

**ANGUS COUNCIL**

**CIVIC LICENSING COMMITTEE – 6 APRIL 2017**

**CHANGES TO LEGISLATION IN RESPECT OF THE LICENSING OF  
RESIDENTIAL CARAVAN SITES**

**REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT**

The purpose of this report is to advise members of the changes to legislation in respect of the licensing of residential caravan sites and the timetable for implementing these changes.

**1. RECOMMENDATIONS**

The Committee is asked to:-

- (i) note that the Housing (Scotland) Act 2014 has made significant changes to the Caravan Sites and Control of Development Act 1960 in respect of the licensing of residential caravan sites,
- (ii) note the changes to the licensing of residential caravan sites including the establishment of a fit and proper person test in respect of the applicant for a residential caravan site licence and any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site),
- (iii) note that those who already hold a site licence issued under the previous licensing regime have until 1 May 2019 to apply for a new site licence and that the new regime comes into force on the 1 May 2017 for those who are applying for a site licence for the first time; and
- (iv) agree the fees to be charged for handling a first site licence application and for a licence renewal as set out in Appendix 2 to this report.

**2. BACKGROUND**

2.1 Committee will be aware that it is a referred function of this Committee to licence caravans sites in terms of the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”). At present, the essential elements of this licensing regime are:-

- (i) The Council cannot refuse a caravan site licence unless the applicant is not, at the time when the site licence is issued, entitled to the benefit of a permission for the use of the land as a caravan site granted under planning legislation,
- (ii) The Council is entitled to impose conditions on the grant of a caravan site licence and must have regard to model conditions issued by the Scottish Ministers when determining what (if any) conditions to attach to a site licence; and
- (iii) The Council grants permissions for mainly three type of use (touring, holiday static and residential static). Some sites can have mixed uses at the same site. In addition, the Council has developed standard conditions to attach to migrant worker caravan sites.

2.2 The Housing (Scotland) Act 2014 has made significant changes to the 1960 Act. Committee is specifically asked to note that these changes only relate to sites licensed to have permanent residents. Committee will be aware that issues have arisen in the past in relation to residential occupation on sites which are only licensed for holiday occupation. These changes will not apply to sites not licensed for residential occupation (even though there may be residential occupation on the site). For completeness, details of the current licensed caravan sites in Angus to which these changes affect are contained in Appendix 1 to this report.

2.3 The main changes to the licensing of residential caravan sites can be summarised as follows:-

- (a) Licences granted last for 5 years and must be renewed,
- (b) Applications for licences and for transfers and renewal of licences can be refused if the applicant or any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site) is found not to be a fit and proper person to hold a site licence,
- (c) A site licence can be revoked if the applicant or any person involved with the day to day management of the site (including a site manager appointed by the site owner to manage the site) is found not to be a fit and proper person to hold a site licence,
- (d) The Council is entitled to charge fees for the first application for a site licence and for a renewal of a site licence,
- (e) The Council can reclaim the expenses of enforcement action,
- (f) The Council has a number of options in relation to enforcement. These are:-
  - (i) the power to serve an improvement notice on a site owner, to require them to carry out work to comply with a licence condition;
  - (ii) the power to impose a penalty notice which would suspend pitch fee payments (other than for utilities) and the commission a resident pays to the site owner on the sale of their mobile home, if the site owner failed to comply with an improvement notice;
  - (iii) the power to revoke a site licence in certain circumstances;
  - (iv) making provision for an interim manager to take over the running of the site in specific circumstances, such as when a site licence is revoked, or a local authority has refused to renew a licence;
  - (v) the power to carry out work on a site urgently (whether or not that site has a licence) when the licence holder is failing, or has failed, to comply with a site licence condition, or if the site has no licence; 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; and
  - (vi) increasing the maximum criminal penalty for the offences of non-compliance with licence conditions to a maximum of £10,000. The fine for operating without a site licence once the new system is in force will be a maximum of £50,000. It will be for a sheriff to decide if a licence holder has failed to comply with a licence condition or has been operating a site without a licence, and how much any fine should be.
- (g) Applications for residential site licences will be received and processed and referred to this Committee. The legislation is clear that decisions in relation to residential caravan sites can be delegated to officers. However, Committee has previously dealt with these issues and, it is submitted, should continue to do so. The Committee has three months to make its decision on an application. If the Committee is considering refusing an application then it must tell the applicant why. The applicant then has 28 days to make written representations. The Committee must consider the representations from the applicant before it makes its final decision. If the Committee refuses a site licence application, an applicant can appeal against that decision. A sheriff will hear the appeal. If the Committee is considering revoking a site licence then the same process applies.
- (h) The Scottish Ministers have the power to issue guidance. A local authority must have regard to any guidance published when carrying out its functions under the 1960 Act. Draft Guidance has been circulated for consultation and the final version will be circulated to members when available.

- 2.6 In terms of fees, the fee must not exceed an amount which a local authority considers represents the reasonable costs of an authority in deciding a relevant permanent site application. The Scottish Government has carried out research and discussions to establish the potential level of fees. It is estimated that such a fee would be approximately £600. Committee can charge a different fee for a first site licence application and for a renewal. Committee can also choose to charge different fee levels for different sizes of sites (e.g. Committee could charge a lower fee for a site with fewer mobile homes). Following discussions with colleagues in Environmental and Consumer Protection it is proposed and recommended that a graded fee be charged based on the number of residential caravans permitted on the site and as set out in Appendix 2 to this report. This proposal recognises the amount of increased work involved having regard to the size of the site and the numbers of caravans licensed/to be licensed for residential occupation.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 Under the new licensing system a local authority is able to charge a fee for handling a first site licence application, and for a licence renewal. It cannot charge a fee for handling a site licence transfer application, or for transmission of a site licence. The fee must not exceed an amount which a local authority considers represents the reasonable costs of an authority in deciding a relevant permanent site application. The fee set should therefore reflect what the local authority believes will be the reasonable cost of handling a first site licence application, and the average cost to it of handling a site licence renewal application. If the Committee is minded to agree the recommendation in relation to fees then this will generate additional income of £20,400 (in respect of new applications) and £10,200 (in respect of renewals) to offset the additional work incurred in processing the applications.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

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List of Appendices:

- Appendix 1 – Details of Caravan Sites Currently Licensed for Residential Occupation.  
Appendix 2 - Proposed Fee Structure



**APPENDIX 1 TO REPORT 446/17  
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**Details of Caravan Sites Currently Licensed for Residential Occupation**

<u>Name and Location of Site</u>	Number of Residential Caravans Permitted
1/ Woodley Caravan Site, Arbroath	32
2/ Nursery Park Caravan Site, Brechin	14
3/ Thrums Caravan Site, Maryton, Kirriemuir	16
4/ Monarch of the Glen, Montrose	38
5/ East Mill Caravan Site, Brechin	20
6/ Seaton Estate Caravan Park, Arbroath	325
7/ Tayock Caravan Park, Montrose	27



**APPENDIX 2 TO REPORT 446/17  
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**Proposed Fee Structure**

<b><u>Number of Residential Caravans Applied For</u></b>	<b><u>Application Fee</u></b>	<b><u>Renewal Fee</u></b>
1-6	£300	£150
7-12	£600	£300
13-24	£1,200	£600
25-48	£2,400	£1,200
49-96	£4,800	£2,400
97 and over	£9,600	£4,800

