



Department for
Communities and
Local Government

Mobile Homes Act 2013

**Advice to local authorities on the new regime for
applications for the grant or transfer of a site licence.**



© Crown copyright, 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

March 2015

ISBN: 978-1-4098-4511-9

Contents

Part 1- Overview of the licensing changes introduced by the Mobile Homes Act 2013	Page 4
Part 2 - New Licensing regime	Page 5
Part 3 - Matters relating to the proposed and existing licence holder to be taken into consideration when deciding whether to grant or approve a transfer of a licence	Page 6
Part 4 - Other matters when dealing with an application for a transfer of a licence	Page 11
Part 5 - Other matters when dealing with an application for a grant of a licence	Page 13
Part 6 - Licence conditions	Page 15
Part 7 - Additional powers to refuse to grant a licence	Page 20
Part 8 - Notification of licensing decision, right of appeal etc.	Page 21
Appendix A – Definition of relevant protected sites	Page 24

Part 1- Overview of the licensing changes introduced by the Mobile Homes Act 2013

1. From 1st April 2014 relevant protected sites¹ have been subject to a new licensing regime. Although existing licences, i.e. those originally granted before 1st April 2014, remain in force, the new enforcement powers apply and local authorities are able to charge fees and recover costs for their licensing functions.
2. These changes were introduced by the Mobile Homes Act 2013 and modernise the licensing scheme originally introduced under the Caravan Sites and Control of Development Act 1960 (the 1960 Act).
3. Under the new scheme local authorities are able to charge a fee for considering applications for the grant or transfer of a licence. They are also able to charge an annual fee for monitoring and administration of existing site licences.
4. Where a site owner is in breach of a condition of a site licence the local authority can serve a compliance notice, which sets out the steps required in order for the breach to be remedied. In the case of an emergency, or where a site owner has been convicted for failing to take the steps required by the compliance notice, the authority has powers to enter the site and do the works.
5. Authorities can recover their costs (separately from licence fees) for taking enforcement action, including the preparation of notices and charge for works they carry out in default or in an emergency. They have a suite of powers, including a power to force a sale, to recover their costs and charges if the site owner fails to pay when required to do so.
6. Failure to take the action required under a compliance notice, within the timescale required, is a criminal offence and on conviction a site owner will face a fine which will not be limited to a maximum amount². Fines for operating a site without a licence will also not be limited to a maximum amount (see footnote 2). Where a licensing offence is committed by a company, its directors, secretary or other officers, they are liable to be fined as well as the company, if it is held that the offence was committed with their consent or connivance or it occurred because of their negligence.
7. Site owners are able to appeal to the First Tier Tribunal (Property Chamber) against licensing decisions, including compliance notices and certain charges relating to enforcement action.

¹ For definition of “Relevant Protected Sites” see Appendix A

² 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.

Part 2-New Licensing regime

8. Although few licences are now issued for new relevant protected sites, existing sites do from time to time change ownership, resulting in the change of licence holder.
9. As a result of the changes introduced by the Mobile Homes Act 2013, local authorities will need to put in place new procedures for dealing with applications for licences or their transfer in accordance with the new legislative framework in sections 3 and 10³ of the 1960 Act. The new rules only apply to applications received on or after 1 April 2014.
10. It is an offence under section 1 of the 1960 Act for anyone to own and run a park home site on their land without holding a licence. Thus, if a person purchased a site and a licence was subsequently refused that person could be prosecuted and face an unlimited fine⁴ on conviction. In the meantime the licence granted to the previous owner would continue in force. This is because (subject only to such restrictions relating to planning permission) a licence continues in perpetuity⁵ until it is transferred or revoked by a court or tribunal (in certain circumstances only⁶). The licence holder remains liable for any obligations and liabilities arising out of the licence or any enforcement action.
11. It is important that anyone planning to buy, sell or transfer a relevant protected site should contact the local authority before doing so to check with the local authority whether it would accept an application for the transfer of a licence or grant a new licence in replacement of the existing one. This approach should also ensure that a tentative decision can be reached in advance of a formal application, which could, therefore, be dealt with relatively quickly.
12. **Local authorities should, therefore, encourage applicants to contact them in advance of formally submitting applications for the grant or transfer of licences.** Local authorities should recommend that formal applications for the grant or transfer of a licence should be made before ownership is transferred, or in the case of a new site, acquired. This would ensure the proposed licence holder does not fall foul of the criminal offence in section 1 of the 1960 Act.
13. Whilst a fee cannot be charged for this informal engagement, the fee charged for accepting the formal application can take account of the local authority's costs in the pre-application process. The licensing working group has produced guidance that local authorities may have regard to in setting their fee policies. This is available for download at <https://www.gov.uk/government/publications/mobile-homes-act-2013-a-guide-for-local-authorities-on-setting-licence-fees>.

