

Amber Valley Borough Council

Mobile Homes Act 2013 Fees Policy for 2021/22 (Revised June 2021 to take account of the fit and proper person test)

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1	30 th March 2021	Head of Housing Services	Updated policy taking into account of revised hourly rate
2	12 th July 2021	Head of Housing Services	Version approved by the Leader of the Cabinet with changes introduced with the fit and proper persons test

1. Introduction

- 1.1 The Full Council (minute number 3740) gave delegated authority to the Executive Director (Operations) to set and publish a fees policy.
- 1.2 There is an expectation that councils will inspect sites annually and use the additional powers to ensure compliance with site licence conditions. 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.
- 1.3 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
Amber Valley Borough Council Corporate Enforcement Policy
DCLG Guidance on Site Licensing Fee Setting – February 2014

2. Fees charged for site licences

2.1 The changes introduced by the MHA 2013 for Site Licensing came into force on 1st April 2014. These include powers for councils 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 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).

2.2 Relevant protected sites to which the legislation applies are typically known as residential parks, mobile home parks and Gypsy Roma and Traveller sites.

2.3 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.

2.4 The fee levels for 2021/22 have been calculated based upon average time and officer costs involved in undertaking the activities to be involved at a typical site within the Borough and are based on experience of application. The Council has reviewed the application of methodology and has found that it is a good guide to the costs incurred. The Council believes that only annual visits will be completed, thus the charge for annual inspection has been reduced. The following link will take you to guidance on the methodology options that councils need to follow. <https://www.gov.uk/government/publications/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees>

2.5 The Council currently has three licensed park home sites that have residential use with a range of units, some of which will vary in size and quality.

2.6 The fee rates set out in this policy cover the period 1st April 2021 to 31st March 2022.

2.7 The costs are based on an hourly rate calculated by the Council’s Finance Department and include the on costs.

3. Application for a new site licence

3.1 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.

3.2 The fee for a new 'relevant protected site' licence is based upon a fixed standard fee of **£384.50 plus £3.50 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.

4. Transfer/amendment of existing site licence

4.1 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.

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

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

4.4 The fee for an application for transfer is **£146.50**.

4.5 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 will increase to **£210.50** based on additional 2 hours officer time.

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

5. Annual fees for Existing Site Licences

5.1 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.

5.2 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. (See Enforcement costs – section 6.)

5.3 The fee is **£154 plus £3.50 per pitch** and is calculated on the total estimated cost to the Council of carrying out its annual licensing function at a typical site in

the Borough. The cost is multiplied by the number of pitches on each site to provide the annual fee payable.

- 5.4 Charges have been based on average estimates but have been confirmed as reasonably accurate. Fees will be re-assessed each year to determine accuracy as part of the Council's annual fees and charges setting process. A time recording system is being used to determine future costs. The Council will continue to review the policy and may determine that other options might be more appropriate with experience.
- 5.5 With the introduction of the fit and proper person fee charge from 2022/23 an adjustment to the annual licence fee will be made to take into account any additional work that is involved in administering the annual licensing process.

6 Fit and Proper Person Test

- 6.1 A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013.
- 6.2 A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) ("the Regulations") must apply to their local authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area ("the register").
- 6.3 The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 6.4 The Regulations permit the local authority to determine the fee for an application or registration for someone to be added to the register. It is imperative that the fee is included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.
- 6.5 **The fee for an application to apply to be a fit and proper person is £267.** for the original application and then for subsequent years the annual fee will be adjusted to include fit and proper person checks that have to be put in place.
- 6.6 The presumption for setting the fee is that the most fees will be straightforward and it is appropriate that any additional costs for complex sites are only added when necessary and not included as normal.
- 6.7 If the Council incurs additional cost in appointing a person to manage a site with the site owner's consent then this cost will be recovered from the site owner through the annual charge.

