### **1.5.3. Removal from the register & variations of conditions**

Where a person is included on the register, and subsequently new evidence relevant to the person's inclusion becomes available, the council may:

- Remove the person from the register
- Impose a condition on the person's inclusion onto the register, or
- Vary or remove a condition already imposed by virtue of the regulations

## **1.6 Notice of Proposed Action & Notice of Action**

Prior to taking any action to either remove a person from the register, impose a condition, or vary an existing condition the council must serve a Notice of Proposed Action on the site owner.



The subject of the Notice of Proposed Action has the opportunity to make a written representation within 28 days, starting from the day after the notice was served.

Following the end of the representation period, the council must consider fully any representation made and, as soon as reasonably practicable, decide whether to continue to take the action proposed. If it is decided to continue with the action, then a Notice of Action must be served on the site owner within 5 working days of the decision being made.

## **1.7 Withdrawal or amendment of Notices**

There may be circumstances where the council may decide not to continue with an action it has previously decided to take. In such circumstances the council may withdraw or amend:

- A preliminary decision notice before service of the final decision notice,
- A final decision notice before the decision to which it relates takes effect, or
- A notice of proposed action before the proposed action is taken.

In order to withdraw or amend a notice in any of the above circumstances the council must serve notice on the person on whom the original notice was served detailing the withdrawal or amendment and the implications of the decision in relation to their entry on the register.

## **1.8 Appeals**

A person on whom a final decision notice or notice of action is served, still has a right of appeal to the First Tier Tribunal (Property Chamber).

## **1.9 Local Authority appointed site manager**

In exceptional circumstances where a site licence holder has been unable to find a fit & proper site manager to put forward, they can approach the council to discuss if it can appoint a suitable alternative person by agreement.

The council and site licence holder would discuss and agree the terms on which the council could assist in finding a suitable site manager and the scope of that person's authority.

Where the council is able to identify a suitable person, the person must undergo the fit & proper assessment and their details included on the register. Any costs incurred by the council in making the appointment can be recovered from the site licence holder.

## Appendix 2 - Fees

1. The Mobile Homes Act 2013 (the Act) introduced the ability for the council to charge fees for their licensing functions in respect of 'relevant protected sites'. A 'relevant protected site' is defined as any land to be used as a caravan site other than one where a licence is:
  - Granted for holiday use only
  - In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of year (such as planning conditions).

Relevant protected sites are generally known as residential parks, mobile home parks, Gypsy Roma and Traveller sites etc. and the Act enables the council to charge site owners on a cost recovery basis a fee for applying for a new site licence and amendments or transfers of existing licences. The council can additionally charge an annual fee for holding a site licence although the legislation does allow the site owner to pass on each year to residents through their annual 'pitch fees' the amount of the charge imposed on the site owner by the council in the first year and subsequent years.

Fees are only applicable to those sites that fall within the relevant protected sites definition.

### **Department for Communities and Local Government (DCLG) Guidance**

2. In setting the fees to be charged, the Council had regard to The Mobile Homes Act 2013 – a Guide for Local Authorities on setting site licence fees' issued by the Department for Communities and Local Government. The council is not permitted to make a profit and can only pass on to the site owner the costs incurred in carrying out the licensing function. The council however is also not expected to make a loss in undertaking its licensing functions which should be a self-financing function which local taxpayers are not required to subsidise.
3. Fees charged by the council are required to be published and the level of fee is based upon the estimated time and cost involved in undertaking a site inspection and / or the administrative activities involved in a particular process. Publication of the council's fees will enable fee recovery by the council in such circumstances where despite the request for a fee to be paid, no money is received.
4. The Act also introduced the ability for the council to serve enforcement notices and charge for fees incurred for undertaking works in default to remedy breaches of site licence conditions. In such instances the recovery of costs would be calculated on a case by case basis and do not therefore fall under the scope of this Fees Policy.

**Fees associated with the licensing of relevant protected sites and for applications to be included on the Fit and Proper Persons Register**

5. The fees associated with applying for a new site licence, for transfers / variations of existing licences, for annual fees and the holding of a site licence are detailed in Table 1 below.
6. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 brought Section 8 of the Mobile Homes Act 2013 into force from 1st July 2021. The Regulations allow the local authority to charge a fee for processing applications to be included on the register that the council is required to produce, make available for public inspection, and publish online. Fees for this process are also detailed in Table 1 below.