³ This paper does not cover transfers that arise under the operation of law under section 10 (4) of the 1960 Act (e.g. on death or bankruptcy).

⁴ 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 Section 4 of the 1960 Act

⁶ See sections 5A (4) and 9B(5)

Part 3- Matters relating to the proposed and existing licence holder to be taken into consideration when deciding whether to grant or approve a transfer of a licence

14. Under the licensing regime introduced by the Mobile Homes Act 2013 the local authority now has discretion as to whether or not to grant or approve a transfer⁷ of a licence. Indeed it is under a duty to exercise the discretion and cannot grant or approve a transfer without making relevant enquiries into the proposed licence holder's suitability to hold the licence⁸.

What type of information or documents would be required?

15. In order to determine the suitability of the proposed licence holder it is for the local authority to decide what information or documents it will require to evaluate the application and make a decision on it. We believe this will be around the proposed licence holder's management and financial standing including information to help ascertain:

- a. their interest or estate in the site;
- b. funding arrangements that will be in place for managing the site, including for meeting obligations under the licence;
- c. the management structure that will apply to the site, including the competence of the purchaser or any nominated manager to manage a park home site.

Matters to be taken into consideration when determining the application

16. In deciding whether to consent or refuse to consent to the application the local authority must have regard to the suitability of the proposed licence holder to manage the site under the terms and conditions of the licence. It must also take into account the conduct of the existing licence holder (if any) when making its decision.

17. If the local authority decides to approve the transfer or grant the licence it may do so subject to undertakings⁹, given by either the existing or proposed licence holder. Although the local authority can ask for undertakings to be given and must consider any offered¹⁰ it is not bound to accept any undertaking. Having considered relevant

⁷ The discretion is not exercisable in the event of the death of a licence holder.

⁸ See Regulation 3 of the Mobile Homes (Site Licensing) (England) Regulations 2014 (SI 2014/442).

⁹ Relating to works to be carried out to the site, its management or outstanding financial matters

¹⁰ An undertaking may be voluntarily given and not sought by the authority.

suitability, conduct and undertakings the local authority must decide whether to approve the transfer or not and notify the parties of its decision.

Suitability of the proposed licence holder

18. When reaching a decision on whether to grant or approve a transfer, the regulations require the local authority to take into account, whether or not:

*The proposed licence holder has a sufficient interest or estate in the site*¹¹

19. It should be noted straightaway that only someone who owns or leases the land can hold the licence. So, for example, a company set up to manage a site, but which itself does not own the land cannot be the licence holder. It also follows that someone who occupies the site under a licence arrangement cannot hold the site licence because they have no interest or estate in the land.

20. Many sites will be held freehold and that would normally be a sufficient estate in the land to satisfy this test. However, that may not be the case if there is an intermediary leasehold interest in the site, if that lease has the effect of preventing the licence holder from carrying out day to day management of the site or complying with the conditions of the site licence in any other way.

21. In some cases the proposed licence holder will have a relatively short lease. The shorter a lease the less likely it is that the applicant will be in a position to ensure the longer term obligations under a licence or develop plans for the future sustainability of the site. A lease may also contain provisions that would inhibit the leaseholder's ability to manage or maintain the site (independently) or meet obligations under the site licence. In those circumstances the local authority may consider the interest in the site is insufficient for the leaseholder to hold the licence.

*The funding arrangements in place for managing the site and complying with the licence*¹²

22. The local authority must consider whether the proposed licence holder has sufficient funds (or has access to sufficient funds) to manage the site and comply with obligations under the licence - including to comply with conditions and carry out works, maintenance and longer term improvements. The proposed licence holder should be transparent about how they intend to finance the management and maintenance of the site and a local authority should be wary of slow granting a licence or approving a transfer if the proposed licence holder does not disclose to it such information as the authority needs to make an informed judgement on financial viability.

23. A local authority should also consider carefully whether to grant a licence or approve a transfer where funding is through a third party (including an associated company).

¹¹ See regulation 3 (2) (a) of SI 2014/442.

¹² See regulation 3 (2)(c) of SI 2014/442

*The proposed structure for the management of the site is appropriate*¹³

24. The local authority must consider whether the proposed licence holder will have in place adequate structures to ensure the site can be effectively managed. This includes whether the proposed licence holder and/or any person he nominates to manage the site are competent to do so. Being “competent” means having sufficient experience in managing a site or having received sufficient training in doing so and being familiar with the relevant law and health and safety requirements.
25. In terms of management structures, the local authority may want to ensure the proposed licence holder has a management plan in place covering issues such as pitch fee collection, proximity of manager to the site, contact details for residents (including out of office or emergency contact details), how complaints about the condition of the site are dealt with, routine and cyclical maintenance, staffing, refuse removal etc.
26. A management structure would be unlikely to be suitable if the proposed licence holder is a company, an individual or a company (including its directors) or person domiciled outside of the United Kingdom.

