



Department for
Communities and
Local Government

Mobile Homes Act 2013

A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime



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Section 1: Background

- 1.1 Approximately 85,000 households live on about 2000 mobile home sites in England. Many of these sites are well managed and run. Unfortunately there are some rogue site operators, who do not run their sites well and allow conditions to deteriorate, affecting the amenity of the site, and the health and safety of residents.
- 1.2 Local authorities are responsible for safeguarding the interests of home owners and the public at large through the licensing regime under the Caravan Sites and Control of Development Act 1960. A review by Parliament's Communities and Local Government Select Committee in early 2012 found it was outdated and did not provide local authorities with the tools or the resources to ensure effective management and maintenance of sites.
- 1.3 The Mobile Homes Act 2013 introduced a new site licensing regime for relevant protected sites (that is park home sites and mixed sites of both residential park homes and holiday homes) which came into force on 1st April 2014. The new site licensing regime gives local authorities more effective control of conditions on relevant protected sites. In appropriate cases, it provides local authorities with the tools required to take enforcement action including the power to serve compliance notices in relation to breaches of site licence conditions, emergency action powers, and the ability to carry out works in default and recover expenses.
- 1.4 Ahead of the introduction of the licensing reforms the Department of Communities and Local Government (DCLG) set up a working group of local authority practitioners, industry trade bodies and national residents' organisations to provide best practice guidance to local authorities on how to use the new licensing regime and powers to best effect.
- 1.5 Most local authorities will already have enforcement protocols or policies in place and this guidance may be used to review and/or amend these. Additional guidance on fees setting and enforcement can be downloaded from <https://www.gov.uk/government/collections/park-homes#mobile-homes-act-2013>
- 1.6 This guidance is not definitive and local authorities should seek their own legal advice if they have any doubt as to its application to cases they are dealing with.

Section 2: Relevant Protected Sites

- 2.1 The new licensing regime introduced by amendments to the Caravan Sites and Control of Development Act 1960 by the Mobile Homes Act 2013 only relates to relevant protected sites. These are defined by Section 5A (5) of the amended act as follows:

“(5) In this Part “relevant protected site” means land in respect of which a site licence is required under this part, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is, subject to subsection(6)

(a) expressed to be granted for holiday use only, or

(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravans may be stationed on the land for human habitation

(6) For the purpose of determining whether land is a relevant protected site, any provision of the relevant planning permission or site licence which permits the stationing of a caravan on the land for human habitation all year is to be ignored if the caravan is to be occupied by:

(a) the occupier

(b) a person employed by the occupier but who does not occupy the caravan under an agreement to which the Mobile Homes Act 1983 applies (see section 1 (1) of that Act”

- 2.2 Any licensable caravan site will be a relevant protected site unless it is specifically exempted from being so. A site is exempted if it has planning permission or a site licence for exclusive holiday use or there are restrictions preventing it from being used on a permanent residential basis. Holiday sites will still be subject to the licensing provisions of the Caravan Sites and Control of Development Act 1960 that existed before the Mobile Homes Act 2013 amendments, as the object of the new licensing provisions is to provide better protection of sites in residential use. This guidance relates specifically to these relevant protected sites.
- 2.3 An exemption to the above rule is that if a holiday site has permission for residential use too, and that use is only by the owner of the site (including family members) or employees working on the site their permanent occupation does not make the site a relevant protected site. The caveat to this is that if the employee occupies the home under an agreement to which the Mobile Homes Act 1983 applies, the site will be a relevant protected site.
- 2.4 A site’s exemption will depend on what use the planning permission permits; or if the permission is silent it will depend on what the site licence permits; and if there is a conflict between the planning permission and site licence as to the site’s use it is the use permitted under the planning permission that applies.

- 2.5 Where both planning permission and site licence are silent about permitted use of a site the presumption would generally be that it is a relevant protected site. In such circumstances the actual use of the site may have a bearing.
- 2.6 For further details on the definition of relevant protected sites, see the DCLG Guidance “Definition of Relevant Protected Sites” at **Appendix 1** which includes examples of different types of sites and tenures of occupation to illustrate the applicability of the new regime.

Section 3: Enforcement Policy

- 3.1 Government does not envisage that local authorities should, from the 1st April 2014, rush to serve compliance notices on site operators for breaches of site licence conditions where there is not a significant risk of harm, particularly in the circumstances where the breach has existed for many years. It is expected that local authorities' actions and demands should be reasonable and proportionate.
- 3.2 In every case where enforcement action is proposed, the interests of home owners, as well as the site operator, should be considered. Also in the case where a breach of the site licence condition is only impacting on an individual home owner, consideration should be given to the consequential impacts on other home owners. This may mean drawing a line under existing site licence condition breaches, where there is no risk of significant harm to persons or property, to enable all to move forward in a constructive and positive way.
- 3.3 It is intended that local authorities should focus their enforcement on poorly managed, badly run sites; such risk based enforcement will serve to deliver a fair and level playing field for businesses operating in the industry.
- 3.4 Local authorities should ensure efficient and effective approaches to regulatory inspection and enforcement are provided in line with their enforcement policies and regulatory improvements should be achieved without imposing unnecessary burdens, (including in relation to timescales, costs, resources and future liability) onto the site operator. This is in accord with the Regulators' Code, which implements the Hampton Principles. In carrying out enforcement, local authorities should also be mindful of human rights and ensure any action is legitimate, appropriate and proportionate. The Regulator's Code and further resources are available at: <https://www.gov.uk/government/publications/regulators-code>.
- 3.5 Local authorities should always look to work with site operators in a fair, consistent and transparent way as underlined in the principles of the Regulator's Code. Where possible, an informal approach to enforcement should be taken in the first instance, while recognising that this may not always be appropriate, for example where there is a significant risk to health or damage to property or where there may be evidence of previous non-compliance (and bearing in mind 4.2 above where long-standing breaches may not present any risk of harm).
- 3.6 Enforcement action must be based on the appropriate legislation. For example breaches of:
 - Planning conditions - relevant planning legislation
 - Site licence conditions - Caravan Sites and Control of Development Act 1960
 - Fire safety measures – Regulatory Reform (Fire Safety) Order 2005 (where this applies)
- 3.7 Local authorities **cannot** enforce (or impose) site licence conditions in respect of the fabric of the mobile home itself. A mobile home is the property of the home owner and completely outside the control of the site operator and the scope of site licence conditions. For example, site licence conditions cannot:

- require the provision of heating
- require the installation of fire sprinkler systems or
- prevent a home owner from selling their property or impose conditions on such a sale.

Section 4: Licence conditions

Background/historic links

4.1 Local authorities have powers to attach licence conditions under section 5 of the Caravans Sites and Control of Development Act 1960. The Act states:

“A site licence issued by a local authority in respect of any land may be so issued subject to such conditions as the authority may think it necessary or desirable to impose on the occupier of the land in the interests of persons dwelling thereon in caravans, or of any other class of persons, or of the public at large; and in particular, but without prejudice to the generality of the foregoing, a site licence may be issued subject to conditions—

(a)for restricting the occasions on which caravans are stationed on the land for the purposes of human habitation, or the total number of caravans which are so stationed at any one time;

(b)for controlling (whether by reference to their size, the state of their repair or, subject to the provisions of subsection (2) of this section, any other feature) the types of caravan which are stationed on the land;

(c)for regulating the positions in which caravans are stationed on the land for the purposes of human habitation and for prohibiting, restricting, or otherwise regulating, the placing or erection on the land, at any time when caravans are so stationed, of structures and vehicles of any description whatsoever and of tents;

(d) for securing the taking of any steps for preserving or enhancing the amenity of the land, including the planting and replanting thereof with trees and bushes;

(e)for securing that, at all times when caravans are stationed on the land, proper measures are taken for preventing and detecting the outbreak of fire and adequate means of fighting fire are provided and maintained;

(f)for securing that adequate sanitary facilities, and such other facilities, services or equipment as may be specified, are provided for the use of persons dwelling on the land in caravans and that, at all times when caravans are stationed thereon for the purposes of human habitation, any facilities and equipment so provided are properly maintained.

(2) No condition shall be attached to a site licence controlling the types of caravans which are stationed on the land by reference to the materials used in their construction”.

4.2 Although few licences are nowadays issued for new relevant protected sites, existing sites do from time to time change ownership resulting in applications for the transfer of a licence. If the existing licence conditions are no longer adequate

or enforceable and the local authority wishes to alter the licence conditions it can refuse the transfer application and request that an application is made for the grant of a new licence. However, it would be expected that the applicant would agree with the local authority at the pre-application discussion stage, what kind of application would be required.

