

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

18th December 2014

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Mobile Homes (Wales) Act 2013 – Fees Policy

REPORT FOR: Approval

1. INTRODUCTION

1.1 Powys County Council has granted caravan site licences under The Caravan sites and Control of Development Act 1960 (as amended) for sites that have planning permission for a caravan site. This Act has now been amended by the Mobile Homes (Wales) Act 2013. The new Act was introduced in order to provide greater protection to occupiers of residential park homes as the existing legislation has not been updated for more than 50 years. This Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. The Act gives greater powers to local authorities to ensure compliance with the site licence conditions. The local authority can also now charge a fee for licensing the site, serving compliance notices and publish any rules relating to the site. The fee generated by the Act is not designed to include matters not related to the site licence or the investigation of unlicensed sites. The Act lays out the duration of the licence as being not more than 5 years.

2. FEES

2.1 The Act allows local authorities to charge a fee for:-

- Applications for the grant of a licence;
- Applications to vary the site licence conditions;
- Depositing of site rules;
- Replacement of site licence.
- Renewal of site licence.

2.2 The Act also makes provision for compliance notice and fixed penalty fees, as further enforcement tools.

A local authority has been given the power to take emergency action where there is an imminent risk of serious harm to persons.

2.3 A fees toolkit has been developed with the All Wales Expert Panel, with the aim of providing a consistent and robust mechanism for the setting of fees. The toolkit includes full guidance 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 full cost recovery of the work involved in the licensing of sites in a way that is transparent and robust.

- 2.4 In completing the toolkit officer hourly rates, fixed inspection times and per pitch times were calculated for the various steps in the toolkit. The Finance section provided the hourly rates for the Officers involved in the licensing process.

3. FEES POLICY

- 3.1 A local authority must prepare and publish a fees policy. When fixing fees for the purposes of issuing any of the items mentioned in paragraphs 2.1 & 2.2, the local authority must act in accordance with the policy. A copy of the proposed policy is attached at Annex A.

4. CONCLUSION

- 4.1 The Committee is asked to approve the policy and escalate it to Full Council for final approval.

Recommendation:	Reason for Recommendation:
To recommend to Full Council to adopt the fees policy for Mobile Homes as prepared and approved by the All Wales Expert Panel for Licensing.	To approve a Fees Policy for Powys County Council

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Relevant Portfolio Member(s):	Councillor W John T Powell		
Relevant Local Member(s):	N/A		

Papers

Mobile Homes (Wales) Act 2013

CYNGOR SIR POWYS COUNTY COUNCIL

FEES POLICY

1. Introduction

Powys County Council has granted caravan site licences under The Caravan sites and Control of Development Act 1960 (as amended) for sites that have planning permission for a caravan site. This Act has now been amended by the Mobile homes (Wales) Act 2013. The new Act was introduced in order to provide greater protection to occupiers of residential park homes as the existing legislation has not been updated for more than 50 years. This Act introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process. The Act gives greater powers to local authorities to ensure compliance with the site licence conditions. The local authority can also now charge a fee for licensing the site, serving compliance notices and publish any rules relating to the site. The fee generated by the Act is not designed to include matters not related to the site licence or the investigation of unlicensed sites. The Act lays out the duration of the licence as being not more than 5 years.

2. Fees charged for site licenses

The changes introduced by the Act for site licensing come into force on 1st October 2014. These include powers for local authorities to charge fees for their licensing functions in respect of relevant sites. A relevant site is defined in the Act as any land in Wales on which a mobile home is stationed for the purposes of human habitation other than –

- (a) a site for which schedule 1 of the Act provides is not a regulated site ;
- or
- (b) a holiday site

A site included in schedule 1 would include mobile homes within the curtilage of a dwelling house, sites owed by local authority, sites for agricultural or forestry workers. The Act also allows for an exemption for mobile homes used by the owner of the site or an employee.

Under the new Act a fee can be charged for

- Applications for grant of new licence;
- Applications to vary the site licence conditions.
- Issuing a Fixed Penalty Notice (maximum level 1 - currently £200)

In addition the local authority can impose a charge on the site owner to recover expenses in relation to serving a Compliance Notice.

This policy details the fees to be charged for the licensing functions.

The fee levels have been calculated based on the estimate average time and costs involved in undertaking the activities involved.

The fees set out in this policy cover the period from 1st October 2014 to 30th September 2019.