*The proposed licence holder’s ability to comply with licence conditions and to provide for the long term maintenance of the site*¹⁴

27. The sufficiency (or otherwise) of the proposed licence holder’s interest or estate in the land will have a bearing under this heading as would their financial standing, management structures and competence, in order to give an overall assessment as to suitability to manage the site in a sustainable way.

Matters relating to the existing licence holder

28. The local authority must take into account whether the existing licence holder:
- *Has been convicted for failing to comply with a compliance notice*¹⁵ *relating to the site and the licence holder*, for example:
 - still has not undertaken the works required under the notice;
 - has not paid the fine imposed by the courtor both.
 - *Is being investigated by the local authority in relation to an offence relating to the site under section 9B*¹⁶ *or is in the process of being prosecuted for such an offence*¹⁷ - this will make it easier for the local authority to ensure that the site

¹³ Regulation 3 (2)(d) of SI 2014/442

¹⁴ Regulation 3 (2)(b) of SI 2014/442.

¹⁵ Regulation 3 (3) (a) (i) of SI 2014/442. A compliance notice is served under section 9A of the 1960 Act. Failure to comply with the notice is an offence under section 9B of that Act.

¹⁶ Of the Caravan Sites and Control of Development Act 1960

¹⁷ Regulations 3 (3) (a) (ii) and (iii) of SI 2014/442.

owner does not escape from potential liability for a breach of a licence condition by giving up the licence.

- The local authority has applied to a court or a tribunal under its powers under the 1960 Act to revoke the licence or has within the previous six months notified the site owner of its intention to apply for an order of revocation¹⁸ - this enables the local authority to prevent a licence being transferred to an associate ahead of a decision of a court or tribunal to revoke it.
- The site owner has not paid money owed to the local authority in respect of:
 - Demands for expenses in relation to enforcement action or taking emergency action or doing works in default under the 1960 Act;
 - Costs awarded in favour of the local authority by a tribunal or a court;
 - Annual licence fees;
 - Costs incurred by the authority in taking steps to protect the health, safety and welfare of residents

provided that the money owed is in respect of the particular site to which the application relates.

Undertakings

29. A local authority may decide not to revoke or transfer the existing licence in the circumstances set out above, in which the case the existing licence holder will remain liable for compliance with the licence and for any action or costs relating to it.
30. The local authority may, however, decide that rather than refuse to revoke or transfer the licence, it will instead grant or transfer the licence, subject to undertakings given by either the existing licence holder or the proposed licence holder. The local authority may seek undertakings from either party or undertakings may be offered by either or both of them. An undertaking may not be accepted from a third party¹⁹. An authority does not have to accept any undertaking offered.
31. An undertaking must be in writing. Although an undertaking cannot be a condition of the site licence, the grant or transfer of the licence may be conditional on it being given.
32. An undertaking may be given to:
- Do works on the site to ensure a suitable standard of maintenance and to remedy a breach of the site licence²⁰;
 - Pay to the local authority monies owed to in relation to the site²¹;

¹⁸ Regulation 3 (3)(b) of SI 2014/442.

¹⁹ Regulation 3 of SI 2014/442

²⁰ Regulation 3(4)(a) of SI 2014/442

²¹ Regulation 3(4)(b) of SI 2014/442

- Take action to improve the management of the site (as directed by the local authority)²² and
- Be substituted as a party for any notice served under the 1960 Act, for example a compliance notice, or in any on-going proceedings in a court or tribunal concerning the site²³.

33. It will be more usual for a local authority to seek or receive an undertaking from the proposed licence holder. This is partly because such an undertaking can more easily be performed by that person once the licence is in place (and indeed some types of undertakings can in practice only be given by that person) and partly because enforcement against the licence holder, rather than someone who no longer holds the licence, is more practical. However, there may be circumstances when the local authority may obtain the undertaking from the existing licence holder, for example if it agreed to grant or transfer the licence from x date, subject to the existing licence holder paying y amount by z date.

34. The local authority is not under any obligation to seek or accept any undertaking given by a party, but it may wish to enter into negotiations about any offer or counter offer received. Likewise neither the proposed licence holder nor the existing holder is required to make an offer or where the undertaking is sought by the local authority, to agree to comply. However, local authorities should consider undertakings with care, for example, as to whether they would in practice be deliverable and whether they are reasonable. This is important because if there is an appeal against an authority's decision to refuse to grant or transfer a licence, the tribunal may have regard to the nature of the undertaking given or sought.