- 4.3 A local authority does not have to wait until it grants a new licence to change the site licence conditions. Local authorities may want to consider reviewing licence conditions with the advent of the new licensing regime, particularly to test whether licence conditions are appropriate and can be enforced under the provisions in sections 9A and 9E of the 1960 Act. For example it may be the licence conditions are based on old Model Standards and have not been brought up to date for many years or the local authority may wish to add new conditions or delete obsolete ones.
- 4.4 For further guidance on changing site licence conditions including examples of how a licence condition should be framed so that it can be enforced, see the DCLG Guidance “*Advice to local authorities on the new regime for applications for the grant or transfer of a site licence*” at <https://www.gov.uk/government/collections/park-homes#mobile-homes-act-2013>

Model Standards

- 4.5 In formulating site licence conditions, local authorities must have regard to Model Standards published by government, the most recent being: Model Standards 2008 for Caravan Sites in England: Caravan Sites and Control of Development Act 1960 – Section 5: <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/publications/housing/modelstandardsparkhomes>.
- 4.6 The Introduction to the Model Standards 2008 includes:

“Under section 5(6) of the Caravan Sites and Control of Development Act 1960 the Secretary of State may from time to time specify model standards with respect to the lay-out and the provision of facilities, services and equipment for caravan sites or particular types of caravan site; and that, in deciding what (if any) conditions to attach to a site licence, the local authority shall have regard to any standards so specified.”

“These standards only apply to those sites which contain caravans that are used as permanent residential units. They do not apply to sites used exclusively for holidays or touring caravan sites (for which separate model standards have been issued).”

“These standards should be considered when applying licence conditions to new sites and sites that have been substantially redeveloped. In considering variations to existing site licences or applications for new site licences for existing sites local authorities should consider whether it is appropriate for these standards to apply. In relation to variation of a licence the local authority must consult the site licence holder on its proposed variations and may wish to

consult with residents or a Residents' Association, where appropriate. Where a current licence condition is adequate in serving its purpose, the authority should not normally apply the new standard. Where it is appropriate to apply the new standard to a condition the local authority should be able to justify its reasons for doing so, having regard to all the relevant circumstances of the site. In deciding whether to apply a new standard the local authority must have regard to the benefit that the standard will achieve and the interests of both residents and site operators (including the cost of complying with the new or altered condition).

The model standards represent those standards normally to be expected as a matter of good practice on caravan sites. They should be applied with due regard to the particular circumstances of the relevant site, including its physical character, any relevant services, facilities or other amenities that are available within or in the locality of the site and other applicable conditions”.

4.7 The Government's view is that if an existing licence condition is adequate and enforceable under the new licensing provisions; and there are no exceptional circumstances to warrant changing it, then a local authority should not do so. However, where existing conditions are ambiguous, irrelevant or outdated, they should be reviewed and revised as necessary to ensure that they are appropriate and reasonable and importantly, that they are enforceable. Notably therefore:

- local authorities need to make sure any licence conditions are adequate and enforceable
- It is not mandatory for local authorities to vary site licence conditions
- New conditions should not be proposed where current conditions are adequate
- Local authorities should be able to justify any proposed change
- The benefit the change will achieve must be considered
- The interests of home owners and the site operator should be taken into account
- The cost of compliance should be taken into account
- The particular circumstances of the relevant protected site should be considered including:
 - Physical characteristics
 - Relevant services
 - Facilities or other amenities that are available within or in the locality of the site.

Drafting site licence conditions

4.8 The following general advice should be considered when drafting site licence conditions.

- Conditions need to be reasonable. A condition can be *ultra vires* on the grounds that it is not reasonable, even though it may be precise and within the powers available; the Tribunal will have regard to the Model Standards 2008 in making any decision (see 4.1 and 6.6).

- Conditions need to have clarity. Conditions must not only be precise but also clear. Where a precise condition may be difficult to follow, diagrams, reference to supporting documents or explanatory notes may need to be provided.
- Conditions must not be vague. A condition which is not sufficiently precise for the site operator to be able to ascertain what must be done to comply may be *ultra vires* and therefore cannot be imposed. Use terminology such as 'shall' and 'must' and not 'should' and 'could'.
- Conditions must be capable of being practically enforced. A condition will be unenforceable if it is difficult or in practice impossible to detect a contravention. In this respect licensing authorities may want to include additional clauses within their conditions. For example, the local authority may consider including a condition that states that bases must meet the industry's current standard for construction of bases and when a new base is laid, the site owner must send to the local authority written notification of the new base and its location together with photographic evidence and a written undertaking from the site owner that the base has been laid to the industry's current standards for bases.
- Conditions should include notifying the local authority of changes to the site, for example in respect of bringing new homes onto the site or where alterations to the site layout are proposed or made. This allows officers to intervene if necessary and deal with issues at an early stage.

4.9 The paragraphs reproduced at 4.6 (above) make it clear to local authorities that the Model Standards should not be imported wholesale into site licence conditions. Rather, each park should be considered separately when site licence conditions are to be proposed and each condition evaluated as to its suitability in the circumstances of the particular park. Having said that, the Model Standards can also be seen as a template for what would reasonably be expected on a typical site and it would not be unusual to expect to include most, if not all conditions covered by the Model Standards in a relevant protected site licence. Equally, it may also be appropriate to include conditions for a particular site that are not covered in the Model Standards, provided that they can be justified if challenged.

4.10 The Model Standards 2008 include an Annex with Explanatory Notes to provide additional guidance to local authorities for their work in developing site licence conditions which protect the health, safety and welfare of the homeowners. Both recognise that circumstances vary on parks due to their size, locality and facilities and as such a sensible and pragmatic approach should be taken when deciding what standards should be appropriately met.

4.11 For example, the Model Standards use terminology such as 'adequate', 'suitable' and 'satisfactory' for describing standards for roads, lighting, and drainage. This recognises that:

- Roads may only serve just a few homes; therefore will not need to be constructed to the same standard as , for example a country lane

- Lighting can be intrusive for some; therefore, providing it allows for safe movement of pedestrians and vehicles, the application of a British Standard for street lighting may be considered excessive
- Drainage; in this case, the Model Standards require satisfactory provision and that work is carried out in accordance with current legislation and British or European Standards regardless of park size.

4.12 In order to ‘future proof’ site licence conditions, local authorities are recommended to follow the example of the Model Standards and propose conditions requiring that work is carried out in accordance with current legislation, approved codes of practice and British or European Standards appropriately applied rather than specify the specific legislation that is relevant today, but which may be superseded in the future.

4.13 In the Model Standards 2008, Government recognised that the cost of complying with new or altered conditions should be factored into local authorities’ deliberations. Therefore, proposing new site licence conditions requiring site infrastructure changes within a short period of time, at substantial cost to the site operator, could be unreasonable and therefore *ultra vires*. For example, if an existing drainage system is in working order, the site operator should not have to replace it to comply with new conditions.

4.14 In line with the Model Standards, site licence conditions should be clear that when new installations, repairs or planned maintenance are necessary such work should be carried out by competent persons in accordance, where appropriate, with current legislation, approved codes of practice and British or European Standards.

4.15 Where an authority finds it appropriate to apply the new standards to a condition, it should be able to justify its reasons for doing so a.

NOTE: Site operators with an existing site licence benefit from Permitted Development rights enshrined in planning law. This means that development may be carried out on parks, where this is within the scope of the site licence, which otherwise would have to go through the planning process. This includes matters such as park home bases (up to the limit of the number allowed by the site licence), roads and services.

Spacing issues

4.16 Historical spacing issues cannot usually be resolved quickly or easily. They can arise in a number of ways, for example:

- The site operator, knowingly or otherwise, has sited a park home in breach of the spacing distance in the site licence condition
- The home owner has added a porch or other structure to the home with/without the site operator’s knowledge.

4.17 In deciding the best way forward, a balance needs to be made between the need to upgrade conditions and the extent of any negative impact that enforcement

may have on existing home owners in terms of disturbance or possible adverse affect on the re-sale value of their home.

- 4.18 A sensible approach is to draw a line in the sand; accept existing contraventions and then put site licence conditions in place that, going forward, are clear and can be enforced. For example, to make it a condition that the site operator must inform the licensing authority when a new home is to be sited or when alterations to the site layout are proposed.
- 4.19 It is recognised there is a shared responsibility between the local authority and the local Fire and Rescue Service, in relation to fire safety enforcement on caravan sites (including relevant protected sites).
- 4.20 Local authorities cannot include conditions in site licences which relate to matters that are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005 and concern land to which that order applies. As such the local Fire and Rescue Service will be the enforcing authority for dealing with issues relating to access to the site for emergency vehicles and facilities relating to fighting a fire.
- 4.21 Local authorities are responsible for dealing with other fire safety related issues, through the site licence conditions, such as spacing between homes, combustibles within separation distances and general management of the site. Before drafting any new conditions relating to fire safety, a local authority must consult with its Fire and Rescue Service and local authorities may also wish to consult with the Fire and Rescue Service when reviewing their existing site licence conditions for suitability and relevance.
- 4.22 Local authorities may wish to agree a protocol with their local Fire and Rescue Service that sets out which authority is responsible for enforcing fire safety on what parts (and in what context) of the site. This ensures a comprehensive enforcement service, whilst also avoiding duplication of resources. Local authorities already have experience in this type of approach through joint protocols in relation to houses in multiple occupation where similar shared responsibilities arise.