- 6.8 Site owners will be required to submit a completed application from 1 July until October 2021 (3 months) and pay the fee, outlined below, to their local authority, which will also include any additional fees such as an annual site fee.
- 6.9 For complex sites where there is substantial additional work then an annual fee will be added to the annual licensing fee and the additional time spent will be set out and shared with the site owner.
- 6.10 In the unlikely event that the Council has to appoint a manager with the site owner's consent then this additional work will be included within the annual site licence and time spent clearly accounted for and shared with the owner.
- 6.11 The Council is not required to consider an application for entry on the register unless that application is accompanied by the correct fee. If the correct fee is not paid, the application will not be valid and the site owner could be in breach of the Regulations.
- 6.12 If a local authority decides not to approve an application the applicant is not entitled to a refund of the fee paid.
- 6.13 The annual fee must be set as a condition to any entry being added to the register. The condition should state the amount and date by which the annual fee payment is due, also stating that failure to make such payment will be a breach of the condition and may lead to legal proceedings being issued.
- 6.14 The local authority will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow the local authority to decide on whether or not to accept the application. The time taken for these checks should be accounted for in the fee, irrespective whether or not the entry on the register is granted.
- 6.15 Where an applicant contacts the local authority before making an application, to ascertain the likelihood of the success of that application, the authority is expected to provide informal advice, for example, the conditions surrounding an application, for example the information required to be submitted and general guidance on making the application. There is further guidance relating to this in the fit and proper person determination policy.
- 6.16 Any preliminary advice the local authority provides, prior to receiving an application, must be accounted for in the fee and cannot be charged separately.

Annual fee for an existing entry on the register:

- 6.17 Where the application by a site owner is more complex the local authority is able to increase the fee. This additional payment may be required by way of an annual fee and from March 2022 will be included as part of the annual licensing fee.

- 6.18 The annual fee may also include the cost of monitoring the fit and proper person scheme or conditions attached to entries to the register. The local authority can conduct this annually and can also decide on frequency of payments, this to cover the local authority's annual costs.

Where no fee is applied

- 6.19 In certain circumstances, the local authority may determine that no fee is required to be paid. A site is exempted from a fee only if it is occupied by members of the same family and is not being run as a commercial residential site.

An appointed manager fee

- 6.20 Where the local authority is provided with the site owner's consent to appoint an individual to manage a site. The costs associated with this should be reasonable and are recoverable from the site owner.

Amending conditions attached to an entry on a register

- 6.21 A local authority may alter the conditions attached to an entry on a register (by adding new conditions or changing or deleting existing ones), following a review. The local authority must notify the site owner of its interim decision (except in the case where it is deleting a condition) and consider any representations made by the site owner, before reaching a final decision. If the site owner is unhappy with the decision to alter, or not alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).
- 6.22 There are no requirements for a site owner to make an application for a condition to be altered. Any costs involved with amending existing conditions, or adding new conditions to an entry, must also be factored into the cost of calculating the annual fee.

7 Surpluses and deficits

- 7.1 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.

8 Conditions

- 8.1 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.

9 Sites exempted from Annual Licensing fees

- 9.1 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)

- 9.2 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.

10 Charging Arrangements

- 10.1 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**. (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.
- 10.2 There is at least one site that has both protected sites and holiday accommodation. In this case 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.
- 10.3 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.
- 10.4 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.

11. Enforcement costs

- 11.1 Where there has been a breach in a site licence condition which comes to the attention of the Council there is the option of serving a compliance notice. The CSCDA60 details the elements which a council may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the notice. Charges would be the same as that applied to the service of Housing Act 2004 enforcement notices.
- 11.2 This is **£320** and is subject to annual review as part of the Council's overall charging policy. Time taken to complete any enforcement work will be assessed to ensure that costs are proportionate. **Fees for further enforcement costs will be based upon officer hourly rates.**
- 11.3 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 Council may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court.

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

12. Fees for depositing Site rules

- 12.1 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.
- 12.2 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.
- 12.3 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 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.
- 12.4 The fee is **£84** and reflects the costs for this function.

13. Publishing and revising the fee policy

- 13.1 This fees policy will be published on the Amber Valley Borough Council website at www.ambervalley.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.
- 13.2 This policy will be reviewed no later than March 2022.
- 13.3 The Council will look to moving to an inspection frequency that reflects the management of the site, in which case annual fee charges would be reduced commensurately.

Appendix 1

Detail to show how fees are calculated

1. Application for a new licence

Detail	Officer	Time (minutes)
Initial enquiry received and entered on database	Housing Officer	10
Obtain planning documents and liaise with planning	Housing Officer	20
Send out site application with covering letter	Housing Officer	10
Liaise with applicant and arrange site visit	Housing Officer	10
Travel time	Housing Officer	30
Initial site visit	Housing Officer	60
Check application is valid (i.e. compulsory questions complete, correct fee included, site plan provided) and carry out land registry search	Housing Officer	30
Check validity of any supporting documentation provided (e.g. electrical certificate)	Housing Officer	20
Process licence fee	Housing Officer	20
Prepare site licence and conditions	Housing Officer	90
Discuss proposed site licence conditions with applicant	Housing Officer	60
Site licence checked and signed by manager	Housing Manager	30
Site licence issued to applicant	Housing Officer	10
Scan documents and update public register	Housing Officer	10
Upon occupation liaise with site owner to arrange inspection	Housing Officer	10
Carry out full site inspection, making note of any breaches of site licence conditions/works required	Housing Officer	60
Travel time	Housing Officer	30
Record details	Housing Officer	20
Total fixed time (mins)		530
Additional inspection time for all pitches over and above the first	Housing Officer	5
Variable time (mins)		5