²² Regulation 3(4)(c) of SI 2014/442

²³ Regulation 3(4)(d) of SI 2014/442

Part 4 - Other matters when dealing with an application for a transfer of a licence

No alterations to licence conditions

35. Where the application is for a transfer of a licence a local authority does not alter the conditions of the licence. If such an application is received and the local authority was planning to change the licence conditions, it can refuse the 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.

Applications and further information

36. A fee can be required for an application to consent to a transfer of the licence²⁴. The fee charged must be in accordance with the authority's published fees policy²⁵ and as mentioned may take account of any costs incurred by the local authority in providing pre-application advice. The local authority does not have to consider the application unless it is accompanied by the appropriate fee and the applicant is not entitled to any refund if the application is refused.

37. An application for the transfer of a licence can only be made by the existing site owner- and not by the person to whom it is proposed to transfer the licence. In order to give consideration to the application, powers have been given to local authorities to *"specify information or documents it requires in relation to an application for consent to transfer a site licence"*. The local authority may require the information and documents to be supplied with the application or may subsequently require them or further information or documents to be supplied after the submission of the application, by such time as the local authority specifies²⁶.

38. Much of the information that the local authority will require will be about the proposed licence holder and how that person intends to manage or finance the site. It is also the proposed licence holder who may be asked to give undertakings -see Part 3 above. Thus, the local authority needs to engage with that person very early in the process. It may be the case that some of the required information could be obtained through the applicant, but it may also be the case that the proposed licence holder would not necessarily wish to deal with the local authority through a third party.

39. The local authority does not have to process the application until the information or documents have been supplied. It would also not be unreasonable for an authority to refuse the application if the information or documents required are not provided

²⁴ Section 10 (1A) of the 1960 Act

²⁵ See section 10A of the 1960 Act

²⁶ Regulation 4 of the Mobile Homes (Site Licensing) (England) Regulations 2014 (SI 2014/442)

and the disclosure was necessary to process the application, provided the applicant had been reminded of the need to disclose or warned of the consequences of not doing so. The local authority does not also have to process the application where the proposed licence holder does not actively engage with the local authority and respond to its enquiries directly or through the applicant.

Notification of decisions

40. If it decides to consent to the transfer, the local authority must change the name of the licence holder and transfer the licence to them. It must notify both the new holder and former licence holder of its decision. The date of the transfer will be the date the parties have agreed to²⁷. However, in order to ensure the transferee is the legal owner of the site, the date agreed cannot be earlier than the transferee acquired ownership of the site.
41. If the local authority decides not to approve the transfer it must follow the notification procedure set out in the regulations²⁸. This requires the local authority to give notice to both parties of its decision and the reasons for it.
42. The notice must also set out the applicant's right of appeal to the First Tier Tribunal (Property Chamber). This includes telling the applicant that an appeal must be lodged within 28 days of notification of the decision and giving the address and contact details of the tribunal's regional office to which the appeal must be sent. As a matter of good practice the notice should inform the transferee that if there is an appeal they can be asked to join as an interested party. For more information about appeals see Part 8.
43. Most importantly the notice must set out the consequence of the decision which is that the existing licence holder will continue to hold the licence until either there is a successful appeal or a new application is made for the transfer of the licence and the local authority consents to that transfer.

²⁷ Section 10 (2) of the 1960 Act

²⁸ Regulation 5 of the Mobile Homes (Site Licensing) (England) Regulations 2014 (SI 2014/442)

Part 5- Other matters when dealing with an application for a grant of a licence

Granting new licences

44. A new licence will normally only be required if the site is new or there have been boundary changes. Where a new site has been created or the boundaries have changed planning permission will be required and a local authority may not issue a site licence until that planning permission has been given²⁹. A local authority may, however, on change of ownership wish to alter licence conditions, in which case it can seek an application for the issue of a new licence. Such an application is made by the person who wishes to be granted the licence, rather than the existing licence holder, where a licence is currently in force.
45. However, a local authority does not have to wait for an application in order to be able to change licence conditions. It can do so at any time under section 8 of the 1960 Act. More guidance on including conditions in a site licence is set out in Part 6.

Applications and further information

46. A fee can be charged for considering the application for the grant of a site licence³⁰ and is not refundable if the application is not successful. The fee charged must be in accordance with the authority's published fees policy³¹ and as mentioned in Part 2 may take account of any costs incurred by the local authority in providing pre-application advice. The local authority does not have to consider the application unless it is accompanied by the appropriate fee and the applicant is not entitled to any refund if the application is refused.
47. The local authority does not have to process the application until the information or documents have been supplied. It would also not be unreasonable for an authority to refuse the application if the information or documents required are not provided and the disclosure was necessary to process the application provided the applicant had been reminded of the need to disclose or warned of the consequence of not doing so.