How to change site licence conditions

- 4.23 Section 8 of the 1960 Act allows the local authority to change licence conditions at any time. The local authority does not require the “agreement” of a site operator to change the conditions but the local authority must consult on the proposed changes.
- 4.24 There is no statutory consultation time frame in these circumstances but it is recommended that local authorities allow a minimum period of 28 days for the site owners’ proper consideration of the proposed changes.
- 4.25 If the local authority is proposing a radical overhaul of site licence conditions then consideration should be given to a longer period for consultation (say, eight

weeks) to help ensure the smoothest possible transition to the revised licence conditions.

- 4.26 Not only can the local authority on its own volition alter licence conditions but the site owner holding the licence may also apply to change a licence condition. The local authority can charge a fee for consideration of that application and the fee should be set out in the authority's fees policy.

For further details on altering licence conditions see the DCLG guidance "*Advice to local authorities on the new regime for applications for the grant or transfer of a site licence*" at <https://www.gov.uk/government/collections/park-homes#mobile-homes-act-2013>.

Section 5: Achieving Compliance

General Advice

- 5.1 As good practice, the licensing authority should ensure that guidance is available for both site owners and home owners on matters of park home site licensing, occupation and tenure, particularly information relating to enforcement policies and procedures. A local authority website is an ideal platform for signposting and information sharing, however it should not be assumed that all home owners and site operators have access to electronic media. Hard copies of leaflets and other guidance should remain available on request.
- 5.2 Training events and presentations also serve as excellent methods of conveying information to home owners and site operators and have a particular advantage for those hard to reach groups.
- 5.3 Specialist national organisations that can provide advice include:
- **The Government sponsored service called LEASE**
<http://parkhomes.lease-advice.org>
 - **National residents' associations including :**
 - Independent Park Homes Advisory service (IPHAS) www.iphas.co.uk
 - National Association of Park Home Residents (NAPHR)
<http://www.naphr.org>
 - **Industry trade associations:**
 - British Holiday & Home Parks Association <http://www.bhhpa.org.uk>
 - National Caravan Council <http://www.thencc.org.uk>

Advice to Home owners on alterations to a mobile home

- 5.4 The foundation stone of park home law, which defines the legal relationship between the site operator (the site owner holding the caravan site licence) and the home owner on residential parks, is the Mobile Homes Act 1983 (as amended). A 'mobile home' (often called a park home) in the 1983 Act, has the same meaning as 'caravan' in Part 1 of the Caravan Sites and Control of Development Act 1960 (as amended by the Caravan Sites Act 1968). The statutory definition of a caravan is reproduced at Appendix 2.
- 5.5 Mobile homes (park homes) must comply and remain compliant with the statutory definition of a 'caravan' to ensure compliance with the Mobile Homes Act 1983 (as amended) as well as planning and site licensing law.
- 5.6 Typically, agreements between home owners and site operators include Express Terms that require home owners to ensure that:

- (i) the mobile home at all times complies with the statutory definition of a “mobile home” set out in the Mobile Homes Act 1983 (or any definition that may subsequently amend or supersede it) and*
- (ii) the mobile home is maintained at all times in a condition whereby it is capable of being moved from one pitch on the site to another.’*

- 5.7 Therefore, where the home owner alters the park home to the extent that it no longer complies with the statutory definition of a caravan they would be in breach of the agreement with the site operator.
- 5.8 Home owners should be advised to check their written agreement with the site operator to ensure they comply with any requirement to seek the site operator’s consent before carrying out works on the home or the pitch. They should also consult with their planning authority if they are considering modifying or adding to their home.

Compliance Notices

- 5.9 The legislation provides a local authority with the power to intervene where they consider there has been a breach of a site licence condition on a relevant protected site, on the basis of a ‘risk of harm’. Section 9A of the Caravan Sites and Control of Development Act 1960 provides powers for local authorities to serve compliance notices on the site operator, where a breach of a site licence condition has occurred.
- 5.10 Local authority officers should ensure they follow the principles of the Regulators Code and any specific enforcement policies relating to caravan site regulation when taking enforcement action.

A staged approach to enforcement

- 5.11 Where possible, an informal approach to enforcement should be taken in the first instance whilst recognising that this may not always be appropriate, for example where there is a significant risk to health or damage to property or where there may be evidence of previous non-compliance. This would mean working towards an agreed schedule of works which should be provided to the site operator in writing. Unless the circumstances dictate otherwise, formal action should only be considered when the informal process has failed to achieve the necessary outcome within reasonable timescales.
- 5.12 The decision to take action, together with the remedial works set out in any compliance notice, should be reasonable and proportionate to carry out to ensure compliance with the licence condition (and should not aim to achieve a standard higher than that required by the licence condition).
- 5.13 Alternative remedies may be appropriate to achieve compliance with the site licence condition(s) and the local authority should discuss such possibilities with the site operator before embarking on the formal procedure/works. The local authority should also be aware that unforeseen matters may arise during the course of remedial work. The site operator should therefore be afforded the

opportunity to re-engage with the local authority to discuss and agree an alternative course of action and if necessary, an extension of the time needed to complete the works.

- 5.14 However, whilst it is important to offer the site operator reasonable opportunity to achieve compliance within reasonable timescales, local authority officers must be mindful that whilst a contravention exists, the home owners' health, safety and welfare on the site may continue to be compromised and as such officers may be open to challenge for being slow to secure improvements. The new legislation has been introduced to facilitate local authorities to effectively carry out their licensing and enforcement functions and as such they are expected to use these powers when appropriate.
- 5.15 In order to promote good relations, a local authority may deem it appropriate in some circumstances to consult the relevant Residents' Association, where one exists, on its proposed approach and then to keep them informed of progress towards compliance.
- 5.16 Contraventions (singularly or collectively) may present not only high remedial costs but also considerable disruption to home owners on the relevant protected site. Where possible through negotiation with the site operator, it may therefore be appropriate to specify varying time periods for compliance (multiple contraventions) which are commensurate to the contravention and hazard and the likely disruption to the home owners' 'enjoyment' of the site.
- 5.17 A compliance notice must
- set out the condition which, in the opinion of the local authority, has been breached and the details of the failure.
 - detail the steps the site operator must take to remedy the breach of the site licence condition(s) and
 - specify a time scale for completion and
 - explain the right of appeal to the First Tier Tribunal (Property Chamber) against the notice.
- 5.18 A compliance notice can only be used in relation to breaches of site licence conditions. If there are failings on the site which are not covered by the licence conditions for the site, alternative legislative powers will need to be considered.
- 5.19 No prescribed compliance notices are proposed and it is for a local authority to produce their own. However, a model compliance notice that local authorities may wish to use as a template is included at **Appendix 3**.
- 5.20 A demand for expenses which is served in conjunction with a compliance notice may be registered as a local land charge, which should be removed once the full amount has been recovered.

- 5.21 Failure to comply with a compliance notice within the period specified in the notice is an offence which on summary conviction carries a level 5 fine (unlimited)¹.
- 5.22 In circumstances involving action against a site owned by bodies corporate (a corporate entity which is distinct from its members), where it has been proven that an offence has been committed, all notices and other legal correspondence should be served on an 'officer' of the body corporate. Section 26A (3) of the Caravan Sites and Control of Development Act 1960 provides that an 'officer' means a director, manager, secretary or similar officer.
- 5.23 On conviction, any known previous offences should be drawn to the attention of the court as they may help determine appropriate sentencing. Enforcing officers should endeavour to indicate known offences to their legal team and discuss any additional sanctions on a site operator as part of a court ruling.
- 5.24 Where criminality has been demonstrated, convicted offenders may be deprived of their proceeds under the Proceeds of Crime Act 2002. Local authorities should consider asset recovery when it can be shown that a defendant has benefited from criminal conduct and may instigate confiscation proceedings. Should confiscation not be appropriate or cost effective, alternative asset recovery options should be considered.
- 5.25 Where the site operator is convicted of an offence the local authority may carry out any necessary works in default. Section 9D of the Caravan Sites and Control of Development Act 1960 details the process which includes serving a notice of intention in good time.
- 5.26 As a last resort, and where the licence holder has been convicted on two or more previous occasions of failing to comply with a compliance notice, the local authority may apply to the court for revocation of the site licence.

Further information:

Mobile Homes Act 2013 - new licensing enforcement tools: Advice for Park Home Site Owners

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285930/140227_Mobiles_Homes_Act_2013_-_new_licensing_enforcement_tools.pdf

Power to take emergency action

- 5.27 A local authority may take emergency action where the site operator has failed or is failing to comply with a site licence condition and, as a result of such 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.

¹ Section 85 of the Legal Aid, sentencing and punishment of offenders Act 2012 which increases standard scale offences (including level 5 from £5000 to an unlimited fine) is proposed to be commenced in 2015.

