



**CHESTERFIELD**  
BOROUGH COUNCIL

# **Chesterfield Borough Council**

## **Residential Caravan Site Licensing and Fit and Proper Person Test Policy**

**Owner: Private Sector Housing Manager**  
**Date: July 22**

[www.chesterfield.gov.uk](http://www.chesterfield.gov.uk)



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## 1. Introduction

The Caravan Sites and Control of Development Act 1960 (CSCD1960) introduced a licensing system to regulate the establishment and operation of caravan sites. The definition of caravan in this context includes mobile park homes. The licensing system, required Local Authorities to regulate the establishment and operation of caravan sites but the Local Authority could not levy a fee.

This legislation has been amended by the Mobile Homes Act 2013 (the 2013 Act) which aims to raise standards in the industry and provide for more effective enforcement when site licence holders fail to comply with their licence obligations. The 2013 Act also introduces some important changes to the buying, selling or gifting of a park home and the pitch fee review process.

The changes relating to site licensing came into force on 1 April 2014. Licences issued under the 1960 Act still remain in force, and enforcement powers still apply and local authorities are able to charge fees for functions relating to “relevant protected sites”.

Section 10A (2) of the Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013 requires a Local Authority to publish a Fees Policy for the licensing of park home sites.

This policy has been developed to enable the Council to charge appropriate fees..

The Act also introduced the ability for Local Authorities to serve enforcement notices (Compliance notices), undertake emergency remedial works and to carry out works in default to remedy breaches of site licence conditions. A charge can be made on a case by case basis to recover costs incurred and fees for enforcement are part of this policy.

### Fit and Proper Person

The introduction of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the 2020 Regs), now require that a local authority must be satisfied that the owner of a site is a fit and proper person to manage the site.

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
- Chesterfield Borough Council Corporate Enforcement Policy
- DCLG Guidance on Site Licensing Fee Setting – February 2014
- F&P legislation

## 2. Scope

This Policy sets out how the Council will carry out its statutory responsibilities for caravan site inspection, licensing and enforcement and setting fees. Provision is made for:

- A register of all residential sites whose site rules are deposited with the Council (including a register of sites to be made available on the Council's website).
- A site licensing procedure.
- Determination and annual review of site licensing fees and enforcement charges.
- Implementation of Model Standards, including the updating of site licence conditions to reflect the Model Standards where necessary (see section 3.1 below).
- Implementation of the Fit and Proper Person test.
- A register of all duly assessed fit and proper persons.

Chesterfield Borough Council will:

- Clarify expectations regarding the standards to be met by owners of caravan sites within the District.
- Provide advice and assistance to occupiers of mobile homes and caravans to ensure that they are able to live in safe and healthy homes.
- Ensure that any enforcement action taken by the Council is effective and proportionate.

The Council will decide either to licence the site or to refuse a licence, within 6 weeks of receipt of a duly made application. Where a licence is refused, the applicant will be advised of the reasons for refusal and their right of appeal.

### **3. Relevant Protected Sites**

A relevant protected site is defined in the MHA 2013 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 or
- 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.

Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the Caravan Sites Control of Development Act 1960, but the provisions relating to payment of fees do not apply.

The Council cannot license a site unless planning permission has been granted. The planning authority will be consulted to confirm that the site has planning permission for the relevant use.

#### **4. Fees and Charges**

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 Part 1 of the 2013 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). In setting its fees policy and the Council has had regard to Department for Communities and Local Government guidance 'Mobile Homes Act 2013: a Guide for Local Authorities on Setting Licensing Fees'. Under the 2013 Act, The Council can charge for:

- The issuing of the first site licence.
- Generic fees for all sites for the issuing of the licence.
- Annual renewal: monitoring and administration of existing site licences.
- The depositing of site rules.
- The transfer of a licence.
- The alteration of a licence (initiated by the site owner).
- The administration and determination of the fit and proper person test.

The fees have been calculated based on the estimated average time and costs involved in undertaking the following activities; all administrative costs incurred in the licensing process, officer visits to sites, travel costs, consultations, meetings, monitoring of sites / investigation of complaints and the giving of informal advice.