What type of information or documents would be required?

48. It is for the local authority to decide what information or documents it will require to evaluate the application and make a decision on it. It will of course, need the

²⁹ Section 3 (3) of the 1960 Act

³⁰ Section 3 (2A) of the 1960 Act

³¹ See section 10A of the 1960 Act

information set out in Part 3 concerning the proposed licence holder's interest in the site and proposed funding and management arrangements etc.

49. In addition because the application is for the grant of a licence the local authority will normally also require information about the site itself, including a layout plan, details of services, amenities, number of units, a copy of the planning permission and such other information about the features and conditions of the sites- including any plans for works that the authority can reasonably require in order for it to decide whether to grant the licence and if so on what conditions.

Special rules on processing applications

50. In processing applications for the grant of a licence a local authority must be aware of the statutory time limits (which do not apply when processing applications for a transfer of a licence). Essentially the authority is required to process the application and make a final determination normally within two months of the receipt of the application³² unless the parties agree otherwise. The period, however, only runs from the date the local authority receives the information that it reasonably requires to process the application. That information can be required to be given with the application or subsequent to it³³.

51. Prior to the changes introduced by the Mobile Homes Act 2013 if the local authority had failed to issue the licence within the statutory period, no offence of occupying the site without a licence could be committed³⁴.

52. In respect of relevant protected sites this is no longer the case because there is no requirement for the local authority to grant a licence. In theory, therefore, an offence can be committed, but there would be a defence that the application was still outstanding so this is largely irrelevant. However, more to the point is that the old rules continue to apply to sites that are not relevant protected sites. So no offence can be committed after the time limit if an application for a licence for a holiday site was not granted within two months.

Matters to be taken into consideration when determining the application

53. In addition to the matters set out in Part 3 the local authority must decide what appropriate conditions may be attached to the licence. Part 6 below discusses setting conditions and the statutory procedure for doing so.

³² Section 3 (4) of the 1960 Act. Subsection (5) provides that where an application is made before planning permission is granted the local authority must process it within six weeks of the permission being granted.

³³ Section 3 (2) of the 1960 Act

³⁴ Section 6 of the 1960 Act

Part 6- Licence conditions

54. This part applies if the local authority is either granting a new licence or proposes to vary an existing licence.

Power to alter (vary) conditions

55. A local authority may alter conditions in a site licence and does not require the site owner to make an application before it proposes to do so. It does not require the site owner's "agreement" to vary the site licence, although consultation is required and the owner has a right of appeal against the decision.

56. The introduction to the Model Standards for Caravan Sites in England 2008 states (in part):

"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 owners (including the cost of complying with the new or altered condition)³⁵.

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."

57. This advice from the Government has on some occasions been interpreted in some circles to mean that a local authority cannot change a licence condition without the agreement of the site owner. Neither the passage underlined above nor the law as set out in the 1960 Act however support such a view.

58. The Government's view is that if an existing licence condition is adequate and enforceable under the new licensing provisions brought into the 1960 Act by the

³⁵ Emphasis added

Mobile Homes Act 2013 and there are no exceptional circumstances to warrant changing it, then a local authority will be unlikely to have reason to do so.

59. If however, a licence condition is not appropriate, is not enforceable and is in need of being brought up to date, a local authority may wish to consider revising it. For example, if a licence lacks certain conditions that ought to be in it, the local authority might want to add new conditions. Likewise if a licence condition is obsolete the authority might want to consider deleting it.
60. However, a local authority does not have to wait until it grants a new licence for it to change site licence conditions. A local authority can change conditions in an existing licence at any time
61. The law does not require the “agreement” of a site owner to change conditions. The requirement is to consult on the proposed changes³⁶. However, Government advice is that the change needs to be justified, relevant to the particular circumstances of the site and proportionate.
62. Local authorities may want to consider reviewing licence conditions with the advent of the new licensing regime- particularly to test whether conditions are adequate and can be enforced under the provisions in sections 9A and 9E of the 1960 Act.
63. As noted, a local authority can alter licence conditions either on its own volition or on the application of the licence holder³⁷. The local authority can charge a fee for consideration of that application³⁸. An authority does not have to accept or process an application until the fee is received. That fee should be set out in the authority’s fees policy.
64. The local authority in consideration of the application may decide to alter the licence in accordance with the application, vary the applicant’s proposal or refuse to alter the conditions. Where the application is refused the applicant is not entitled to a refund of the fee paid.