**Table 1 Park Homes Annual Fees (Relevant Protected Sites only)**

| <b>Number of Pitches</b>   | <b>1 to 5</b> | <b>6 to 15</b> | <b>16 to 45</b> | <b>46 to 75</b> | <b>76 plus</b> |
|--|---------------|----------------|-----------------|-----------------|----------------|
|  | £             | £              | £               | £               | £              |
| <b>Site licence annual Fee</b>   |               |                |                 |                 |                |
| Charge to site owner   | 164.00        | 188.00         | 248.00          | 329.00          | 409.00         |
| <b>New site licence application – fee charges</b>  |               |                |                 |                 |                |
| Charge to site owner   | 373.00        | 390.00         | 410.00          | 427.00          | 447.00         |
| <b>Application to transfer a site licence – fee charges</b>  |               |                |                 |                 |                |
| Charge to site owner   | 125.00        | 125.00         | 125.00          | 125.00          | 125.00         |
| <b>Application to be included on the Fit and Proper Person Register:</b><br>Application for existing site licence holder – included in the Site Licence Annual fee detailed above.<br>First application on application for a new site licence – included in the application fee detailed above.<br>Any further application within the period for which the initial application is granted (no more than 5 years) will be charged as follows: |               |                |                 |                 |                |
| Charge to site owner   | 125.00        | 125.00         | 125.00          | 125.00          | 125.00         |
| <b>Application to vary a site licence – fee charges</b>  |               |                |                 |                 |                |
| Charge to site owner   | 125.00        | 125.00         | 125.00          | 125.00          | 125.00         |
| <b>Deposit and publishing of site rules – fee charge</b>   |               |                |                 |                 |                |
| Charge to owner  | 54.00         | 54.00          | 54.00           | 54.00           | 54.00          |

7. Sites that do not fall within the definition of a relevant protected site are still subject to the licensing requirements contained within the Caravan Sites and Control of Development Act 1960 unless exempt under Schedule 1 of the Act, but the provisions relating to the payment of fees do not apply. This exemption applies to sites that are for holiday use only and those that are only allowed to have units stationed on them at certain times of year.
8. The Mobile Homes (Site Rules) (England) 2014 also introduced changes to the administration of site rules and caused all existing site rules on residential parks in England to cease to be effective on 3rd February 2015. If a park owner wished to continue to have park rules after that date, they had to undertake a formal consultation with all their park residents about any proposed new park rules. This process had to be completed in accordance with the legislation and all new park rules were required be deposited with the council, for which a fee could be charged.
9. Site Rules that have been duly deposited with the council will be accepted if their contents are believed to be consistent with legislation and created having been correctly consulted upon and that there are no outstanding appeals.
10. Site rules that have been duly deposited with the council will be published on the Winchester City Council's web site and available to view or download.

### **Cost Recovery**

11. Fees are calculated by the council on the basis that it will recover the costs incurred in administering licences, including both fixed costs and officer time spent inspecting sites. The fees were calculated with reference to 'The Mobile Homes Act 2013 – a Guide for Local Authorities on setting site licence fees'.
12. The appropriate fee must be included with any application for a new site licence, for amending a site licence or for transferring a site licence etc, and for any application to be on the Fit and Proper Person register.

### **Review of fees**

13. Fee levels will be reviewed annually to take into account the effect of inflation.

### **Annual Fees**

14. Fees for existing sites will be payable annually during May/June. The fee is charged in arrears and covers the yearly period from 1<sup>st</sup> May to 30<sup>th</sup> April.
15. Where an annual site licence fee is payable, a request for payment will be made by the Council in May/June each year and must be paid to the council within 28 days.



16. Where a fee is overdue to the council, it may apply to the First Tier Tribunal for an order requiring the licence holder to pay the council the amount due by the date specified in the Order. Should a licence holder fail to comply with such an Order within a period of three months from the date of the order, the council may apply to the First Tier Tribunal for an Order revoking the site licence.