3. Application for a new site licence

All regulated sites require a site licence, other than those which the Act deems to be outside its scope; failure to apply for a licence is an offence under Section 5(2). The council may only issue a licence for a site with a valid and correct planning permission for the use. Sites which have the correct planning permission in place, the local authority has to process the application within 2 months of that date. Any application made before the planning status has been awarded, must be processed within 6 weeks of the date on which the applicant becomes entitled to the benefit of planning permission. Both of the above may be extended with the agreement of the applicant and the council.

The fee for a new site licence will be £776.11 plus £6.00 per pitch to reflect the variation in the cost of processing the application according to the size of the site.

4. Variation of existing licence conditions

Where a site owner requests an amendment to the site licence conditions the council can charge a fee for this function. The fee will be payable upon application.

If the council deem it necessary to alter conditions, there will be no fee payable. The cost is borne by the council.

The fee for an application to vary up to 2 licence conditions will be £50.00.

Where significant amendments to the site licence conditions are requested this is likely to involve a site visit, the fee will increase to £135.26

5. Fees for depositing site rules

Site rules are different to the site licence conditions and are put in place by the owner of a site which relates to the management and conduct of the site. The Act states that the rules must be agreed between parties following a period of consultation. The council must keep an up to date register of site rules and publish on the web site.

It is not a legal requirement to lodge site rules with the council.

Any site rules deposited with the local authority for the first time or applications to vary or delete existing site rules must be accompanied by the appropriate fee. The fee is the same for either a first deposit or for a subsequent variation or deletion. This is because the process will be similar for all types of deposits.

The fee will be £48.32 and reflects the fixed costs for this function.

6. Replacement of licence.

In the event of a site licence being lost or damaged, a site owner can request a new copy of the site licence.

There will be a cost involved in producing the licence and therefore the fee for the replacement licence will be £17.36

7. Compliance Notice Fees

If it appears to the local authority that the site licence conditions have been breached, the local authority may issue a compliance notice.

The local authority will impose a charge on the owner as a means of recovering expenses incurred in –

- (a) Deciding whether to serve the notice, and
- (b) Preparing and serving the notice or a demand

The expenses referred to include (but are not limited to) the costs of obtaining expert advice (including legal advice). Charges would be based on an hourly rate.

In conjunction with the compliance notice the local authority issues a demand which sets out –

- (a) The total expenses the local authority seeks to recover
- (b) A detailed breakdown of the relevant expenses

Example breakdown table

Legal Advice	£
Inspection	£
Administrative cost in serving notice	£
Other	£
TOTAL	£

- (c) Where the local authority propose to charge interest, the rate at which the relevant expenses carry interest.

Each compliance notice issued will vary in cost, therefore it is not possible to set a flat fee for this action.

If any works in the compliance notice are not carried out the licence holder commits an offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the courts.

8. Fixed Penalty Notices

For minor breaches of site licence conditions the Act allows a local authority to issue a fixed penalty notice.

The amount specified for a fixed penalty notice must not exceed level 1, which is currently £200

As a fixed penalty notice only serves to fine the site licence holder and does not require the breach to be rectified then the merit in serving such notices will be limited.

9. Renewal of licence

A site licence is issued for a period not exceeding 5 years, unless terminated by its revocation.

The licence requires renewing prior to the expiry date.

The application process is similar to the original application process and the fee will be set based on recovering the cost of processing and administering the renewal application and for compliance checks programmed for the duration of the licence. Since it will be 1st October 2019 before such a fee will be levied these will be calculated and determined in advance of that date and published in the next policy.

10. Power to take Emergency Action

The Act allows a local authority to take emergency action where –

- (a) The owner of the land is failing or has failed to comply with a condition of the site licence' and
- (b) As a result of that failure there is an imminent risk of serious harm to the health or safety of any person who is or may be on the land.

The local authority may then demand expenses from the site owner, for expenses incurred –

- (a) In deciding whether to take action'
- (b) In preparing and serving any notice
- (c) Taking action.

The expenses referred to include (but are not limited to) the costs of obtaining expert advice (including legal advice). Charges would be based on an hourly rate.

- (a) The total expenses the local authority seeks to recover

- (b) A detailed breakdown of the relevant expenses, and
- (c) Where the local authority propose to charge interest, the rate at which the relevant expenses carry interest.
- (d) Explains the right of appeal to the Residential Property Tribunal

As each action will be different it is not possible to set a flat fee for this action.