

## **CONWY COUNTY BOROUGH COUNCIL**

### **MOBILE HOMES (WALES) ACT 2013 – FEES POLICY**

**EFFECTIVE FROM THE 1<sup>st</sup> of April 2020**

#### **Introduction**

The Mobile Homes (Wales) Act 2013 (“the Act”) came into force on 1<sup>st</sup> October 2014. The Act was introduced in order to provide greater protection to occupiers of mobile home sites that are used on a permanent residential basis. The Act gives greater powers to Local Authorities to regulate sites, issue licences and carry out enforcement work to ensure compliance with the site licence conditions.

The Act gives Local Authorities the power to charge fees for applications for the grant or variation of a site licence. Under the Act Local Authorities are also permitted to impose charges as a means of recovering expenses incurred in the investigation and enforcement of breaches in the compliance of licence conditions.

This policy details the fees to be charged for Conwy County Borough Council’s (“the Council”) licencing functions. The fee levels have been calculated fairly to cover the costs incurred by the Council in exercise of its functions in accordance with the Act. The Council must act in accordance with this fee policy. The Act enables Local Authorities to fix different fees for different cases or descriptions of cases. It also allows Local Authorities to determine that no fee is to be paid in certain cases. The Act requires that Local Authorities publicise their fees policy and must re-publish their policies after any revisions.

When determining the fees for licencing a site or varying site licence conditions, the Council will not take into account any costs incurred by exercising its enforcement functions or any functions in relation to unregulated sites. Charges in relation to the Council’s enforcement functions under the Act are charged separately.

#### **What is a Regulated site?**

A regulated site is defined under the Act as being “any land in Wales which a mobile home is stationed for the purposes of human habitation (including any land in Wales used in conjunction with that land)”.

There are some exceptions to what is defined as a “regulated” site under the Act. There is a specific exemption for sites which are defined as under the Act as “holiday sites”. This applies to sites which have relevant planning permission or a site licence under the Caravan Sites and Control of Development Act 1960. For a site to be classed as a holiday site the planning permission or site licence must have been granted for holiday use only or require that there are times of the year where no mobile home may be stationed on the site for human habitation.

The other exemptions to what is a “regulated” site are covered within Schedule 1 of the Act. Examples of sites covered by the Schedule 1 includes sites owned by a Local Authority; a site where a mobile home is located within the curtilage of a dwelling house and sites used for accommodating persons undertaking agricultural, forestry, building or engineering works.

There is also a separate exemption under s.2 (4) for mobile homes used by the owner of the site or an employee.

### **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) of the Mobile Homes (Wales) Act 2013.

The maximum duration of a site licence is 5 years. The Council may only issue a licence for a site which benefits from the appropriate planning permission for use of the land as a mobile home site.

For sites that already have the appropriate planning permission in place, the Council must process the application within 2 months of receipt of the completed site licence application.

Any application made before planning permission has been granted, must be processed within 6 weeks of the date on which the applicant becomes entitled to planning permission.

Both of the above timescales may be extended providing that both the applicant and the Council agree to an extension of the time period in writing.

The fee levels for new site licences have been calculated based on the estimate average time and cost involved in undertaking the activities involved and is dependent upon the number of caravans on the site. They have been categorised as follows:

<b>Category</b>	<b>Fee</b>
Single caravan	£175.00
Single caravan on mixed site*	£185.00
Small site (2-20 caravans)	£275.00
Medium site (21-50 caravans)	£540.00
Large site (51+ caravans)	£1090.00

\* More than one caravan on a mixed site will be charged as per small or medium site

Where the Council decides not to issue a site licence, the applicant must be notified of the reasons for the decision and of the right to appeal. The applicant may appeal within the period of 28 days beginning on the date on which the decision is made. The appeal will then be considered by the residential property tribunal. No compensation may be claimed by the applicant for loss suffered as a consequence of the decision pending the outcome of the appeal.

### **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 and is £240.00. Where a licence holder wishes to transfer the licence to another person, this will be dealt with as an application to vary the licence.

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

### **Renewal of licence**

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

A licence will require renewal prior to the expiry date.

### **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 relating to management and conduct. The Act states that the rules must be agreed between parties following a period of consultation. The Council is required to maintain an up to date register of site rules which are published on the web site.

Where an owner of a site has decided to implement new site rules or has varied or deleted existing site rules, the provisions of the Mobile Home (Site Rules) (Wales) Regulations 2014 apply. Regulation 12 requires that any site rules deposited for the first time or applications to vary or delete existing site rules must be accompanied by the appropriate fee when lodged with the Council.