Section 10A (5) of the 1960 Act (as amended by the 2013 Act) states that a fees policy must include provision about the time at which the annual fee is payable. For the purpose of this policy, the period covered by the annual fee will be 1st April to 31st March and will be invoiced on the 1st April each year or as soon as practicable after.

Fees will be revised annually, alongside reviews of the Council's other regulatory fees and charges.

Fees for a new site licence are based upon a fixed cost plus a charge per pitch to reflect the variation in the cost of processing the application according to the size of the site.

All sites must pay an annual fee to the Council (subject to exemptions). This fee covers the costs associated with administration, annual inspection and a revisit to ensure compliance where required. The annual fee is based upon a fixed cost plus a charge per pitch to reflect the variation in the cost of processing the licence renewal according to the size of the site.

Where the licence holder requests an amendment to site licence conditions, the Council will charge a fee. Where the Council instigates a change in conditions, no fee will be payable.

Where a licence holder wishes to transfer a licence, an application must be made to the Council for which a fee is payable. The fee for the transfer of a site licence is based on a fixed cost as generally no site visit is required.

Single unit sites where the operator is also the owner and occupier of the park home will be exempt from annual fees.

### **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 after the completion of the inspection with payment due within 30 days. Where a new site licence is issued part way through the year, the annual fee will not be due in the same year.

Where sites have both protected sites and holiday accommodation, the Council will take account of the proportion of pitches that have the benefit of the protection as permanent residential accommodation and the time taken to inspect the site as a whole.

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 year's annual fee.

In the event that 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.

### **Surpluses and deficits**

The Act provides that the Council 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 Council must assess its previous costs to determine if they were accurate. A council can only pass on to the site owner its costs incurred in carrying out the licensing function and must not make a profit.

#### Sites exempted from Annual Licensing fees

The following are sites that are exempt from 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)

- The Council consider it appropriate to make single pitch sites exempt from annual licence fees (but not other fees) as their inspection and fee collection arrangements would not be cost effective nor would it add value. Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the 1960 Act, but the provisions relating to payment of fees do not apply.

These categories of site are exempt from the annual licensing fee as the Council does 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.

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

The Council may only issue a licence for a site with a valid and correct planning permission for the use that is proposed. 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 fee for a new 'relevant protected site' licence is based upon a fixed standard fee, plus a standard fee per pitch. For a new licence the fee will be based upon the number of permitted pitches and will not take into account whether those pitches are actually occupied. The fee per pitch takes this into account that inspection would take less time than an annual inspection.

### **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.

Where significant amendments to the site licence conditions are requested this is likely to involve a site visit based on additional 2 hours officer time.

If the Council itself deems it necessary to alter conditions there will be no fee payable.

### **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 will be based upon the number of occupied pitches found on completion of the site inspection. As part of the inspection process a number will be stated and an invoice for the appropriate amount will be issued by the Council.





The annual fee covers the costs associated with administration and an annual site inspection to ensure compliance with the site licence conditions. Time spent investigating and following up breaches of site licence conditions will be logged and is likely to be accounted for in future annual inspection charges. Further charges may be payable to cover the cost of any enforcement action which may be taken.

The fee is calculated on the total estimated cost to the Council of carrying out its annual licensing function at a typical site in 4 the Borough. The cost is multiplied by the number of pitches on each site to provide the annual fee payable.

Fees will be re-assessed each year to determine accuracy as part of the Council's annual fees and charges setting process. The Council will continue to review the policy and may determine that other options might be more appropriate with experience.

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## **5. Licensing conditions, Inspections and Enforcement**

The Council's responsibility for the licensing of caravan sites includes the application and enforcement of appropriate conditions. The specific purposes for which conditions can be applied are set out in Section 5 of the 1960 Act. Site licence conditions may be determined with reference to national Model Standards. The Council has a power to update site licence conditions in line with Model Standards as modified from time to time by the government. The aim of such standards is to promote the safety and welfare of the residents. The applicable Model Standards were issued in 1983 for touring sites, 1989 for holiday sites and 2008 for residential sites. The Model Standards can be viewed on the Council's website.