Types of Conditions

65. This section should be read in conjunction with the Model Standards for Caravan Sites in England 2008.
66. An authority has wide discretion on the conditions it can include in a licence³⁹. Although paragraphs (a) to (f) of section 5(1) of the 1960 Act are examples of the matters that can be subject to conditions they are not exhaustive⁴⁰. However,

³⁶ See section 8 (1) of the 1960 Act

³⁷ See section 8 (2) of the Act.

³⁸ Section 8 (1B)

³⁹ Section 5 (1) of the 1960 Act, which provides “A site licence...may be ...issued subject to such conditions as the authority may think it necessary or desirable to impose...in the interests of persons dwelling thereon in caravans, or any other class of persons, or of the public at large...”

⁴⁰ Paragraphs (a) to (f) are expressed be in section 5 (1) “without prejudice to the generality of the foregoing”.

conditions must relate to the physical use of the site, its amenities and services and the management arrangements.

67. Conditions may not be attached that interfere with the contractual arrangements of a resident's occupation or which are concerned with their social or personal lives⁴¹. Local authorities may not, therefore, set conditions that would prevent a home owner from selling their property in the open market or impose conditions on such a sale. Any licence conditions to such an effect are void and unenforceable.
68. A local authority also may not impose as a condition something which is more appropriate as a planning condition⁴². However, where a site is new or is being extended the development of that site – i.e. its layout, amenities, services and infrastructure - would be conditions of the site licence and not require planning permission⁴³.
69. Typically conditions on an existing site would include matters such as the number of homes permitted on the site (where that is not already a planning condition); the location and size of permitted homes; the provision of amenity land, car parking etc.; the provision of services, amenities and infrastructure and requirements to maintain the same. A requirement to supply the local authority with such information as it needs when new homes are brought onto the site would be a reasonable condition.
70. It is important that a condition is framed in such a way that it can be enforceable. Permissive words such as “should” or “may” should be avoided in a condition. The condition must be clear and unequivocal. It should also be reasonable and not so restrictive that to comply with it at reasonable expense would be near on impossible.
71. Example 1: A licence condition to provide a road.
- If the road falls into disrepair the local authority cannot serve a compliance notice requiring it to be put in repair, since there is no breach of condition as there is no requirement to maintain the road provided.*
72. Example 2: A licence condition to maintain a road with xxx material and/or to yyy standard.
- If the road falls into disrepair the local authority could serve a compliance notice, but the site owner could potentially challenge the notice and it would be for a tribunal to decide whether the requirements in the notice are reasonable in the circumstances.*
73. Example 3: A licence condition that provides a road is maintained to a high standard

⁴¹ See *Mixnam's Properties v Chertsey UDC* (1965) A.C 735

⁴² See *Babbage v North Norfolk DC* (1990) (CA)1 .P.L.R. 65

⁴³ Part 5 Class B of schedule 2 to The Town and County Planning (General Permitted Development) Order 1995 (SI 1995/418)

Similar to example 2 the imprecision on what “high standard” means could lead to disputes about enforcement. The road might actually be perfectly usable and not in disrepair, but not being kept to the highest quality. Should enforcement follow? In any case what is the justification for a high standard?

74. Example 4: A licence condition that specifies a road should be maintained.

It would have to be doubtful that a compliance notice could be served if the road fell into disrepair. The word “should” is not a requirement which a licence condition must be.

75. Example 5: A licence condition that provides a road is maintained and kept in repair

Such a licence condition would be enforceable if the road was in disrepair through the service of a compliance notice requiring it be put into repair to remove the breach of the licence condition.

Licence conditions and the Fire Safety Order⁴⁴

76. The Fire Safety Order applies to places of work, which would normally include the common parts of relevant protected sites. Under that order the “responsible person” is required to carry out a risk assessment of fire safety for the premises and the local Fire and Rescue Authority is the enforcement body. In the case of a relevant protected site the responsible person is the site owner.

77. We are aware that nationally Fire and Rescue Authorities have taken different approaches to their role in fire safety enforcement under the Fire Safety Order in respect of caravan sites (including relevant protected sites). Clearly, fire safety is of paramount importance and we would urge local authorities to work with their Fire and Rescue Authority to draw up local protocols on enforcement for caravan sites as legal responsibility is not always clear cut.

78. What is, however, more certain is that local authorities cannot include conditions in site licences which relate to matters that are covered or could be covered by the Fire Safety Order and concern land to which that order applies⁴⁵.