The fee is the same for either a first deposit or for a subsequent variation or deletion as the internal cost of processing the deposit is the same regardless of the type of deposit. The cost of this fee is set by the Council at £35.00 which reflects the fixed costs incurred by the Council in performing this function.

### **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 a fee of £19.00 is payable for the replacement of a licence.

### **Summary of Fixed Fees**

The following table summarises the cost of the various fixed fees payable as already outlined within the Policy.

	<b>Fee</b>
New site licence for a Single caravan	£175.00
New site licence for a Single caravan on mixed site	£185.00
New site licence for a Small site (2-20 caravans)	£275.00
New site licence for a Medium site (21-50 caravans)	£540.00

New site licence for a Large site (51+ caravans)	£1090.00
Application to vary site licence conditions	£240.00
Depositing site rules	£35.00
Replacement licence	£19.00

### **Enforcement charges**

Under section 15 of the Act, if it appears to the Council that the owner of the regulated site is failing, or has failed, to comply with a condition of the site licence, the Council may issue the owner with:

- a fixed penalty notice, or
- a compliance notice.

### **Fixed Penalty Notices**

Section 5 of the Act allows the Council to issue Fixed Penalty Notices for certain minor breaches of site licence conditions.

Fixed Penalty Notices must not exceed level 1 on the standard scale of fines, which is currently set at £200.00.

A fixed penalty notice will:

- set out the conditions in question and details of the failure to comply
- require the owner of the site to pay a specified amount to the Council at an address specified in the notice
- specify the period within which the specified amount must be paid

Where a fixed penalty notice has been issued and the site licence holder has failed to pay the sum due in accordance with the notice, the Council may withdraw the fixed penalty notice and issue a compliance notice in respect of the failure.

A fixed penalty notice only serves to fine the site licence holder. They do not require the breach to be rectified. Therefore Fixed Penalty Notices are considered to be an enforcement mechanism which may be more suitable for use when there are minor breaches of site licence conditions.

### **Compliance Notice Fees**

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

A compliance notice will:

- set out the condition in question and details of the failure to comply with it,
- require the owner of the land to take such steps as the Council considers appropriate and as are specified in the notice in order to ensure that the condition is complied with,

- specify the period within which those steps must be taken, and
- explain the right of appeal

The Council will impose a charge on the owner as a means of recovering expenses incurred in:

1. Deciding whether to serve the notice; and
2. Preparing and serving the notice or demand.

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

In conjunction with the compliance notice the Council will issue a demand which will set out:

1. The total expenses the Council seeks to recover;
2. A detailed breakdown of the relevant expenses; and
3. Where the Council proposes to charge interest, the rate at which the relevant expenses carry interest.

Each compliance notice issued will vary in cost, the costs charged will be considered and determined on a case by cases basis.

Failure to comply with a compliance notice within the timeframe specified on the notice is a criminal offence under section 18(1) of the Act. The offence is punishable by a fine. The site licence can be revoked upon a third or subsequent prosecution for this offence.

Following a successful prosecution for breach of a compliance notice, the Council would be able to serve notice to enter the site and carry out the necessary works in default.

### **Emergency Action**

Section 21 of the Act gives the Council the power to take emergency action in relation to any of the land comprising the licenced site if it appears that:

(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.

### **Recovery of costs for emergency action or works in default**

Under section 22 of the Act, the site owner can be charged by the Council as a means of recovering expenses incurred when

- deciding whether to take action
- preparing and serving any notice or demand
- taking action

The power of the Council to charge is exercisable by serving on the owner of the land a demand for the expenses which—

- sets out the total expenses the Council seeks to recover
- sets out a detailed breakdown of the relevant expenses,
- where interest is to be charged the relevant rate at which the expenses will carry interest, and
- explains the right of appeal

The expenses which can be recovered include, but are not limited to, the costs of obtaining expert advice (including legal advice), inspection costs and administration costs.

The expenses will be considered on a case by case basis.

### **Land Charges**

As from the time that a demand becomes operative the expenses and any interest until recovery, will be a charge on the land to which the compliance notice or emergency action in question relates. The charge takes effect at that time as a legal charge which is a local land charge.

### **Review of the Policy**

The Policy will be reviewed in 2025 and revised in line with other Council fees. Any adjustments will take into account changes in the costs involved in the Council undertaking its licencing function in this area.