



Department for
Communities and
Local Government

Mobile Homes Act 2013 - new licensing enforcement tools

Advice for Park Home Site Owners

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Introduction

Under the Caravan Sites and Control of Development Act 1960 all residential park owners require a licence from the local authority to operate.

However, this legislation is now considered to be ineffective and out of step with modern licensing regimes. The Mobile Homes Act 2013 updated the old legislation and amongst other things, introduces changes to the procedures and penalties for enforcement of site licence conditions on residential parks.

This advice has been prepared by the working group of local authority practitioners, national resident groups and the industry trade bodies asked by the Department for Communities and Local Government to prepare some best practice guidance in relation to licensing.

The advice is aimed at park owners and provides useful information in respect of the new licensing powers of local authorities. These new provisions come into force on 1 April 2014.

Why are these changes necessary?

1. The majority of park homes sites are owned and managed by fair and professional individuals or businesses. It is unlikely that such well-run sites will be significantly affected by the new regime, although they may benefit from more site visits by the local authority. In some cases the local authority may decide to look at site conditions with a view to updating them, but conditions cannot be changed without consulting the site owner and if they disagree with the proposals an appeal can be made to the First Tier Tribunal (Property Chamber).
2. Unfortunately, there are some park owners who do not run their parks well and allow conditions to deteriorate, affecting the amenity of the park and the health and safety of residents. Local authorities are responsible for ensuring standards are met through the licensing regime and that dilatory /non-performing park owners are taken to task. Most local authorities will want to target their resources in tackling these sites.
3. The legislation that relates to the licensing of residential parks has not been updated for more than 50 years. A review of the existing system by Parliament's DCLG select committee in early 2012 found that it is outdated and does not provide local authorities with the tools to ensure that minimum standards on residential parks are met.

4. The Mobile Homes Act 2013 amended the legislation to provide effective enforcement powers to require works to be carried out to remedy poor conditions on park home sites and where there is non-compliance, to impose large fines in the courts. The Act also put in place safeguards for site owners to ensure local authorities' actions and demands are reasonable and proportionate by providing a right of appeal to the First Tier Tribunal (Property Chamber).
5. It should be stressed that local authorities will always prefer to work with park owners in a constructive and positive way to improve parks where necessary and address any issues that arise. It is far easier for everyone, to resolve matters in an informal way, rather than having to resort to enforcement measures. Except in the most serious and urgent cases local authorities will want to work with site owners to resolve the problems informally without the recourse to formal enforcement action.
6. However, where park owners refuse to co-operate local authorities will be able to use these new enforcement powers, when necessary, to ensure that bad practice does not prevail and that there is a fair and level playing field for businesses operating in this industry.

What types of parks are included in these new enforcement provisions?

7. In addition to planning permission, all caravan and residential parks need a site licence to operate, issued by the local authority, which may include specific conditions. This relates to holiday parks as well as residential parks.
8. However, the changes brought in as a result of the Mobile Homes Act 2013, in respect of licensing and enforcement, relate only to 'relevant protected sites', which by definition, are privately owned parks that are occupied wholly, or in part, for permanent residential use. This includes "mixed use" sites where there is both holiday and residential occupation of the pitches.
9. Purely holiday parks (even if staff live there full time) and local authority owned parks are excluded from the new enforcement regime in place from 1 April 2014. However, holiday parks will still need to be licensed under the current regime.

What is the new process for enforcement from 1 April 2014?

10. The old legislation only allowed a local authority to prosecute for non – compliance with a licence condition. The new legislation introduces a provision for serving a statutory notice which simplifies the enforcement procedure and gives the park owner an opportunity to put things right before facing any prosecution. It also allows local authorities to enter sites in an emergency and fix the problems.

Compliance Notices

11. Where a local authority considers that a park owner is failing or has failed to comply with a site licence condition it can serve a compliance notice on the park owner listing the steps that need to be taken, within a specified time period, to comply with the requirements of the site licence.

What is contained in a Compliance Notice?

12. The compliance notice must specify to the park owner:
 - (a) The site licence condition and how the park owner has failed to comply
 - (b) The steps that need to be taken to ensure compliance
 - (c) The time period that is being allowed to carry out those steps to ensure compliance
 - (d) The right the owner has to appeal the notice.

What shall I do if I receive a Compliance Notice?

13. Prior to serving any compliance notice, it will be normal practice for a local authority to have made the park owner aware of any licensing contraventions at a park and have given him/her an opportunity to put things right. Unless an emergency situation arises, enforcement action only becomes necessary when informal communications break down.
14. If you receive a compliance notice, you should first check the contents of the notice and what is required of you. If you have any queries or need clarification on any points, you should contact the local authority that served you with the notice and speak to the relevant officer who will be happy to discuss any points with you. You may also consider getting legal advice from a solicitor.

15. The local authority can vary or revoke a compliance notice, so it is always worth contacting it if you do not think the notice is right or the works are not necessary.
16. **In any event, you should not ignore a compliance notice.**
17. In order to comply with the notice you will need to carry out the works in the timescale given. If there is no appeal the local authority will re-inspect the park once the time period allowed on the notice has expired.
18. If all works have been carried out to the satisfaction of the local authority, the notice will have been complied with and no further works will be required. If the notice has not been complied with, the local authority may consider prosecution.
19. You should also be aware that the Mobile Homes Act 2013 allows a local authority to charge for their enforcement work. Therefore, depending on the relevant charging policy in place, you may be required to pay for all their associated costs, from the point at which the local authority considered serving a compliance notice, up to its resolution. It is therefore always in the park owner's best interest to work with a local authority to resolve issues informally before enforcement action becomes necessary.