Fee calculation for new licence application

Manager 30 minutes @ £57* per hour = £28.50

Officer 500 minutes @ £42* per hour = £350

Land registry search @ £6 each = £6.00

Total fee = £384.50 (plus £3.50 per additional unit on site)

*all hourly costs include direct officer time and all on-costs as assessed by Finance Service

2. Application to amend a licence

Detail	Officer	Time (minutes)
Enquiry received and entered on database	Housing Officer	10
Send out application form with covering letter	Housing Officer	10
On receipt of application, liaise with applicant and arrange site inspection	Housing Officer	10
Process licence fee	Housing Officer	20
Travel time	Housing Officer	30
Site inspection	Housing Officer	60
Check amendments are acceptable and all necessary documents provided (e.g. new planning permission, new site plan)	Housing Officer	30
Amend site licence	Housing Officer	60
Site licence checked and signed by manager	Housing Manager	30
Site licence issued to applicant	Housing Officer	10
Scan documents and amend public register	Housing Officer	20
Total fixed time (mins)		290

Fee calculation for amendment of licence
 Manager 30 minutes @ £57 per hour = £28.50
 Officer 260 minutes @ £42 per hour = £182.
Total fee = £210.50

3. Application to transfer a licence

Detail	Officer	Time (minutes)
Enquiry received and entered on database	Housing Officer	10
Send out application form with covering letter	Housing Officer	10
Check application is valid (i.e. compulsory questions complete, correct fee included, site plan provided) and carry out land registry search	Housing Officer	30
Process licence fee	Housing Officer	20
Amend site licence	Housing Officer	60
Site licence checked and signed by manager	Housing Manager	30
Site licence issued to applicant	Housing Officer	10
Scan documents and amend public register	Housing Officer	20
Total fixed time (mins)		

Fee calculation for transfer of licence
 Manager 30 minutes @ £57 per hour = £28.50
 Officer 160 minutes @ £42 per hour = £112.00
 Land registry search @ £6 each = £6.00
Total fee = £146.50

4. Annual fees

Detail	Officer	Time (minutes)
Enter on database, letter to site owner	Housing Officer	10
Liaise with site owner and arrange site inspection	Housing Officer	10
Review site file and check records on database	Housing Officer	20
Travel time	Housing Officer	30
Inspection of common parts plus one unit	Housing Officer	60
Record details of inspection	Housing Officer	30
Follow up letter and phone call	Housing Officer	30
Annual fee processing	Housing Officer	30
Total fixed time (mins)		220
Additional inspection time for all pitches over and above the first	Housing Officer	5

Calculation for annual fee

Housing Officer 220 minutes @ £42 per hour = £154

Total fee = £154 plus £3.50 per additional pitch

5. Deposit of site rules

Detail	Officer	Time (minutes)
Application to deposit rules received, scanned and attached to Uniform	Housing Officer	20
Check application is valid and site rules have been made in accordance with statute, consultation carried out, no banned rules, no appeals outstanding	Housing Officer	60
Amend public register and deposit rules on website	Housing Officer	40
Total fixed time (mins)		120

Fee calculation for deposit of site rules

Housing Officer 120 minutes @ £42 per hour = £84.00

Total fee = £84.00

6. Fees for Fit and Proper Persons Register Applications

Initial application fee

6.1 The Council will take into account the following matters on which costs are incurred, or likely to be incurred, when determining its fee policy for consideration of applications for entry on a fit and proper person register:

Detail	Officer	Time in Minutes
Initial enquiries	Housing Officer	30
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 fit and proper process	Housing Officer	60
sending out forms	Housing Officer	20
updating files/ computer systems and websites	Housing Officer	20
processing the application fee	Housing Officer	20
land registry searches	Housing Officer	20
time for reviewing necessary documents and certificates as part of the application	Housing Officer	90
preparing preliminary and final decision notices;	Housing Officer	30
review by manager or solicitors; review any representations made by applicants or responses from third parties	Head of Service	30
updating the public register;	Housing Officer	20
carrying out any risk assessment process considered necessary and	Housing Officer	20
reviews of decisions or in defending appeals	Head of Service	30

Head of Service 60 minutes @ £57 per hour = £57

Officer 300 minutes @ £42 per hour = £210.00