79. Local authorities who have fire safety conditions in their site licences may wish to consult with the Fire and Rescue Authority about whether such conditions are appropriate. This is not to say that no conditions relating to fire safety can be set but they must be appropriate and should always be consulted on with Fire and Rescue Authority⁴⁶.

80. For example, a legitimate and necessary condition in a licence would be the spacing distance between homes. This is because such a condition would not just

⁴⁴ The Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541)

⁴⁵ Section 5 (2A) of the 1960 Act

⁴⁶ Section 8(5) of the 1960 Act requires the local authority to consult with the Fire and Rescue Authority over site licence conditions under s5(1)(e).

relate to fire spread, but also privacy, natural light etc. However, in terms of fire spread it would not relate to land to which the Fire Safety Order applied because the land between two homes will not normally be a common part (and if it is, the land should exceed the width of the separation space required under the licence). This example indicates why a clear protocol on which authority (local or Fire and Rescue Authority) is responsible for fire safety on what parts (and in what context) of the site.

81. Another fire safety condition which would be reasonable to include as a licence condition is a requirement to provide the local authority with a copy of the fire risk assessment carried out in accordance with the requirements under the Fire Safety Order.

Consultation on site licence conditions

82. There is a duty to consult a site owner and permit representations to be made if the local authority intends to alter conditions in an existing licence⁴⁷. There is no corresponding requirement to consult on conditions the local authority intends to include in a new licence it proposes to grant under section 3 of the 1960 Act.
83. Nevertheless, as a matter of good practice it is strongly recommended that a local authority consults with the site owner on proposed conditions in a new site licence. With consultation, appropriate and effective conditions will be easier to agree and that will reduce the potential for appeals.
84. There is no statutory consultation time frame under section 8 (1) of the Act. Local authorities are however recommended to consult site owners for a minimum period of 28 days.
85. Local authorities may also choose to consult a Residents' Association on the site or the home owners directly on the licence conditions it is proposing, although there is no requirement to do so.

⁴⁷ Section 8 (1) of the 1960 Act

Part 7- Additional powers to refuse to grant a licence

86. In Parts 3 and 4, it has been explained that a local authority now has discretion to refuse to grant a licence, or transfer an existing one, if it is not satisfied the proposed licence holder would be satisfactory to manage the site or there are outstanding issues concerning the existing licence holder.

87. These are not, however, the only grounds on which a local authority could refuse to grant a new licence. Grounds for refusing to grant a site licence are provided in the Site licensing Regulations. Essentially an application can be refused if the proposal would result in the integrity of the site being adversely impacted upon. This means that the local authority can refuse to grant the application if it would reduce the amenity of the site, its access or the quality of any site services⁴⁸. It can also do so, if granting the application would mean the local authority was unable to ensure the site as a whole is adequately maintained or managed, through the licence or otherwise.

88. Where it is proposed to change the boundaries or extent of the site, this would normally require planning permission and if such planning permission is required and has not been sought or given, the local authority must not grant the licence⁴⁹. However, if planning permission has been given the local authority can still use its discretionary powers under the Site Licensing Regulations to refuse the application, if it considers the development would have an adverse impact on the amenity of the site, its access or the quality of any site services.

89. The new grounds will enable, for example, local authorities to ensure existing sites, which are licensed as whole units are not divided amongst several licences or that land is removed from an existing licence- if that would adversely impact upon the integrity of the site.

⁴⁸ Regulation 3(2)(e) of SI 2014/442

⁴⁹ Section 3 (3) of the 1960 Act

Part 8- Notification of licensing decision, right of appeal etc.

Notification of and appeals against variation of, or refusal to vary licence conditions

90. As explained in Part 6, either the site owner or the local authority can seek to vary the conditions of the site licence. There is a requirement for local authorities to consult on the proposal before reaching a final decision.
91. If the application was made by the licence holder and the local authority is able to agree to the proposed variation, it should notify the licence holder of that decision and at the same time send a copy of the licence as amended.
92. If on such an application the local authority decides to vary the licence, in a way that is different from that proposed by the licence holder⁵⁰, it should notify the licence holder of its decision, giving reasons for its decision and including with the notice a copy of the licence as varied⁵¹.
93. Where the authority, following an application made by the site owner for a variation of a conditions, decides not to alter the condition at all, it should notify the licence holder of the decision, explaining the reasons for it.
94. Except where the local authority has agreed to vary the licence as proposed by the site owner, the applicant has a right of appeal against the local authority decision. The notice must inform the site owner of the right to appeal. This is explained in more detail below.
95. Where the local authority has initiated the proposed variation of the licence, if following consultation, it decides not to vary a condition, it should notify the licence holder accordingly. (There is no right of appeal against the decision.)
96. Where, following the consultation, the local authority decides to vary the licence it must notify the licence holder of its decision. A copy of the licence as varied should be included. The notice should set out briefly the reason for making the variation and inform the licence holder of the right to appeal against the decision.
97. A licence condition variation usually takes effect from when the notice is given, even if there is an appeal⁵².

