



# **Boston Borough Council**



## **Mobile Homes Fees Policy April 2014**

Revised March 2023

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## **Related documents**

The following documents have been consulted when drafting this policy

The Caravan Sites and Control of Development Act 1960 as amended (CSCDA60)

Mobile Homes Act 2013 (MHA 2013)

Regulators Compliance Code

Boston BC Corporate Enforcement Policy

DCLG Guidance on Site Licensing Fee Setting – February 2014

## **1. Introduction**

Boston Borough 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. The CSCDA60 has now been amended by the Mobile Homes Act 2013. The MHA 2013 was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the existing legislation had 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. There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions. The council can also now charge a fee for different licensing functions, serve enforcement notices and publish any site rules relating to a site. The fee generated by the MHA 2013 is not designed to include investigation of harassment or matters not related to the Site Licence – these should be dealt with through Residents Associations or other appropriate channels.

## **2. Fees charged for site licences**

The changes introduced by the MHA 2013 for Site Licensing come into force on 1st April 2014. These include powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”. A relevant protected site is defined in the Act as any land to be used as a caravan site with planning consent, 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 the year (such as planning conditions).

Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites and so on. This does not include sites owned by a local authority.

Sites which do not fall within the definition of ‘relevant protected sites’ are still subject to the licensing requirements contained within the CSCDA60, but the provisions relating to payment of fees do not apply.

Under the new Act a fee can be charged for

- applications to grant a new licence
- applications to transfer or amend an existing licence
- annual licence fees for administering and monitoring existing site licences.

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

The fee levels for year 1 were calculated based upon an estimated average time and officer costs involved in undertaking the activities to be involved at sites within the Borough. (Appendix 1 details what the council can consider in calculating the

fee levels) Currently there are two residential park home sites comprising 40 and 43 pitches and three single pitch residential sites.

The fee rates set out in this policy covered the period 1st April 2014 to 31st March 2015 and were on the basis of each year's activity and salary adjustments the fees have been revised.

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

All caravan sites require a site licence to operate (subject to exemptions in the CSCDA60); failure to apply for licence is an offence under Section 1(2) of CSCDA60. The council may only issue a licence for a site with a valid and correct planning permission for the use. Any application made before the planning status has been awarded must be processed within 6 weeks of the planning decision. Sites which already have the correct planning permission in place must be processed within 2 months of the licence application.

The original fee for 2014/15 for a new 'relevant protected site' licence was based upon a fixed standard fee of £319.50 plus £7.50 per pitch. There have been no applications for new sites since the fees were introduced. **The current fees are £418.00 plus £9.20 for 2023/2024.**

### **4. Transfer/amendment of existing site licence**

Where a licence holder wishes to transfer the licence an application must be made to the council, for which a fee is payable. The fee must accompany the application to transfer the licence.

Similarly where a site owner requests an amendment to site licence conditions the council can charge a fee for this function.

Applications can be made by licence holders to vary or cancel conditions, the fee is payable at the application stage.

The original fee for 2014/15 for an application for transfer or amendment was £192.50. **The current application fee is £261.00 for 2023/2024.**

Where significant amendments to the site licence conditions are requested this is likely to involve a site visit so the fee for this licensing activity is **£342.00** (additional 2 hours officer time)

If the council themselves deem it necessary to alter conditions there will be no fee payable.

### **5. Annual fees for Existing Site Licences**

All relevant protected sites must pay an annual fee to the council (subject to any exemptions stated in this policy). The fee is due on 1st April 2014 and annually thereafter.

The annual fee covers the costs associated with administration, an annual site inspection to ensure compliance with the site licence conditions and a revisit to ensure compliance with any outstanding works required. If there is still a breach in site licence condition at the point of the revisit further charges may be payable to cover the cost of any enforcement action which may be taken. (See Enforcement costs – section 6.)

The initial fee was £10.25 per pitch which was based upon the total estimated cost to the council of carrying out its annual licensing function at the two sites in the Borough. This cost is multiplied by the number of pitches on each site to provide the annual fee payable for each site.

The DCLG guidance for fee setting offers a variety of suggested options for local authorities in calculating the annual fee:

Option 1 – fee per pitch (A fee based on the total cost to the local authority carrying out its annual licensing function for all sites, divided by the total number of pitches over all the sites which will give a price per pitch)

Option 2 – fee based on site size bandings

Option 3 – fee based on a risk rating that takes into account the size of a site; the level of compliance on a site and confidence in management

A range of fees based upon Option 1 have been adopted as it is considered to offer the most transparency and fairness to both residents and site owners.

