

*Caerphilly CBC*

**Mobile Homes (Wales) Act 2013**

**Fees and Charges Policy for  
Licensing and Compliance of  
Residential Mobile Homes Sites**

*Draft 5<sup>th</sup> January 2015*

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## 1. INTRODUCTION

- 1.1 The Mobile Homes (Wales) Act 2013 has been introduced to supersede those elements of the Caravan Sites and Control of Development Act 1960 relating to the licensing of residential mobile home sites. The Mobile Homes (Wales) Act 2013 (MHW Act), authorises local authorities to issue licences in respect of 'relevant protected sites' and to require applications for such licences to be accompanied by a fee fixed by the authority. A licence may be granted for up to 5 years. Fees may also be charged for applications to transfer site licences or to change conditions in site licences.
- 1.2 Caerphilly CBC is the local authority for purposes of the act for the county of Caerphilly, and has agreed to make charges for the licensing of relevant protected sites in accordance with the powers granted under the act as agreed by cabinet decision (*insert decision date*)
- 1.3 A relevant protected site is defined in the act as any land to be used as a caravan site other than one where the application for a licence is:
- For holiday use only, or
  - Subject to restrictions or conditions which limit the times of the year when the site may be used for stationing caravans for human habitation (e.g. planning conditions)
- 1.4 A relevant protected site does not however include sites that are owned by the local authority.

## 2. Legislation related to setting a Mobile Homes Site Licence Fee

Before a local authority can charge a fee, it must prepare and publish a fees policy. When fixing a fee the local authority:

- Must act in accordance with its fees policy
- May fix different fees in different cases
- May determine that no fee is required in some cases

Any fees charged must fairly cover the costs (or part of the costs) incurred by the local authority in performing its functions under the MHW Act, (excluding the costs of enforcement action or any functions relating to prohibiting caravans on commons or provision of sites by the local authority itself).

### 2.1 Section 6 of the MHW Act 2013

- (5) A local authority may require an application for a site licence to be accompanied by a fee fixed by the local authority (section 36).

## **2.2 Section 36 of the MHW Act 2013**

- (1) This section applies where a local authority proposes to charge a fee under Section 6 (application for a site licence) or Section 13 (variation of a site licence)
- (2) Before charging the fee, the local authority must prepare and publish a fees policy
- (3) When fixing a fee for the purposes of Section 6 or 13 the local authority –
  - A. Must act in accordance with its fees policy
  - B. May fix different fees for different cases or descriptions of case, and
  - C. May determine that no fee is required to be paid in certain cases or descriptions of case.
- (4) When fixing a fee for any of those purposes, the local authority may not take into account any costs incurred by it in exercising –
  - A. Its functions under any of the sections 15 to 25 (breach of conditions), or
  - B. Any function under any provision of this Act in relation to a site which is not a regulated site.
- (5) The local authority may revise its fees policy and, where it does so, must publish the policy as revised.

## **2.3 Fee to vary a condition of Site Licence**

### **Section 13 of the MHW Act 2013**

- (4) A local authority may require an application for a variation of the conditions of the site licence to be accompanied by a fee fixed by the local authority (section 36).

## **2.4 Fee for the lodging of Site Rules**

### **Section 52 of the MHW Act 2013**

- 11 The Welsh Ministers may by regulations—
  - (a) require a local authority to establish and keep up to date a register of site rules in respect of protected sites in its area,
  - (b) require a local authority to publish the up-to-date register,
  - (c) provide that any deposit required to be made by virtue of subsection (d)
  - (d) must be accompanied by a fee of such amount as the local authority may determine.

**Regulation 12(4) of the Mobile Homes Site Rules (Wales) Regulations 2014 state:**

(4) A deposit required to be made by virtue of this regulation must be accompanied by a fee of such amount as the local authority may determine.

2.5 In setting its fees policy and the fees to be charged the council has had regard to the Fees Toolkit Guide for Local Authorities On Setting Site Licensing Fees issued by the Wales Heads of Environmental Health Expert Panels for Licensing and Private Sector Housing.