- 5.28 Where the local authority proposes to take emergency action a notice must be served, giving the site operator reasonable notice of intended entry, which specifies:
- the land to which it relates
 - that the local authority intends to enter the land
 - the emergency action the authority intends to take
 - if another person other than the local authority is to enter the land (e.g. contractor), details of that person
 - the powers the local authority is using to enter the site.
- 5.29 If the local authority (or persons authorised on their behalf) are refused entry to the land, this amounts to obstruction and a warrant to enter should be obtained from the Magistrates' court.
- 5.30 Whilst reasonable notice must be given, the words 'at all reasonable hours' are omitted from the provisions regarding the power of entry of local authority officers and what is 'reasonable' in terms of length of notice will obviously depend on the specific circumstances of the case.
- 5.31 An example of a scenario where emergency action may be appropriate would include a situation where an electric overhead power cable is hanging dangerously low over the site. In this case, where a site operator was unwilling or unable to take prompt action, the local authority, having informed the site operator, could go on to the site with its specialist contractor to carry out the works necessary to reinstate the cable and make the site safe for residents and visitors.
- 5.32 The emergency works carried out by the local authority should be those works necessary to remove the imminent risk. It is possible that these works fall short of the standard required to comply with the site licence conditions. In those cases the emergency action would need to be followed up by a compliance notice.
- 5.33 Within seven days of any emergency action being started the local authority must serve another notice on the site operator which:
- describes the risk of harm to the health and safety of persons on the land
 - describes the emergency action which has been taken or still to be taken
 - states when actions started and expected completion date
 - explains the right of appeal.
- 5.34 No prescribed emergency action notices are proposed and it is for a local authority to produce their own. However, local authorities may wish to use as a template the example 'notice of proposed emergency action' at **Appendix 4** and the example 'emergency action notice' at **Appendix 5**.
- 5.35 The site operator has the right of appeal to the First Tier Tribunal (Property Chamber) on the grounds there was no imminent risk of serious harm or the action taken was not necessary to remove the imminent risk.
- 5.36 Subject to any appeal decision, the local authority is entitled to recover, from the site operator, its expenses incurred, including interest.

- 5.37 Expenses include the cost incurred in:
- deciding whether to take the action
 - preparing and serving any notice or a demand for expenses and taking the action
- 5.38 The debt should be registered as a local land charge from the time it becomes payable (after the end of the period for appealing the demand, if no appeal is brought) and removed on payment.

Further information:

Mobile Homes Act 2013 - new licensing enforcement tools: Advice for Park Home Site Owners

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285930/140227_Mobiles_Homes_Act_2013_-_new_licensing_enforcement_tools.pdf

Rationalising the need to take emergency action

- 5.39 Before taking direct action, the local authority should give full consideration as to the nature of the hazard and potentially harmful outcomes, as this will dictate the time periods specified for compliance and whether emergency action is the most appropriate course of action.
- 5.40 It may be appropriate to obtain the opinion of site operators and home owners (including any residents' association) prior to taking action, but the urgency of the matter may make this impractical.
- 5.41 Liaising with specialist agencies (governmental or otherwise) may be appropriate when determining the corrective action required. For example, matters of drainage and surface water flooding may benefit from guidance from the Environment Agency.
- 5.42 Significant works may require adherence to the provisions cited within the Construction (Design and Management) Regulations 2007.

Expectations of home owners

- 5.43 Inevitably, there will be circumstances where home owners and site operators demand action by the local authority when, in their opinion, a contravention has arisen. Managing those expectations will require transparency and consistency in any advice given or action taken. Good communication will help all parties distinguish between statutory requirements and general advice about what is desirable but not compulsory.
- 5.44 An appropriate site inspection regime should help detect potential contraventions before they become significant. A proactive discussion with a site operator should also prevent potential contraventions without having to resort to formal action on well managed sites.

5.45 An example of where residents' expectations may need to be managed is where a communal road on the site is in poor condition with pot holes in places which have been exacerbated by winter weather conditions. Residents may want immediate repairs to the road to avoid personal injury. The site operator on the other hand may be able to show that he has the repairs and other general maintenance work programmed for spring, when the weather will be milder and the repairs longer lasting. In the meantime he proposes to 'corner off' the area to mitigate against personal injury or vehicular damage, whilst still maintaining access around the site. This is a sensible proposition and residents should be reassured by the local authority that the situation will be monitored and action taken should timescales slip.

Expenses

- 5.46 Where the local authority is proposing to charge for functions associated with licensing they must produce and publish a fees policy in accordance with Section 10A of Caravan Sites and Control of Development Act 1960. A separate DCLG guidance [Mobile Homes Act 2013: a guide for local authorities on setting licence fees](#) provides more information on developing a fees policy.
- 5.47 Although the legislation does not require fees associated with enforcement to form part of the fees policy it is good practice to ensure all fees are transparent and accessible to those who may be subjected to them.
- 5.48 In addition it should be transparent that where costs associated with annual licensing inspections are charged for under those arrangements, they are not double-charged when any enforcement costs are levied. Annual licence fees cannot be used to cover enforcement costs.
- 5.49 For example, a local authority visits a site as part of an annual licensing inspection and remedial works are requested through an informal letter. These works are however not carried out within the agreed time scale and the local authority decides to serve a compliance notice. If the site operator has been charged an annual licensing fee it should be transparent what this charge covers (e.g. up to the point of informal works not being completed), and only the time involved after that point should then be included in any charges associated with processing the compliance notice.
- 5.50 Local authorities are recommended to make it clear to the site operator when the expenses are charged, that this charge may not be recovered from home owners as part of the pitch fee review process or in any other way.

Section 6: Roles and Responsibilities

Overview

6.1 Whilst there are legal responsibilities imposed on local authorities, site operators, home owners and other third parties to ensure that minimum standards on park home sites are met, it is hoped that good working relationships lead to good practice, so that enforcement action becomes the exception rather than the norm. Examples are given below of how each party can help that process.

6.2 Site operators can help that process by

- operating a well-managed site that complies, amongst other things with the site licence conditions imposed by the Local Authority and ensuring through good management that the site continues to comply.
- recognising a Qualifying Residents Association, if one exists, and consulting with it (this being a legal obligation under Implied Term 28 of the agreement under the Mobile Homes Act 1983). A well-managed site will be one where residents associations can engage positively with the site operator, and vice versa, to address any issues before they escalate and need local authority intervention. The aim should be for mutual respect between all home owners and the site operator, whereby constructive dialogue leads to improvements on the site and helps develop strong community cohesion.
- maintaining good communication with the local authority and raise any issues that may have implications in respect of their compliance with site licence conditions early.
- being aware of all legislative requirements in respect of operating a park home site and specifically the legislation in respect of site licensing and the enforcement process. Reference to the DCLG Guidance document '*Mobile Homes Act 2013 – new licensing enforcement tools: A guide for park home site owners*' may be useful.
- entering into early dialogue with the local authority, should they become the recipient of a compliance notice or the site subject to emergency action. This will allow the site operator to make an informed decision as to whether to appeal, or alternatively take early action to comply with any notice in order to avoid prosecution.
- acting responsibly to comply with any compliance notice that has been reasonably and properly served on them by the local authority.

6.3 Park home owners can help the process by

- complying with any terms of their agreement with the site operators so that their actions or inactions do not hinder the site operator in achieving compliance with the site licence conditions, for example, in relation to the

erection of a porch or decking; or the height of boundary hedges and fences between pitches.

- notifying the local authority, where it is a requirement, before taking certain steps. For example where the home owner wishes to erect a porch, a site licence condition may require prior permission from the local authority in order to check size restrictions and obtain any necessary planning permission.
- channelling their views and concerns through their Residents' Association, where one exists. In this way the site operator can address matters where there is a consensus and can engage in a structured way.

NOTE: *It should be noted that while consultation with and through any residents' association is desirable, the park owner has a separate agreement with each individual home owner and this must be respected. A Qualifying Residents' Association cannot make an agreement with the site operator which is binding on all individual home owners.*

6.4 Local Authorities can help the process by

- ensuring that they set site licence conditions that are clear, reasonable, fair, relevant and written so that they are adequate and enforceable.
- ensuring that where there is a breach of site licence conditions and where serving compliance notice is appropriate, or in cases of imminent risk, emergency action is required, that such enforcement action is taken expediently.
- encouraging positive dialogue with site operators, ensuring that they are aware of their obligations with respect to the site licence and its conditions and informing them of the enforcement regime in place.
- informing home owners of the new enforcement regime in place and how they can secure improvements through the local authority if the site operator fails to manage the site properly or fails to comply with the site licence conditions. This may include direct communications with and presentations to Residents Associations, local publicity, distributing leaflets and booklets such as the DCLG booklet '*Park home: know your rights*' and directing residents to the free advisory service, LEASE.
- providing a point of contact to which both site operators and home owners can direct any queries and issues in relation to site licensing. Site operators and home owners should be confident of receiving impartial, fair and professional advice where requested, together with prompt action within agreed service response times when appropriate.
- Providing information and guidance on relevant matters as they arise and to keep both home owners and site operators updated and involved.

- Negotiating and working with site operators to ensure that site licence conditions are complied with within reasonable timescales. Carrying out regular, programmed, monitoring inspections, as part of its licensing function, will help make site operators fully aware of the standards expected of them. Park inspection intervals should be risk-based allowing necessary resource to be directed towards the most non-compliant sites.
- Using the full range of formal and informal enforcement tools at their disposal in accordance with all relevant guidance and enforcement policies.
- Liaising with planning officers within the same local authority to ensure a consistent approach and avoid contradictory requirements.
- Consulting with the local Fire and Rescue Service when reviewing existing licence conditions relating to fire safety and for any new conditions it proposes to include.