⁵⁰ The local authority has wide discretion on the action it can take having received an application for variation- see section 8 (1) of the 1960 Act.

⁵¹ If the local authority is making a different variation to that proposed by the licence holder, the requirement to consult under section 8(1) of the 1960 Act will apply.

⁵² Section 8 (3) of the 1960 Act. If the variation requires works to be done (which is unlikely on a relevant protected site, since the authority can instead serve a compliance notice under section 9A) the variation

98. Appeals against a variation of, or refusal to vary, licence conditions are to the First Tier Tribunal (Property Chamber) and the decision notice should state that such an appeal must be made within 28 days (of receipt of the notice)⁵³. When considering an appeal against the variation of a licence the tribunal must have regard to the standards in the Model Standards for Caravan Sites in England published by the Department in 2008⁵⁴. The tribunal can direct that the variation has effect without alteration, is cancelled or has effect subject to such alteration as the tribunal makes⁵⁵.

Notification of the grant of a licence and appeals against licence conditions

99. Where a local authority has decided to grant a licence it must notify the applicant of its decision and give the licence holder a copy of the licence. The notice must inform the licence holder of the right of appeal against the licence conditions (there is no right of appeal against being required to hold the licence). An appeal must be made to the First Tier Tribunal (Property Chamber) within 28 days of the date the licence was issued⁵⁶. The notice should also set out any undertakings given by the licence holder (see part 3 and how these are to be discharged during the currency of the licence).
100. Notwithstanding an appeal against any condition, the licence (including most types of conditions) still comes into force. However, if there is an appeal against a condition that requires specific works to be done by a certain date, that condition doesn't take effect until the period for appealing has expired, or in the event of an appeal, it is disposed of⁵⁷.
101. When determining an appeal against a condition the First Tier Tribunal may, if it finds the condition is "unduly burdensome", cancel or vary it. Otherwise the tribunal must confirm the condition. In reaching its decision the tribunal must have regard to the 2008 Model Standards⁵⁸. If the tribunal decides to cancel or vary a condition, it may also add a new condition to the licence, in substitution for that condition or as an adjunct to other conditions in the licence⁵⁹.

Revocation of an existing licence

102. Where the local authority has granted a new licence, and there is an existing licence in force for the site, the local authority must revoke the existing licence from

doesn't take effect until the period for appealing has expired, or in the event of an appeal, it is disposed of. This rule will also apply to non relevant protected sites.

⁵³ Section 8 (2) of the 1960 Act.

⁵⁴ Section 8 (4) of the 1960 Act.

⁵⁵ Section 8 (2) of the 1960 Act.

⁵⁶ Section 7 (1) of the 1960 Act.

⁵⁷ Section 7 (2) of the 1960 Act.

⁵⁸ Section 7 (1) of the 1960 Act.

⁵⁹ Section 7 (1A) of the 1960 Act.

the date immediately prior to the new licence coming into force. The holder of that licence must be informed of the revocation in writing.

Notification of the approval of a transfer of an existing licence

103. The local authority must inform both the applicant (the existing licence holder) and the transferee of its decision to approve the transfer. The notice to the transferee should include a copy of the licence - amended to reflect the name and address of the new licence holder.
104. Both notices must state the date the transfer takes effect. This date is the one agreed between the parties (and the local authority), but which should not be earlier than the date the transferee acquired the interest or estate in the site⁶⁰.

Notification of refusal to grant a licence or approve a transfer – powers of the tribunal when dealing with an appeal against refusal

105. Where the local authority refuses an application for a transfer or issue of a licence, it must notify both the existing and proposed licence holder of its decision and the reasons for it.
106. The notice must also advise the applicant of the right of appeal against the decision and an explanation that the existing licence holder remains the licence holder until the local authority's decision is successfully appealed or a new application is made and the local authority decides to issue or transfer the licence.
107. An appeal must be made to the First Tier Tribunal (Property Chamber) within 28 days of receipt of the notification of the decision by the local authority. The tribunal may have regard to any undertakings given by either the existing licence holder or the proposed licence holder. The tribunal can either confirm the local authority's decision or reverse its decision and order the local authority to consent to the proposed transfer or to issue it.

⁶⁰ See sections 10 (1) and (2) of the 1960 Act.

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

(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

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).

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.
- Land used for recreation under the supervision of an exempted organisation⁸ which occupies the land.

⁶ But see caveat in paragraph 14.

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

- 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