The Council will carry out scheduled inspections of all licensed sites, which are likely to be without notice. Site owners will be advised of any actions required to ensure compliance with the site licence 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.

The main focus of enforcement activity will be informal advice and education, including the provision of information directly by telephone or in person. Formal enforcement action will be taken under the relevant legislation only when informal action has failed to secure an acceptable improvement in standards or compliance with licence conditions. Any use of enforcement powers will be in accordance with the Chesterfield Borough Council Corporate Enforcement Policy.

Section 9A of the 1960 Act (as amended by the 2013 Act) allows local authorities to serve compliance notices on site owners where a site licence condition is breached. These notices will set out what the site owner needs to do to correct the breaches within prescribed timescales. Service of a notice will attract a charge. Failure to comply with the notice would be a criminal offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court. 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 themselves (known as "works in default").

In addition, Section 9E allows a notice to be served on site owners enabling the local authority to enter the site and take emergency action where there is an imminent risk of serious harm.

Enforcement charges will be based on an hourly rate reflecting the costs of enforcement, plus any additional costs incurred (e.g. legal costs). Site owners may not pass on enforcement charges to residents in their pitch fees.



## **6. Site Rules**

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 for residents to comply with. They may reflect the site licence conditions but will also cover matters unrelated to licensing. The 2013 Act makes amendments to the Mobile Homes Act 1983 in relation to site rules. Regulations made under the 2013 Act require existing site rules to be replaced with new site rules which must be deposited with the local authority within a specified timescale.

A Local Authority would need to satisfy itself that replacement or new site rules deposited with them have been made in accordance with the procedures prescribed by statute. The Council will be required to establish, keep up to date, and publish a register of site rules or the variation or deletion of site rules.

Any site rules deposited with The Council 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 first deposit or for a subsequent variation or deletion. This is because the process will be very similar for all three types of deposits.

## **7. Fit and Proper Person Test**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI No.1034) ('the 2020 Regs'), 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.

This requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes to which an application relates, and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

These Regulations do not apply to non-commercial family-occupied sites which are not operated on a commercial basis in accordance with Regulation 3.

### **Suitability**

When considering whether a person is 'fit and proper' the local authority must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These include;

Whether the relevant person is able to secure the proper management of the site. This includes, but is not limited to;

- compliance with the site licence;
- the long term maintenance of the site;
- whether the relevant person has sufficient level of competence to manage the site;
- the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- has harassed any person in, or in connection with, the carrying on of any business;
- is, or has been within the past 10 years, personally insolvent;

- is, or has been within the last 10 years, disqualified from acting as a company director;
- whether the relevant person has the right to work within the United Kingdom;
- whether any other local authority has rejected an application for the responsible person to be included in a register;

The local authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be).

The authority can also consider any evidence as to any other relevant matters.

### **Fees**

Regulation 10 permits the local authority to charge a fee for the processing of applications. This is to cover the cost of processing applications and will be reviewed annually.

The authority may also decide the amount and frequency of any additional payments required by way of an annual fee. The authority does not intend to charge an annual fee at this time and this will be subject to review.

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.

### **Applications**

The Regulations use various terms in the application process and these are outlined below:

**“Relevant person”** is defined in paragraph 2 of the Regulations and is “the subject of the fit and proper person assessment under Regulation 7”. Please note that this could be the site owner or person appointed to manage the site by the site owner.

**“Relevant officer”** is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

**“Required Information”** is defined in paragraph 14 of Schedule 2 of the Regulations as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; where the

person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

### **Criminal record certificate/s**

Criminal Records Certificates must be issued under section 113A (1) of the Police Act 1997 and will be required where:

- (a) the Relevant person is an individual and
- (b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

A criminal record certificate in the form of a basic Disclosure and Barring Service (DBS) must be provided. The local authority have the discretion to request the applicant supply an enhanced DBS certificate should it be deemed necessary.