6.5 Fire and Rescue Services can also help the process by assisting local authorities

- in an advisory capacity on fire related site licence conditions that they are considering imposing for the first time or where reviewing existing site licence conditions.
- in assessing the risk of an existing fire related non compliance of a site licence condition to help the local authority decide the most appropriate action, if any to take. For example, the view of the Fire and Rescue Service is likely to influence a local authority's decision as to whether they are justified in taking emergency action.
- To enforce the requirements for fire safety that are covered by the Regulatory Reform (Fire Safety) Order 2005 and concern land to which that order applies.

First Tier Tribunal (Property Chamber)

6.6 In April 2011, the Government introduced a new system for dealing with disputes under the Mobile Homes Act 1983 (or an agreement to which it applies). If following a dispute, a home owner and a site operator are not able to negotiate a settlement, they can apply to the First Tier Tribunal (Property Chamber) for a determination.

6.7 Since 1 April 2014, the tribunal has also had the jurisdiction to hear appeals in site licensing matters under the Caravan Sites and Control of Development Act 1960 (as amended).

6.8 Appeals by the site operator that may be considered by the Tribunal include those against:

- site licence conditions set by a local authority

- a local authority for service of a Compliance Notice (for failure to comply with a site licence condition).
- a local authority for Emergency Action (that has been taken for failure to comply with a site licence condition and/or compliance notice).
- a local authority for demands for payment following works in default or Emergency Action.

The Tribunal may allow, quash or vary an appeal and may also award payments for compensation, damages or otherwise.

The Magistrates' Court

6.9 Local authorities also have powers to prosecute a site operator in a magistrates' court:

- for causing or permitting any land to be used as a caravan (park home) site without a site licence (Caravan Sites and Control of Development Act 1960 s.1(2)). Maximum fine, level 5.
- for wilful obstruction of an officer carrying out his duties or from entering land by authorisation of a warrant (Caravan Sites and Control of Development Act 1960 s.26(5)). Maximum fine, level 4.
- for failure to take the steps specified in a Compliance Notice within the period so specified (Caravan Sites and Control of Development Act 1960 s.9B(1)). Unlimited fine at level 5.
- on the third (or more) conviction of the site operator in the Magistrates' Court for failure to comply with site licence conditions, to hear an application from the local authority for an order revoking the site licence in question.
- in cases against an individual instead of or as well as a body corporate when considering any offence under the Caravan Sites and Control of Development Act 1960 (s.26A).

Appendix 1- Definition of relevant protected sites

Site licensing: Applying the new regime

1. During the recent presentation DCLG gave at the CIEH event on Park Homes a number of questions were raised around which types of sites are caught by the new licensing regime introduced from April 2014. This issue has been raised at other events DCLG have attended.
2. We, therefore, thought it might be useful if we gave a number of examples of different types of sites and tenure of occupation to illustrate the applicability of the new regime. This list is not exhaustive and nor is it definitive. Authorities should get their own legal advice if they have any doubt about whether a site falls within the new licensing regime.
3. It should be remembered that if a site is not subject to the new licensing regime it will remain subject to the existing licensing provisions in the Caravan Sites and Control of Development Act 1960 un-amended by the changes introduced by the Mobile Homes Act 2013, unless the land is exempted from licensing altogether by virtue of schedule 1 to the 1960 Act. These exempted sites are described in the Annex C.
4. It also needs to be borne in mind that
 - a site licence cannot be issued unless there is planning permission for use of the land as a caravan site and
 - it will often (although not always) be the case that the type of use of the land for which planning permission is granted will determine whether or not the site is a “relevant protected site”, rather than the site licence itself.
5. The starting point is that the new licensing regime introduced by the Mobile Homes Act 2013 only applies to “*relevant protected sites*”. A relevant protected site is defined in section 5A (5) and (6) of the Caravan Sites and Control of Development Act 1960 as:

“(5) In this Part¹ “relevant protected site” means land in respect of which a site licence is required under this part, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is, subject to subsection(6)

(a) expressed to be granted for holiday use only, or

(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravans may be stationed on the land for human habitation²

¹ This is a reference to Part 1 of the 1960 Act- i.e. the licensing provisions

² This extends to restrictions on habitation in the caravan for certain times of the year (even if there is no requirement to remove them).

(6) For the purpose of determining whether land is a relevant protected site, any provision of the relevant planning permission or site licence which permits the stationing of a caravan on the land for human habitation all year is to be ignored if the caravan is to be occupied by:

(a) the occupier³

(b) a person employed by the occupier but who does not occupy the caravan under an agreement to which the Mobile Homes Act 1983 applies (see section 1 (1) of that Act”

6. Any licensable caravan site will be a “relevant protected site” unless it is specifically exempted from being so. A site is exempted if it has planning permission or a site licence for exclusive holiday use or there is a restriction on use as permanent residential. (The object of the new licensing provisions being better protection of sites in residential use.)
7. A site’s exemption will depend on what use the planning permission permits, or if the permission is silent on what the site licence permits. The actual use of the site in those circumstances is irrelevant. For example, if the land has planning permission for use as a holiday site and the residents live there full time, the site will not be a relevant protected site.
8. If both the planning permission and site licence are silent about the permitted use of the site the presumption should normally be that it is a relevant protected site. This is because the planning consent or site licence has to expressly provide the land is for holiday use only etc for the exemption to apply.
9. In such circumstances, however, actual use may be relevant. For example, if the planning permission and site licence simply give consent for the land to be used as a “caravan park” and its use is for stationing touring caravans and the site operates as a genuine and exclusive holiday business, it is unlikely to be a relevant protected site.
10. On the other hand if touring caravans on the site were let out or occupied by owners for residential purposes as well as others being stationed for holiday purposes, the site is likely to be a relevant protected site.
11. If either the planning permission or the licence specifies use of the site, and the other does not, that specification will determine whether the land is a relevant protected site or not.
12. If there is a conflict between the planning permission and site licence as to the site’s use (which, of course, there should not be), it is the use permitted under the planning permission that applies to determine whether the site is a relevant protected site. This is because section 3 (3) of the 1960 Act provides that the site licence is only issued if the land has planning permission for use as a caravan site. The licence is, therefore, subordinate to the planning permission.

³ This means the site owner and members of his family.

13. There are some sites where the planning permission and/ or site licence permits both use for holiday and permanent residential purposes. Such sites are relevant protected sites, because the relevant consent is not exclusively for holiday purpose.
14. However, there is an important exemption to this rule, which is that if a holiday site has permission for residential use too, and that use is only by the owner of the site (including family members) or employees working on the site- their permanent occupation does not make the site a relevant protected site. The caveat to this is that if the residential occupier/ employee occupies the home under an agreement to which the Mobile Homes Act 1983 applies, the site will be a relevant protected site.
15. In deciding whether a site is a relevant protected site the type of residential occupation or tenure of occupation of the site, or any part of it, is not relevant.
16. Examples of sites that are and are not relevant protected sites are set out in Annex A and B. If an authority has any doubt as to the status of a particular site it should seek advice from its planning or legal departments.
17. If you have any enquiries about this document, email parkhomes@communities.gsi.gov.uk or write to us at

Park Homes Policy Team
Department for Communities and Local Government
3rd floor (SW)
2 Marsham Street
London
SW1P 4DF

January 2014

In Annexes A and B “consent” means planning permission and/ or consent by the site licence as the context requires.

Annex A

The following are types of sites that are relevant protected sites and therefore subject to the new licensing regime:

- A single owner occupied or rented pitch on which a caravan is stationed with consent for residential use or where it has planning permission to station a caravan, but the consent is silent on type of use of the pitch it is occupied by a caravan used as used as a permanent residence⁴ .
- A site comprising rented⁵ caravans which has consent for residential use.
- A site comprising owner-occupied caravans which has consent for residential use.
- A site comprising both rented and owner occupied caravans which has consent for residential use.
- A site which has consent for both holiday and permanent residential use and is occupied under that arrangement.
- A site with consent for both holiday and permanent residential use but where the pitches for permanent residential use are
 - (a) for the time being vacant or
 - (b) being used for holiday purposes or otherwise –whether in breach of the planning permission or site licence or otherwise.
- A site which has planning permission restricting permanent residential occupation of part of it but which also comprises pitches for permanent residential occupation (as permitted in the consent) and occupied under that arrangement
- A site which has planning permission restricting permanent residential occupation of part of it but which also comprises pitches for permanent residential occupation (as permitted in the consent) but where the pitches for permanent residential use are:
 - (a) for the time being vacant or
 - (b) being used for holiday purposes or otherwise –whether in breach of the planning permission or site licence or otherwise
- An owner occupied gypsy and traveller site with relevant consent
- A rented gypsy and traveller with relevant consent.

⁴ Subject to the exemption from licensing- in schedule 1 of the 1960Act- see Annex C.

⁵ Whether under a short hold tenancy or by a licence.