### **3. THE LICENCE FEE STRUCTURE**

3.1 In calculating its fee structure, the council has calculated its fees in accordance with the provisions of the act, and the fees determined are set out in the appendix to this policy.

3.2 In determining those fees, the council has taken into account all administrative costs incurred in the licensing process, officer visits to sites, travel costs, consultations, monitoring of sites/investigation of complaints and the giving of informal advice.

3.3 The council, in accordance with the legislation the following sites are exempt from licensing:

- Local Authority-owned sites
- Use incidental to a dwelling house within the same curtilage
- Sites where a single caravan is stationed on land more not more than 28 days in any 12 month period.
- Sites where caravans are stationed on land not less than 20,000 square metres for not more than 28 days and not more than 3 caravans are stationed at any one time.
- Sites where caravans are solely for workers employed in building or engineering operations on that or adjacent land.
- Sites where caravans are solely for seasonal agricultural/forestry workers employed on land owned by the site owner.
- Sites used by travelling showmen who are members of a relevant organisation.
- Sites occupied by organisations holding a certificate of exemption

### **4. REVIEW OF THE LICENCE FEE STRUCTURE**

4.1 A review of the fee structure will be carried out every other year/biennially and it will be revised if necessary. Any adjustments will take into account variations in officer and administration time to those used in calculating the fees set out in this policy document, along with any changes to other costs incurred in providing the licensing function.

## **5. PUBLISHING THE FEE POLICY**

- 5.1 The fees policy for licensing of residential park home sites will be published on the council's website
- 5.2 If the council revises its fees policy, it will replace the published policy with the revised policy. The policy will also be available to view during normal office hours at:

***Environmental Health ,  
Ty Pontllanfraith,  
Blackwood Road ,  
Pontllanfraith  
NP12 2YW***

## **6. PAYMENT OF FEES.**

- 6.1 The council requires application fees for a site licence, for amending a site licence or for transferring a site licence to accompany the application. The council will not commence the application process until such time as the fee is received.
- 6.2 Application fees are not refundable if the application is not approved.

## **7. OTHER CHARGES**

### **7.1 Enforcement Expenses**

- 7.1.1 The council is entitled, and will seek, to recover expenses incurred in carrying out enforcement action involved in the service of a compliance notice. These expenses include costs incurred in deciding whether to serve a notice, site inspections, preparing the notice and obtaining expert advice.
- 7.1.2 Where appropriate, the council will also seek to recover expenses incurred:
- In taking action following conviction of the site owner for failure to carry out actions required by a compliance notice; or
  - In taking emergency action where there is an imminent risk of serious harm to any person on the site as a result of the site owner's failure to comply with licence conditions
- 7.1.3 Interest may be charged on any sums to be recovered as a result of enforcement action.
- 7.1.4 The council will also be able to register any of the debts to be recovered for enforcement actions as a local land charge against the site.

### **7.2 Deposit of Site Rules**

7.2.1 In accordance with the Mobile Homes (Site Rules) (Wales) Regulations 2014 requires site owners to review existing site rules and consult with residents in respect of proposed site rules. Once agreed with the residents the site owner is required to lodge the site rules with the Council. The Council needs to approve and register the rules. The Council will also be required to publish the list of site rules on the Council's website.

7.2.2 A **set fee of £42 is made for depositing, varying and deleting site rules.** If the park owner has completed an inadequate consultation process, it is proposed that a new fee for depositing of site rules must be paid by the park owner to cover the Council's costs

## **APPENDIX A FEES FOR LICENSING RESIDENTIAL MOBILE HOME SITES**

**The following fees will apply**

**i. Initial Licence Application:**

- a set flat administrative fee for processing the application,

Application for Small site 1-10 caravans	£345
Application for Medium site 11-51 caravans	£398
Application for Large Site 51+ caravans	£597

A licence will be granted for up to 5 years

It is proposed that small sites with only 1 pitch, and used exclusively for the owner and their family (and not deemed incidental to the use of a dwelling house within the same curtilage), and not operated for financial gain are not charged.