The DBS certificate must have been issued no more than six months before the date the application is received by the local authority. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

### **Decisions, notification and rights of appeal**

Once an application has been received the local authority may:

- grant the application unconditionally;
- grant the application subject to conditions;
- reject the application.

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee), the local authority must make a decision on the application and either;

- where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or;
- otherwise serve a preliminary decision notice on the applicant.

Once a full and completed application has been received by the authority, the nominated Officer will review the information and obtain any further information deemed relevant to the application. The Private Sector Housing Manager 'PSHM' may authorise that an application be granted unconditionally or subject to relevant conditions.

Where an application is to be rejected the 'PSHM' will consult with (and require approval from) the Head of Statutory Housing Solutions, or equivalent in advance of issuing the preliminary decision notice.

Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority. Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

Where the authority may seek to remove a relevant person from the register or to impose further conditions, a notice of proposed action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.

The local authority 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

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- any decision to include the relevant person on the register for an effective period of less than 5 years;
- any decision to include the relevant person on the register subject to conditions and;
- any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- any decision to remove the relevant person from the register;
- any decision to impose a condition on the inclusion of the relevant person in the register and;
- any decision to vary a condition.

No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

The Regulations require a local authority to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area, and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.

### **Fit and Proper Person Register**

The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.

A person's inclusion in the register has effect for a maximum period of 5 years.

Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.

In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

### **Offences**

An owner (occupier) of land commits an offence if he causes or permits any part of the land to be used as a relevant protected site (which falls within the scope of the Regulations) without the manager of the site being registered with the local authority as a fit and proper person.

An applicant also commits an offence if he:

- withholds information from a registration application or;
- includes false or misleading information in a registration application
- fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1)

An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited). Where an owner (occupier) of land who holds a site licence in respect of that land contravenes the relevant Regulations, the FTT may, on application by the authority, make an order revoking the site licence in question on the day specified in the order.

Where:

- an owner (occupier) of land who holds a site licence in respect of that land is convicted of an offence under Regulation 11 for a contravention of the fit and proper person requirement and;
- has been convicted on two or more previous occasions of the offence in relation to that land,

The court before which the occupier is convicted may, on application by the local authority, make an order revoking the site licence in question.



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

This fees policy will be published on the Chesterfield Borough Council website at [chesterfield.gov.uk](http://chesterfield.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 and therefore estimates have been made as to the cost of providing these services.

This policy will be implemented and managed by the Private Sector Housing Team. It will be reviewed and updated as necessary on an annual basis.

## **9. Comments or Complaints about this Policy**

Chesterfield Borough Council encourages all customer feedback about its services and any queries, complaints, compliments, or suggestions about this policy are welcome.

These can be made to and marked for the attention of the Private Sector Housing Manager. Email to: [hia@chesterfield.gov.uk](mailto:hia@chesterfield.gov.uk) Write to: Private Sector Housing Manager, Town Hall, Rose Hill, Chesterfield S40 1LP.

If you feel that any queries or concerns have not been dealt with to your satisfaction, please refer to the Councils Formal complaints policy. [Comments, compliments and complaints \(chesterfield.gov.uk\)](http://chesterfield.gov.uk)



## Appendix 1. Fees and Charges

<b>Activity</b>	<b>Amount</b>
<b>New Licence Application</b>	<b>£667.81</b>
Plus an additional 10 minute inspection time per pitch over and above the first.	
<b>Amendment / Transfer of Licence</b>	<b>£186.72</b>
Plus an additional 10 minute inspection time per pitch over and above the first.	
<b>Annual Inspection Fee</b>	<b>£186.55</b>
Plus an additional 10 minute inspection time per pitch over and above the first.	
<b>Fit and Proper Person Test</b>	<b>£ 392.73</b>
<b>Deposition of Site Rules</b>	<b>£ 97.57</b>
<b>Enforcement Charges</b>	<b>£</b>
Enforcement charges will be based on an hourly rate reflecting the costs of enforcement, plus any additional costs incurred (e.g. legal costs). Site owners may not pass on enforcement charges to residents in their pitch fees.	