- A site with planning permission as a caravan site, but the consent is silent on type of use, but such use includes permanent residential use (notwithstanding any other usage).

Annex B

The following are types of sites that are not “relevant protected site” and are not, therefore, subject to the new licensing regime:

- A site which has consent for holiday use only- whether or not there are restrictions relating to occupation of caravans on the site.
- A site which has consent for holiday use and ancillary residential use but that use is only by the owner and his employees⁶.
- A site on which caravans are not permitted to be stationed permanently by virtue of planning permission.
- A site where the planning permission requires caravans or pitches to be vacated at certain times of the year and/or prevents them being slept in during certain times.
- A site where the consent requires the site to close at certain times of the year.
- A site with planning permission as a caravan site but the consent is silent on type of use, but its actual use is as a holiday site (and not for any residential purpose).

Annex C

The following are types of sites that are not required to be licensed at all under the 1960 Act:

- Land on which a caravan stationed which is attached and belongs to a dwelling (e.g. a parking space or front or back garden).
- Land on which a single caravan is stationed when travelling from one place to another for a maximum of two nights (and a caravan is not stationed on the land for more than 28 nights in total in a 12 month period).
- Land (not built on⁷) and comprising 5 or more acres and (a) has not been occupied by a caravan for more than 28 days in the last twelve months and (b) has been occupied in that period by no more than three caravans at any one time.

⁶ But see caveat in paragraph 14.

⁷ This means any type of building- for example a toilet or shower block.

- Land used for recreation under the supervision of an exempted organisation⁸ which occupies the land.
- Land which an exempted organisation has certified as approved for recreational use of its members for the period specified in the certificate (not exceeding one year) and which is not occupied by more than five caravans at any time during that period.
- Land used by an exempted organisation for meetings of not more than 5 days, of its members under the organisation's supervision.
- Land on which caravans are stationed which is agricultural or forestry land and are in occupation during the particular season by agricultural or forestry workers.
- Land on which caravans are stationed in connection with building or engineering works and are occupied by persons employed in those works.
- Land occupied by travelling showmen who are members of an organisation of travelling showmen⁹ which holds a certificate of exemption and who is travelling in the course of business (e.g. fair grounds/ circuses).
- Land occupied as winter quarters by travelling showmen- between October and March.
- Land occupied by a county council for accommodating gypsies and travellers
- Land occupied by a local authority on which caravans are stationed.

⁸ Exempted organisations are those approved of by the Minister and whose objectives include the encouragement and promotion of recreational activities. A list of exempted organisations is held for England by Natural England to whom applications can be made for exemption status.

⁹ The main organisation is the Guild of Travelling Showmen of Great Britain

Appendix 2 – Definition of a caravan

Section 29 of Caravan Sites and Control of Development Act 1960:

“caravan” means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or*
- (b) any tent;*

Caravan Sites Act 1968 Section 13 – definition of twin unit caravans as amended by the Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006

- (1) A structure designed or adapted for human habitation which—*
 - (a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and*
 - (b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.*
- (2) For the purposes of Part 1 of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—*
 - (a) length (exclusive of any drawbar): 65.616 feet (20 metres);*
 - (b) width: 22.309 feet 6.8 metres);*
 - (c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres).*
- (3) The [Secretary of State] may by order made by statutory instrument after consultation with such persons or bodies as appear to him to be concerned substitute for any figure mentioned in subsection (2) of this section such other figure as may be specified in the order.*

Appendix 3

Model Form of Notice for a compliance notice issued under Section 9A of the Caravan Sites and Control of Development Act 1960

1. Section 9A of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) allows a local authority to serve a notice (called a compliance notice) on an owner of a relevant protected site ¹, where action is required to remedy a breach of one or more conditions of the site licence.
2. Section 9A was inserted into the 1960 Act by the Mobile Homes Act 2013. It, together with sections 9B to 9I, provide a new statutory regime for enforcement of standards and conditions on relevant protected sites, which also permits local authorities to recover their expenses and costs in taking action. The new regime has been in force since 1st April 2014.
3. The attached model form for a compliance notice has been drafted by the Park Homes Licensing Working Group, commissioned by the Government to provide guidance to local authorities on best practice in licensing enforcement.
4. It is not mandatory to use this form when a local authority serves a compliance notice. However, any notice must comply with the requirements in section 9A (2) of the 1960 Act.
5. The model makes reference to a demand for expenses. These are expenses that the local authority has incurred in (a) deciding whether to serve the compliance notice and (b) in preparing and serving the notice, and the demand for expenses.
6. A local authority is not obliged to serve such a demand and if it chooses not to do so, the references to it should be deleted from the notice.
7. If the local authority decides to recover its expenses the legal power to do so is under section 9C of the 1960 Act. A demand can only be served in conjunction with the service of a compliance notice.
8. The expenses that can be recovered are those set out in paragraph 5 above, and includes the cost of expert advice (including legal advice) - see subsections (1) and (2). The demand for expenses cannot include any costs that the authority incurred in dealing with complaints and visiting the site before it considered issuing the compliance notice. A demand must include (a) the total amount of expenses the local authority seeks to recover and (b) a detailed breakdown of how the expenses claimed were incurred. If the local authority wishes to charge interest on the expenses claimed, the demand must specify the rate at which it will apply.
- 9. These notes do not form part of the model compliance notice and should not be given with a compliance notice.**
10. If you choose to use this model do not forget to complete all the blanks and delete all instructions before serving it.

¹ A relevant protected site is a residential park or a mixed use residential/holiday site. A site used exclusively for holiday purposes is not a relevant protected site and none of the provisions in section 9A to 9I applies to such a site. For further information on relevant protected sites see- "Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime".

Local Authority Name

Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013)

Compliance Notice: Section 9A

Re: ADDRESS

To:

Of:

1. You hold the licence for the caravan site on the land known as ") [insert **the name of the site as described in the licence**] [] ("the relevant protected site").
2. [**Insert the name of the local authority**] ("the Council") has issued a site licence in respect of the relevant protected site [**insert the licence reference details**] dated [] licence number [].
3. The Council is satisfied that you [are failing to] [have failed] [delete **as appropriate**] to comply with [a condition] [conditions] [**delete as appropriate**] for the time being attached to the site licence under section 5 of the Caravan Sites and Control of Development Act 1960.
4. This notice is served as there is a failure to comply with the licence condition(s) as specified in **SCHEDULE 1** to this Notice.
5. Under section 9A of the Caravan Sites and Control of Development Act 1960 the Council requires you to carry out the works specified in **SCHEDULE 2** to this Notice. It considers these works will ensure that the licence condition(s) referred to in Schedule 1 [is] [are] complied with. You are to begin the works not later than the day of 20 (being not less than 22 days from the date of the service of this notice) and to complete the works (within the period of from that date) (by {insert date}) [**You should specify either the period for completing the works or the date by which they must be completed**].
6. You have a right to appeal against this notice. An appeal must be made within 21 days of the date of the service of this notice. Your appeal must be sent to the First Tier Tribunal (Property Chamber). (Please see notes below for further information about appeals.)

Signed:.....

[Insert the name and position of the person who signed the notice and who is the proper officer for the purpose]

(The Officer appointed for this purpose)

Date:

All correspondence and enquiries should be made to:

[Name and address of the Council office and specify the Department dealing with the matter]

This matter is being dealt with by: **[specify officer's name and contact details]**

Tel no:

E-Mail address:

SECTION 9A Caravan Sites and Control of Development Act 1960

Schedule 1: The licence condition(s) not complied with

Address:

Failure to comply with licence condition

1. *Licence condition number x and description*
2. *Licence condition number x and description*
3. *Licence condition number x and description*

Details of the failure to comply with the condition

1. *Describe why the licence condition fails*
2. *Describe why the licence condition fails*
3. *Describe why the licence condition fails*

SECTION 9A Caravan Sites and Control of Development Act 1960

Schedule 2: Works required to ensure compliance with the licence condition(s)

Address:

1. *Works specified as necessary to comply with licence condition x at Schedule 1*
2. *Works specified as necessary to comply with licence condition x at Schedule 1*
3. *Works specified as necessary to comply with licence condition x at Schedule 1*

Notes to the compliance notice for the licence holder

When the compliance notice and any demand for expenses take effect

Under section 9H of the Caravan Sites and Control of Development Act 1960 the compliance notice and demand for expenses (if any) become effective (operative as called in the Act) from the end of the appeal period – i.e. on 22nd day after the notice was served.

If the compliance notice is appealed to the First Tier Tribunal (and it is confirmed or confirmed with variations) the notice and demand for expenses becomes effective from either (a) the day after the last day for appealing against the tribunal's decision on the compliance notice to the Upper Tribunal or (b) where an appeal is brought to the Upper Tribunal the date on which that tribunal confirms, or confirms with variations, the compliance notice.

Council expenses in serving the compliance notice [Delete this section if the Council does not intend to demand the recovery of its expenses]

Under section 9C of the Caravan Sites and Control of Development Act 1960 the Council is able to recover the expenses it has incurred in connection with the service of the compliance notice.