It is considered unreasonable to charge an inspection fee for these types of sites because experience has shown that they represent a low risk and require little or no enforcement therefore more suitable for light touch monitoring.

**ii. Discount incentives for early renewal following 5 years**

It is proposed that an incentive based discount scheme is introduced in respect of site licence renewals. The purpose of the discount is to encourage good practice and early submission of the renewal applications that would prevent unnecessary chasing of applications by the Council. The details of this policy will be developed at a future date during the annual review of site licence fees that will be brought to Scrutiny and Cabinet at this time.

**iii. Variation of existing site licence condition / replacement licence**

The Council may also apply a fee to vary an existing site licence. The Council may vary the site licence upon the request of the licence holder or if there is a change in

circumstances. It is proposed that the **application fee for variation of a site licence is a set fee of £200 rising to £260 if an inspection is required.** If the Council deems it necessary to alter site licence conditions to take account of new Welsh Assembly Government Model Standards for Residential Caravan Sites, there will be no fee payable from the licence holder.

For a **replacement licence a charge of £26** will be levied

#### **iv. Fees for lodging site rules**

In accordance with the Mobile Homes (Site Rules) (Wales) Regulations 2014 requires site owners to review existing site rules and consult with residents in respect of proposed site rules. Once agreed with the residents the site owner is required to lodge the site rules with the Council. The Council needs to approve and register the rules. The Council will also be required to publish the list of site rules on the Council's website.

It is proposed that a **set fee of £42 is made for depositing, varying and deleting site rules.** If the park owner has completed an inadequate consultation process, it is proposed that a new fee for depositing of site rules must be paid by the park owner to cover the Council's costs.

#### **v. Enforcement Charges**

The council is entitled in accordance with section 19 and 22 of the MHW Act 2013, and will seek to recover expenses incurred in carrying out enforcement action involved in the service of a compliance/emergency compliance notice and Fixed Penalty Notices (set at not exceeding level 1 of the standard scale for summary offences within the MHW Act for the latter). These expenses include costs incurred in deciding whether to serve a notice, site inspections, preparing the notice and obtaining expert advice.

Where appropriate, the council will also seek to recover expenses incurred:

- In taking action following conviction of the site owner for failure to carry out actions required by a compliance notice; or
- In taking emergency action where there is an imminent risk of serious harm to any person on the site as a result of the site owner's failure to comply with licence conditions

Interest may be charged on any sums to be recovered as a result of enforcement action.

The council will also be able to register any of the debts to be recovered for enforcement actions as a local land charge against the site.

#### **Fixed Penalty Notices**

Section 15 of the Mobile Homes (Wales) Act 2013 allows the Council discretion to



issue Fixed Penalty Notices (FPN) to discharge certain minor breaches of site licence conditions. Fixed Penalty Notices must not exceed level 1 on the standard Scale of fines. A fixed penalty notice could be used by the Council to deal with minor infringements such as:

- failure to remove litter
- non compliance with site rules
- poor provision of adequate lighting around the site

The charge for the Mobile Home Fixed Penalty Notices will be £100 with this reduced to £75 if paid within 10 days.

### Compliance Notices

Section 17 of the Mobile Homes (Wales) Act 2013 allows the Council discretion to serve compliance notices on site owners where site licence conditions are breached. Such notices will set out what the site owner needs to do to correct the breaches and the timescales. Failure to comply with the notice would be a criminal offence, punishable by a fine and the site licence could be revoked upon a third or more subsequent prosecutions (section 18). Following a successful prosecution for breaching a compliance notice, the Council would be able to serve notice to enter the site and carry out the necessary works (Works in default).

In addition to this, Section 21 of the Act allows a notice to be served on site owners enabling the Council to enter the site and carry out emergency work where there is an imminent risk of serious harm.

The cost of deciding whether to take action, preparing and serving compliance and/or emergency action notices can be recovered (Section 19 and 22 respectively). The total expenses the local authority seeks to recover (the relevant expenses) can include, but not limited to:

- Expert advice (including legal advice)
- Inspection costs
- Administration costs in serving notice

The costs of issue of a compliance notice will be a **minimum set fee of £300**. Additional officer costs including expert advice and other costs associated specifically with an individual case will also be chargeable on a case-by-case basis. A detailed breakdown of the relevant expenses will be outlined in the demand that will accompany the payment.