Charges for the first year (2014/15) were based on average estimates and fees are reassessed each year to determine accuracy as part of the Council's annual fees and charges setting process. A time recording system has been introduced for determining future costs. The annual fee was reviewed on the basis of the total time spent within the first year and the annual fee was revised at £5.00 per pitch for the two year introductory period 2014/2016. The two sites within the Borough are now in good order and on the basis of the time scheduled to inspect the sites the current inspection fee is **£3.20 per pitch for 2023/2024.**

### **Surpluses and deficits**

The Act provides that the local authority in setting annual fees must advise the site owner of the extent to which they have had regard to deficits and surpluses from the previous year. Each year the local authority must assess its previous costs to determine if they were accurate. A local authority can only pass on to the site owner their costs incurred in carrying out the licensing function and must not make a profit.

### **Conditions**

The conditions on the existing site licence will remain the same until the Council deem they are out-dated or incorrect and then a review will take place or unless an application is made to amend conditions on the licence by the site owner.

### **Sites exempted from Annual Licensing fees**

- Sites that are not relevant protected sites
- Sites with 3 pitches or less
- Sites for the Site owner and their family (does not include sites that are run for financial gain)

These categories of site are exempt from the annual licensing fee as the council do not intend to carry out scheduled annual inspections of these sites, All other aspects of site enforcement including complaints would be dealt with as appropriate.

## Charging Arrangements

For the purpose of this policy the period covered by the annual fee will be 1st April to 31st March each financial year. The fee will be charged to the site owner/licence holder and Invoices will be sent at the start of the financial year with payment due within **30 days**. (Legislation allows the licence holder to pass on the annual fee cost to the resident's pitch fee)

Where a new site licence is issued part way through the year, the annual fee will not be due in the same year.

Where an amended licence is issued part way through the year (which included either additional pitches or a reduction in pitches), the change in annual fee would be calculated on a pro-rata basis for the remainder of the year and difference in fee would be adjusted against the following years annual fee.

In the event an annual fee is not paid within the terms of the invoice the council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due.

## 6. Enforcement costs

Where there has been a breach in a site licence condition which comes to the attention of the council we may serve a compliance notice. The CSCDA60 details the elements which a local authority may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the notice. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on an hourly rate in addition to any other costs incurred for example legal costs. The fee for the service of Housing Act 2004 enforcement notices is **£109 plus £54 for each additional one** and park home site enforcement notices will be the same.

### **Fees for further enforcement costs will be based upon officer hourly rates plus 20%**

Charges for enforcement costs cannot be passed onto the residents pitch fee.

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 court.

If a prosecution was successfully taken, the council would have the power to carry out the works in default of the licence holder.

## 7. 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 to ensure acceptable standards are maintained which will be of benefit to occupiers or will promote and maintain community cohesion on the site. The MHA13 changes the way site rules must be agreed between both parties. The council must keep an up to date register of site rules on relevant protected sites and publish the register on-line.

Before publishing the site rules the council will ensure the rules deposited have been made in accordance with the statutory procedure – a fee can be charged for this function.

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 very similar for all three types of deposits.

The original fee was £45.50 for 2014/15. The current fee is **£54 for 2023/2024**.

## **8. Publishing and revising the fee policy**

This fees policy will be published on the Boston Borough Council website at [www.boston.gov.uk](http://www.boston.gov.uk). The fees detailed in this policy have been determined based on experience of dealing with site licensing historically with consideration of the changes the new Act has introduced. Some of the processes are new (for example the depositing of site rules) and therefore estimates have been made as to the cost of providing these services. In addition, at the time of producing this policy some elements of the licensing regime are still awaiting further regulation by government which may impact on the processes and the time involved and may therefore result in a revision to the proposed charges.

This policy will be reviewed no later than March each year and the fees will be set for the following year.

## **Appendix 1 Elements included in fee setting**

The DCLG guidance sets out the activities that the council can include when calculating its annual fee, these include:

- letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- handling enquiries and complaints;
- updating hard files/ computer systems;
- updating the EU Directive website if appropriate;
- processing the licensing fee;
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- review by manager or lawyers
- review any consultation responses from third parties;
- carrying out any risk assessment process considered necessary
- A pre- programmed full site inspection;
- A follow – up inspection to check compliance following programmed inspection