Attached is a demand for the recovery of the expenses the Council has incurred in preparing and serving this compliance notice (and preparing the demand for expenses)

[Do not include these paragraphs below if the authority is not charging interest.]

Under section 9I of the Caravan Sites and Control of Development Act 1960 the Council is able to charge interest on the sum demanded in the expenses demand from when it becomes effective until the full sum is recovered.

The Council is charging interest on the sum at the rate set out in the demand for expenses attached to this compliance notice.

Local Land Charge [Delete this section if the Council does not intend to demand the recovery of its expenses]

When a demand for expenses served with compliance notice becomes effective, it will take effect as a local land charge on the relevant protected site to which it relates. This means that it will be recorded in the register of local land charges kept by the Council. This register is public and anyone may search for entries in it upon payment of a fee. Purchasers of land will normally search this register.

Your right of appeal against the Compliance Notice

If you do not agree with this compliance notice you may appeal against it to the First Tier Tribunal (Property Chamber) but you must do this within 21 days of the notice being served on you.

You may wish to seek independent professional or legal advice before deciding to make an appeal. The Council cannot offer you any advice on the merits of an appeal.

If you decide to appeal you must send your application to the First Tier Tribunal (Property Chamber), not to the Council.

The tribunal may on appeal confirm, vary or quash the compliance notice (see section 9G (5) of the Caravan Sites and Control of Development Act 1960).

Please note you cannot separately appeal against the demand for expenses if it is served with a compliance notice. If you appeal against the compliance notice and a demand for expenses was served with the notice, the tribunal will consider the demand if the appeal is successful, and may confirm, reduce or quash any charge set out in the demand.

Further information on the process of making an appeal can be obtained from the First Tier Tribunal (Property Chamber). An application form must be completed in all cases and the forms can be obtained from the Justice website www.justice.gov.uk/tribunals/residential-property.

If you do not have access to a computer, you can phone and ask the tribunal office to send you a form.

[Insert below the address of the regional office of the Tribunal and its contact details]

First Tier Tribunal (Property Chamber) local office address:

E-Mail address:

Telephone no:

Failure to comply with the requirements in the compliance notice

If you fail to comply with the effective notice within such time, or by such date, as is specified in paragraph 5 of the compliance notice, or as the case may be, such other time or date as may be allowed by the tribunal, to the Council's satisfaction, you may be prosecuted by the authority in the magistrates' court and upon conviction will be subject to a fine not exceeding Level 5 (see section 9B(1) and (2) of the Caravan Sites and Control of Development Act 1960).

Where the offence is committed by a body corporate (e.g. company) certain officers of the company are liable to be fined, as well as the company, if the court is satisfied they were materially responsible for the offence being committed (see section 26A of the Caravan Sites and Control of Development Act 1960).

Upon conviction the Council may enter the site and carry out the required works and recover its costs and expenses in doing so from you (see sections 9D and 9F of the Caravan Sites and Control of Development Act 1960).

Variation and Revocation of the Compliance Notice

You may ask the Council to vary the compliance notice so as to give you more time to comply with it – e.g. extend the period or date in paragraph 5 of the notice. The Council does not have to agree to that request. The Council may also decide on its own initiative to vary the notice and if it decides to do so will let you know in writing.

If you are satisfied, for example, that the requirements of the notice have already been complied with in full, you may ask the Council to revoke the compliance notice. The Council

does not have to agree that request. The Council may also decide on its own initiative to revoke the notice and if it decides to do so will let you know in writing. A revocation comes into force when it is made and from that date the compliance notice ceases to be effective.

Further Advice

If you do not understand this notice or wish to know more about it, you should contact the Council. If you want independent advice about your rights and obligations you should go to a Citizen's Advice Bureau or a solicitor. If you want to know more about the works the Council require you to do, you may wish to consult a surveyor.

Appendix 4

Model form of Notice of Proposed Emergency Action issued under Section 9E (3) of the Caravan Sites and Control of Development Act 1960

1. Section 9E (3) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) requires a local authority to serve a notice on an owner of a relevant protected site¹, if it intends to enter the site to remove an imminent risk of serious harm to the health and safety of any person who is or may be on the land.

2. Section 9E was inserted into the 1960 Act by the Mobile Homes Act 2013. It, together with sections 9A to 9D and 9F to 9I, provide a new statutory regime for enforcement of standards and conditions on relevant protected sites, which also permits local authorities to recover their expenses and costs in taking action. The new regime has been in force since 1st April 2014.

3. The attached model form of notice of proposed emergency action has been drafted by the Park Homes Licensing Working Group, commissioned by the Government to provide guidance to local authorities on best practice in licensing enforcement.

4. It is not mandatory to use this form when a local authority serves a proposed emergency action notice. However, any notice must comply with the requirements in section 9E (3) of the 1960 Act.

5. These notes do not form part of the proposed emergency action notice and should not be given with a proposed emergency action notice.

6. If you choose to use this model do not forget to complete all the blanks and delete all instructions before serving it.

¹ A relevant protected site is a residential park or a mixed use residential/holiday site. A site used exclusively for holiday purposes is not a relevant protected site and none of the provisions in section 9A to 9I applies to such a site. For further information on relevant protected sites see- "Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime".

[Local Authority Name]

Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013)

Notice of Proposed Emergency Action: Section 9E [3]

Re: ADDRESS

To:

Of:

1. You are the occupier of the land known as [] ("the relevant protected site").
2. XXXXXXXXXXXXXCouncil ("the Council") has issued a site licence in respect of the relevant protected site dated [] licence number [].
3. The Council is satisfied that you [are failing] [have failed] to comply with [a condition] [conditions] for the time being attached to the site licence under Section 5 of the Caravan Sites and Control of Development Act 1960 and 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.
4. The Council intends to enter the said land in order to remove the risk/s specified in **Schedule 1** to this Notice.
5. The steps the Council intends to take are specified in **Schedule 2**.
6. Where the Council authorises persons other than or in addition to their own officers to enter the land and to carry out the steps specified in Schedule 2, the name of that person or persons is stated in Schedule 2.
7. The emergency action is being taken under Section 9E of the Caravan Sites and Control of Development Act 1960 (as amended by Section 5 of the Mobile Homes Act 2013) and will begin on [].
8. The power to enter the said land to carry out the emergency action is conferred by Section 26 (1) of the Caravan Sites and Control of Development Act 1960 and Section 9E of the Caravan Sites and Control of Development Act 1960 (as amended by Section 5 of the Mobile Homes Act 2013). If entry onto the land is refused the

Council may apply to a Justice of the Peace for a warrant under section 26(2) of the Caravan Sites and Control of Development Act 1960 for an officer authorised by the Council to enter the land if necessary by force and to take such people with him as deemed necessary.

Signed:.....

[Insert the name and position of the person who signed the notice and who is the proper officer for the purpose]
(The Officer appointed for this purpose)

Date:

All correspondence and enquiries should be made to:
[Name and address of the Council office and specify the Department dealing with the matter]

This matter is being dealt with by: **[specify officer's name and contact details]**
Tel no:
E-Mail address:

Section 9E Caravan Sites and Control of Development Act 1960

Address:

Schedule 1: Details of imminent risk(s) of serious harm

1.

2.

3.

Section 9E Caravan Sites and Control of Development Act 1960

Address:

Schedule 2: Emergency action(s) the Council intends to take

1.

2.

3.

Names of person/s authorised by the Council to carry out the above:

Notes

The Notice of proposed emergency action to enter the land must be served sufficiently in advance of when the local authority intends to enter the site, to give the site owner reasonable notice of intended entry.

You will be served a further notice within 7 days of the emergency action commencing. This notice will contain further information about the action being carried out and your right of appeal in relation to this action.

Advice

If you do not understand this notice or wish to know more about it, you should contact the Council.

If you want independent advice about your rights and obligations you should go to a Citizen's Advice Bureau or a solicitor. You may be able to obtain help with all or part of the cost of legal advice from a solicitor under the Legal Aid Scheme. If you do not know whether you could apply for Legal Aid you can see a solicitor who may be prepared to give you half-an-hour of legal advice for a small fee.

The Leasehold Advisory Service (LEASE) is a government supported service who is able to provide free impartial advice either directly on telephone 020 7832 2525 or at www.parkhomes.lease-advice.org/

Appendix 5

Model Form of Notice for an emergency action notice issued under Section 9E (8) of the Caravan Sites and Control of Development Act 1960

1. Section 9E (8) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) requires a local authority to serve a notice (called an emergency action notice) on an owner of a relevant protected site¹, where the authority has taken or is taking emergency action to remove the risk of imminent harm to the health and safety of any person who is or may be on the land.

2. Section 9E was inserted into the 1960 Act by the Mobile Homes Act 2013. It, together with sections 9A to 9D and 9F to 9I, provide a new statutory regime for enforcement of standards and conditions on relevant protected sites, which also permits local authorities to recover their expenses and costs in taking action. The new regime has been in force since 1st April 2014.

3. The attached model form for an emergency action notice has been drafted by the Park Homes Licensing Working Group, commissioned by the Government to provide guidance to local authorities on best practice in licensing enforcement.