In accordance with section 25 of the Act, the Council reserves the right to charge interest above the Bank of England Base rate to all outstanding operative demands in respect of Compliance or Emergency Action Notices.

The relevant expenses and any accrued interest are, until recovered, a legal land charge.

## APPENDIX B CALCULATION OF FEES

A Fees Toolkit has also been developed in conjunction with the All Wales Licensing Expert Panel with the aim of providing a consistent and robust mechanism for the setting of licence fees. The All Wales Licensing Expert Panel is a sub group of the Welsh Heads of Environmental Health Group (WWhoEHG).

The membership includes Managers and Senior Officers from local authorities in Wales that have responsibility for Licensing functions. The toolkit includes full guidance notes on how to populate the spreadsheet to calculate the fees. The toolkit provides a clear methodology for calculating the application fee and other fees set out in the Act. It has been designed to assist in setting fees that are based on the full cost recovery of the work involved in the licensing of sites in a way that is transparent and robust. Below is a summary of how the fees and charges have been calculated:

In completing the toolkit, officer hourly rates, fixed inspection times and per pitch times were calculated for the various steps in the toolkit which were based on officer experience and benchmarking with other local authorities who have already gone through the process of site inspections and licensing.

The Finance section provided hourly rates for officers and managers within licensing and public health protection, as they are responsible for mobile home licensing and inspections.

**Table 1 New Site Licence Application –Small Site**

### **Mobile Homes (Wales) Licensing**

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	
<b><u>New Small</u></b>				-
<b><u>Application Process</u></b>	-	-	-	-
Receipt of application form	£0.00	£0.00	10 £3.64	£3.64
Check application form and associated documents and deal with any issues	£0.00	30 £19.92	10 £3.64	£23.56
Receipt of application fee & issue receipt	£0.00	£0.00	5 £1.82	£1.82
Record created on			5	

computer system and paper file created	£0.00	£0.00	£1.82	£1.82
Consultation carried out with relevant authorities i.e planning	£0.00	£6.64	£0.00	£6.64
Inspection Carried Out (Small Site) inc. travelling time	£0.00	£79.67	£0.00	£79.67
Prepare draft licence conditions / letter identifying works /	£0.00	£39.83	£0.00	£39.83
discuss with applicant and amend	£0.00	£29.88	£0.00	£29.88
Consultation responses / representations received	£0.00	£13.28	£5.46	£18.74
Amend draft licence conditions as necessary	£0.00	£19.92	£0.00	£19.92
Verify application criteria met	£0.00	£9.96	£0.00	£9.96
Refer for management decision	£11.50	£0.00	£0.00	£11.50
Computer system updated	£0.00	£0.00	£3.64	£3.64
Licence and conditions produced	£0.00	£0.00	£5.46	£5.46
Licence authorised and signed	£0.00	£3.32	£0.00	£3.32
2 copies of licence and conditions posted	£0.00	£0.00	£3.64	£3.64
Paper file updated and filed / stored	£0.00	£0.00	£1.82	£1.82
Interim Inspection (small site) inc travelling time	£0.00	£79.67	£0.00	£79.67
				£344.53 £345

**Table 2 - New Site Licence Application– Medium Site**

**Mobile Homes (Wales) Licensing**

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	

**New Medium**

<u>Application Process</u>	-	-	-	-
Receipt of application form	10			
	£0.00	£0.00	£3.64	£3.64
Check application form and associated documents and deal with any issues	30	10		
	£0.00	£19.92	£3.64	£23.56
Receipt of application fee & issue receipt	5			
	£0.00	£0.00	£1.82	£1.82
Record created on computer system and paper file created	5			
	£0.00	£0.00	£1.82	£1.82
Consultation carried out with relevant authorities i.e planning	10			
	£0.00	£6.64	£0.00	£6.64
Inspection Carried Out (Medium Site) inc travelling time	160			
	£0.00	£106.22	£0.00	£106.22
Prepare draft licence conditions / letter identifying works /	60			
	£0.00	£39.83	£0.00	£39.83
discuss with applicant and amend	45			
	£0.00	£29.88	£0.00	£29.88
Consultation responses / representations received	20	15		
	£0.00	£13.28	£5.46	£18.74
Amend draft licence conditions as necessary	30			
	£0.00	£19.92	£0.00	£19.92
Verify application criteria met	15			
	£0.00	£9.96	£0.00	£9.96
Refer for management decision	15			
	£11.50	£0.00	£0.00	£11.50
Computer system updated	10			
	£0.00	£0.00	£3.64	£3.64
Licence and conditions produced	15			
	£0.00	£0.00	£5.46	£5.46
Licence authorised and signed	5			
	£0.00	£3.32	£0.00	£3.32

2 copies of licence and conditions posted	10			£3.64
	£0.00	£0.00	£3.64	
Paper file updated and filed / stored	5			£1.82
	£0.00	£0.00	£1.82	
Interim Inspection (Medium site) inc travelling time	160			£106.22
	£0.00	£106.22	£0.00	
				£397.64
				£398

Table 3 New Site Licence Application –Large Site

Mobile Homes (Wales) Licensing

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	
<u>New Large</u>				-
<u>Application Process</u>	-	-	-	-
	-	-	-	-
Receipt of application form	10			£3.64
	£0.00	£0.00	£3.64	
Check application form and associated documents and deal with any issues	30		10	£23.56
	£0.00	£19.92	£3.64	
Receipt of application fee & issue receipt	5			£1.82
	£0.00	£0.00	£1.82	
Record created on computer system and paper file created	5			£1.82
	£0.00	£0.00	£1.82	
Consultation carried out with relevant authorities i.e planning	10			£6.64
	£0.00	£6.64	£0.00	
Inspection Carried Out (Large Site) inc travelling time	310			£205.81
	£0.00	£205.81	£0.00	
Prepare draft licence conditions / letter identifying works /	60			£39.83
	£0.00	£39.83	£0.00	
discuss with applicant and amend	45			£29.88
	£0.00	£29.88	£0.00	
Consultation responses / representations received	20		15	£18.74
	£0.00	£13.28	£5.46	
Amend draft licence conditions as necessary	30			£19.92
	£0.00	£19.92	£0.00	
Verify application criteria	15			

met	£0.00	£9.96	£0.00	£9.96
Refer for management decision (time per task multiplied by no. referred to Cabinet divided by total number of applications)	15			
	£11.50	£0.00	£0.00	£11.50
Computer system updated	10			
	£0.00	£0.00	£3.64	£3.64
Licence and conditions produced	15			
	£0.00	£0.00	£5.46	£5.46
Licence authorised and signed	5			
	£0.00	£3.32	£0.00	£3.32
2 copies of licence and conditions posted	10			
	£0.00	£0.00	£3.64	£3.64
Paper file updated and filed / stored	5			
	£0.00	£0.00	£1.82	£1.82
Interim Inspection (Large site) inc. travelling time		310		
	£0.00	£205.81	£0.00	£205.81
				£596.81
				£597

**Table 4 - Amendment of existing site licence/ Variation of conditions**

**Mobile Homes (Wales) Licensing**

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	
<b><u>Vary Conditions</u></b>				-
<b><u>Application Process</u></b>	-	-	-	-
Receipt of request	10			
	0.00	0.00	3.64	3.64
Check request and deal with any issues	30			
	0.00	19.92	0.00	19.92
Receipt of fee & issue receipt	0			
	0.00	0.00	3.64	3.64
System updated	5			
	0.00	0.00	1.82	1.82
Consultation carried out with relevant authorities i.e planning	30			
	0.00	19.92	0.00	19.92