4. It is not mandatory to use this form when a local authority serves an emergency action notice. However, any notice must comply with the requirements in section 9E(8) of the 1960 Act.

5. The model makes reference to a demand for expenses. These are expenses that the local authority has incurred in (a) deciding whether to serve the emergency action notice and (b) in preparing and serving the notice and the demand for expenses.

6. A local authority is not obliged to serve such a demand and if it chooses not to do so, the references to it should be deleted from the notice.

7. If the local authority decides to recover its expenses the legal power to do so is under section 9F of the 1960 Act. The expenses that can be recovered are those set out in paragraph 5 above, and includes the cost of expert advice (including legal advice). A demand must include (a) the total amount of expenses the local authority seeks to recover and (b) a detailed breakdown of how the expenses claimed were incurred. If the local authority wishes to charge interest on the expenses claimed, the demand must specify the rate at which it will apply.

8. A demand for expenses cannot be served with the emergency notice. A charge cannot be imposed until after the end of the appeal period for the emergency works.

9. These notes do not form part of the emergency action notice and should not be given with an emergency action notice.

10. If you choose to use this model do not forget to complete all the blank spaces and delete all instructions before serving it.

¹ A relevant protected site is a residential park or a mixed use residential/holiday site. A site used exclusively for holiday purposes is not a relevant protected site and none of the provisions in section 9A to 9I applies to such a site. For further information on relevant protected sites see- "Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime".

[Local Authority Name]

Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013) Emergency Action Notice: Section 9E [8]

Re: ADDRESS

To:

Of:

2. You are the occupier of the land known as [] ("the relevant protected site").
2. XXXXXXXXXXXXX Council ("the Council") has issued a site licence in respect of the relevant protected site dated [] licence number [].
3. The Council is satisfied that you have failed to comply with [a condition] [conditions] for the time being attached to the site licence under Section 5 of the Caravan Sites and Control of Development Act 1960 and 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.
4. The Council has entered the said land in order to remove the risk/s specified in **Schedule 1** to this Notice.
5. The steps the Council has taken or will take are specified in **Schedule 2**.
6. Where the Council authorises persons other than or in addition to their own officers to enter the land and to carry out the steps specified in Schedule 2 the name of that person or persons is stated in Schedule 2.
7. The emergency action is being taken under Section 9E(8) of the Caravan Sites and Control of Development Act 1960 (as amended by Section 5 of the Mobile Homes Act 2013) and began on [] and is expected to be completed by [].
8. The power to enter the said land to carry out the emergency action is conferred by Section 26 (1) of the Caravan Sites and Control of Development Act 1960 and Section 9E of the Caravan Sites and Control of Development Act 1960 (as amended by Section 5 of the Mobile Homes Act 2013). If entry onto the land is refused the

Council may apply to a Justice of the Peace for a warrant under section 26(2) of the Caravan Sites and Control of Development Act 1960 for an officer authorised by the Council to enter the land if necessary by force and to take such people with him as deemed necessary.

9. You have a right to appeal against the emergency action being taken by the Council. An appeal must be made within 21 days of the date of the service of this notice. Your appeal must be sent to the First Tier Tribunal (Property Chamber). (Please see notes below for further information about appeals).
10. The grounds on which the appeal may be brought are—
 - (a) that there was no imminent risk of serious harm as mentioned in Schedule 1 (or, where the action is still being taken, that there is no such risk);
 - (b) that the action the authority has taken (as set out in Schedule 2) was not necessary to remove the imminent risk of serious harm mentioned in Schedule 1 (or, where the action is still being taken, that it is not necessary to remove the risk).

Signed:.....

[Insert the name and position of the person who signed the notice and who is the proper officer for the purpose]
(The Officer appointed for this purpose)

Date:

All correspondence and enquiries should be made to:
[Name and address of the Council office and specify the Department dealing with the matter]

This matter is being dealt with by: **[specify officer's name and contact details]**
Tel no:
E-Mail address:

Section 9E(8) Caravan Sites and Control of Development Act 1960

Address:

Schedule 1: Description of imminent risks of serious harm

1.

2.

3.

Section 9E(8) Caravan Sites and Control of Development Act 1960

Address:

Schedule 2: Action taken or to be taken to remove the imminent risk of serious harm

1.

2.

3.

Names of person/s authorised by the Council to carry out the above:

Notes to the emergency action notice for the licence holder

Service of an emergency action notice

The emergency action notice must be served within seven days from the date when the authority starts taking the emergency action.

Your right of appeal against the action taken by the local authority

If you do not agree with the emergency action taken by the local authority you may appeal against it to the First Tier Tribunal (Property Chamber) but you must do this within 21 days of this notice being served on you.

If you decide to appeal you must send your application to the First Tier Tribunal (Property Chamber), not to the Council.

Further information on the process of making an appeal can be obtained from the First Tier Tribunal (Property Chamber). An application form must be completed in all cases. The forms can be obtained from the Justice website www.justice.gov.uk/tribunals/residential-property-or-by-phoning the tribunal office.

[Insert below the address of the regional office of the Tribunal and its contact details]

First Tier Tribunal (Property Chamber) local office address:

E-Mail address:

Telephone no:

The tribunal may on appeal confirm, vary or reverse the decision of the local authority (see section 9G (5) of the Caravan Sites and Control of Development Act 1960).

You may wish to seek independent professional or legal advice before deciding to make an appeal. The Council cannot offer you any advice on the merits of an appeal.

Council expenses in serving the emergency action notice *[Delete this section if the Council does not intend to demand the recovery of its expenses]*

Under section 9F of the Caravan Sites and Control of Development Act 1960 the Council is able to recover the expenses it has incurred in connection with the service of the emergency action notice.

- (1) A local authority may impose a charge on the occupier of the land as a means of recovering expenses incurred by them-
 - (a) in deciding whether to take the action,
 - (b) in preparing and serving any notice under section 9E or a demand for expenses and
 - (c) taking the action.

- (2) The expenses referred to in (1) include in particular the costs of obtaining expert advice (including legal advice).

- (3) If the local authority decides to make a demand for expenses they must serve on the occupier of the land a demand for the expenses which—
 - (a) sets out the total expenses the local authority seek to recover (“relevant expenses”)
 - (b) sets out a detailed breakdown of the relevant expenses,
 - (c) where the local authority propose to charge interest under section 9I, sets out the rate at which the relevant expenses carry interest, and
 - (d) explains the right of appeal against the demand
- (4) No charge may be imposed until the end of the appeal period or, if an appeal is made, until the appeal has been determined by the First Tier Tribunal (Property Chamber). The appeal period referred to here is the appeal period in relation to a local authority decision to take emergency action.
- (5) Where an appeal is made and the decision confirms the authority’s decision, no charge may be imposed until the end of the appeal period to the Upper Tribunal or, if such an appeal is made, until the appeal has been determined by the Upper Tribunal.
- (6) The withdrawal of an appeal against a decision by the local authority has the same effect as a decision on the appeal confirming the authority’s decision
- (7) An occupier of land who is served with a demand may appeal to a First Tier Tribunal (Property Chamber) against the demand.
- (8) A demand under this section must be served:
 - (i) before the end of the period of two months beginning with the earliest date (if any) on which a charge may be imposed, or
 - (ii) if the action has not been completed by the end of that period, before the end of the period of two months beginning with the date on which the action is completed.

If an appeal is brought against a demand, the tribunal will consider the demand and may confirm, vary or quash any charge set out in the demand.

When any demand for expenses take effect

Under section 9H of the Caravan Sites and Control of Development Act 1960 the demand for expenses (if any) become effective (operative as called in the Act) at the end of the appeal period – i.e. on the 22nd day after the demand was served, unless an appeal has been made.

If an appeal is made to the First Tier Tribunal and a decision confirms the demand for expenses, the demand becomes effective from either (a) the day after the last day for appealing against the tribunal’s decision in relation to the demand to the Upper Tribunal or (b) where an appeal is brought to the Upper Tribunal the date on which that tribunal confirms the demand.

[Do not include these paragraphs below if the authority is not charging interest.]

Under section 9I of the Caravan Sites and Control of Development Act 1960 the Council is able to charge interest on the sum demanded in the expenses demand from when it becomes effective until the full sum is recovered.

The Council is charging interest on the sum at the rate set out in the demand for expenses attached to this emergency action notice.

Local Land Charge [Delete this section if the Council does not intend to demand the recovery of its expenses]

When a demand for expenses becomes effective, it will take effect as a local land charge on the relevant protected site to which it relates. This means that it will be recorded in the register of local land charges kept by the Council. This register is public and anyone may search for entries in it upon payment of a fee. Purchasers of land will normally search this register.

Further Advice

If you do not understand this notice or wish to know more about it, you should contact the Council. If you want independent advice about your rights and obligations you should go to a Citizen's Advice Bureau or a solicitor. If you want to know more about the works the Council require you to do, you may wish to consult a surveyor.

Appendix 6 –Useful sources for information

1. Caravan Sites and Control of Development Act 1960 (as amended)
2. Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006
3. Mobile Homes Act 1983 (as amended)
4. Mobile Homes Act 2013
5. Model Standards 2008 for Caravan Sites in England