discuss with applicant and amend (if necessary)	30			19.92
	0.00	19.92	0.00	
Inspection Carried Out (if necessary)	90			59.75
	0.00	59.75	0.00	
Amend site licence and conditions	30.00			19.92
	0.00	19.92	0.00	
discuss with applicant and amend	15.00			9.96
	0.00	9.96	0.00	
Consultation responses / representations received	30.00			19.92
	0.00	19.92	0.00	
Amend draft licence conditions as necessary	30			19.92
	0.00	19.92	0.00	
Refer for management decision	20		0	15.33
	15.33	0.00	0.00	
Liaise with consultees	20			13.28
	0.00	13.28	0.00	
Computer system updated	0		10	3.64
	0.00	0.00	3.64	
Licence and conditions produced	0	20	0	13.28
	0.00	13.28	0.00	
Licence authorised and signed		10	0	6.64
	0.00	6.64	0.00	
2 copies of licence and conditions posted	0		15	£5.46
	£0.00	£0.00	£5.46	
Paper file updated and filed / stored			10	3.64
	0.00	0.00	3.64	
				£0.00
	£0.00	£0.00	£0.00	
				£259.59
				£260

It is proposed that the application fee for variation of a site licence is a set fee of £200 rising to £260 if an inspection is required

**Table 5 - Replacement Licence**

**Mobile Homes (Wales) Licensing**

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	
<b><u>Replacement Licence</u></b>				-
<b><u>Application Process</u></b>	-	-	-	-
	-	-	-	-
<b>Notification received</b>	0.00	0.00	3.64	£3.64
			10	
<b>Computer System updated</b>	0.00	0.00	3.64	£3.64
			10	
<b>Licence produced</b>	0.00	0.00	5.46	£5.46
			15	
<b>File Updated</b>	0.00	0.00	3.64	£3.64
			10	
<b>Licence sent</b>	0.00	0.00	7.29	£7.29
			20	
<b>File returned in system</b>	0.00	0.00	1.82	£1.82
			5	
	0.00	0.00	0.00	£0.00
				£25.50
				£26

For a replacement licence a charge of £26 will be levied.

**Table 6 - Fees for lodging site rules**

**Mobile Homes (Wales) Licensing**

Post Title	Licensing Manager	EHO	Admin	Totals
Hourly Rate	£45.98	£39.83	£21.86	
<b><u>Lodge Rules</u></b>				-
<b><u>Application Process</u></b>	-	-	-	-
	-	-	-	-
<b>Receipt of notification</b>	0.00	0.00	3.64	3.64
			10	
<b>Check notification and</b>		30		



<b>deal with any issues i.e. against model standards</b>	<b>0.00</b>	<b>19.92</b>	<b>0.00</b>	<b>19.92</b>
<b>Receipt of fee &amp; issue receipt</b>			<b>10</b>	
	<b>0.00</b>	<b>0.00</b>	<b>3.64</b>	<b>3.64</b>
<b>System updated</b>			<b>10</b>	
	<b>0.00</b>	<b>0.00</b>	<b>3.64</b>	<b>3.64</b>
<b>Confirmation letter sent to applicant</b>			<b>10</b>	
	<b>0.00</b>	<b>0.00</b>	<b>3.64</b>	<b>3.64</b>
<b>Upload site rules to online register</b>			<b>20</b>	
	<b>0.00</b>	<b>0.00</b>	<b>7.29</b>	<b>7.29</b>
				<b>£41.77</b>
				<b>£42</b>

It is proposed that a set fee of £42 is made for depositing, varying and deleting site rules.

### **ENFORCEMENT CHARGES**

The cost of deciding whether to take action, preparing and serving compliance and/or emergency action notices can be recovered (Section 19 and 22 respectively).

The total expenses the local authority seeks to recover (the relevant expenses) can include, but not limited to:

- Expert advice (including legal advice)
- Inspection costs
- Administration costs in serving notice

The costs of issue of a compliance notice will be a minimum set fee of £300. Additional officer costs including expert advice and other costs associated specifically with an individual case will also be chargeable on a case by case basis. A detailed breakdown of the relevant expenses will be outlined in the demand, which will accompany the payment.

This initial fee is based on an officer hourly rate of £39.83 for 6 hours, plus senior officer or management check of 30 minutes at £23.99.