What if I disagree with the Compliance Notice?

20. If you consider that the notice is defective in some way or you disagree with its contents, you can appeal to the First Tier Tribunal (Property Chamber) within 21 days of service of the notice. For example, you may feel that the notice has been served on the wrong person or that the works specified are unnecessary or excessive, or that the time period allowed is unreasonable.
21. If there is an appeal the notice is put on hold until either the appeal is decided by the tribunal or it is withdrawn. If an appeal is withdrawn you must comply with the notice within the timeframe set in the notice.
22. The local authority that served you with the notice should give you all the details you need on how and where to appeal.
23. At the Hearing of the appeal the tribunal may either:
 - Confirm the notice and require you to carry out all the requirements of the notice;
 - Vary one or more of the requirements of the notice (for example, the time period may be extended or the extent of the works modified); or

- Quash the notice.

What happens after an appeal?

24. If the tribunal has quashed the decision you do not have to do the works specified in the notice. In some cases the local authority will have to refund to you the application fee to the tribunal and sometimes may award you limited costs. The tribunal may also, when it quashes the notice, quash the local authority's expenses demand or reduce the amount the local authority can recover. It can also uphold the demand.
25. If the tribunal confirms the notice you will need to comply with the notice to the local authority's satisfaction.
26. In some cases the tribunal will confirm the contents of the notice, but extend the time for completing the works. The works in the notice will need to be complied with, to the local authority's satisfaction, by the date allowed by the tribunal.
27. The tribunal may vary the notice. In that case the site owner will need to carry out the works specified by the tribunal - this could be different, more or less works than were specified in the original compliance notice - by the date specified by the tribunal and to the local authority's satisfaction.
28. The tribunal cannot interfere with the expenses demand if it confirms or varies the compliance notice and the tribunal can award costs in favour of the local authority in certain circumstances.
29. If either the site owner or local authority thinks there are good reasons to challenge the tribunal decision, they can apply for permission to appeal to the Upper Tribunal (Lands Chamber). Permission must be sought from the First Tier Tribunal (Property Chamber) to do so and time limits apply.

What if I don't comply with the Compliance Notice?

30. If you do not appeal the notice or the Tribunal confirms or varies the notice on appeal and on expiry of the period allowed by the notice, the works remain outstanding the local authority will consider taking proceedings against you in the Magistrates Court. It is a criminal offence to fail to comply with a valid compliance notice.
31. The penalty for a contravention, following a successful prosecution, is a **level 5 fine** and you will have to pay any successful claim for costs from the local

authority associated with bringing the prosecution. The notice remains to be complied with and you may be liable for further prosecution and costs until the works are satisfactorily carried out. If the site owner is a company, then directors or other relevant officers of the company are liable to be punished as well as the company, if the offence is committed with the connivance of the officer or is due to their negligence.

32. In these criminal proceedings there is a defence of “reasonable excuse” for not complying with the notice. A reasonable excuse could be that the criminal prosecution has been brought against the wrong person, but it would not extend to disagreement that the works were not required (as the contents of the notice could have or were subject to tribunal proceedings).
33. Following a successful prosecution, the local authority may choose to carry out those works required by the outstanding notice itself and charge its full costs to the park owner. This situation may arise where the local authority has no confidence in the likelihood that the park owner will comply with the notice within a reasonable period and therefore, in the interest of the park homeowners and residents, it is considered appropriate to do the works itself in default.

Emergency Action

34. A new provision has also been introduced under this legislation that deals with emergency situations that may arise but where the park owner either refuses or is not available to take immediate action to protect people on the park.
35. Where a situation arises that, in failing to comply with a site licence condition, there is an imminent risk to the health and safety of anyone on the park, the local authority has the power to take emergency action to remove that risk. In such cases, having given reasonable notice to the park owner, the local authority can enter the land with any contractors they deem necessary and carry out specified ‘essential’ works to restore safety.
36. An example of when emergency action may be appropriate would include a situation where an electric overhead power cable hung dangerously low over a residential park. In this case, where a park owner was unwilling or unable to take prompt action, the local authority, having informed the park owner, could go on to the park with its specialist contractor to carry out the works necessary to reinstate the cable and make the park safe for residents and visitors.

37. Within 7 days of initiating emergency action, the local authority must follow this up with a further notice to the park owner that explains why the works are necessary; the extent of the works; when they are likely to be completed; and the steps the park owner can take to appeal against this action if they so wish.
38. Subject to any appeal decision, the local authority is entitled to recover, from the park owner, its costs in carrying out the works and its reasonable costs in dealing with the case, which will include relevant officer time and administration.

What if I disagree with the emergency works carried out by the local authority?

39. If you consider that the local authority was unreasonable in taking the action because, either you feel that there was no imminent risk of serious harm as was suggested, or that the action taken was not necessary, you can appeal to the First Tier Tribunal (Property Chamber) within 21 days of the notice to you informing of the works to be carried out.
40. The local authority that served you with the notice should give you all the details you need on how and where to appeal.
41. At the Hearing of the appeal the Tribunal may confirm, vary or reverse the decision of the local authority. Where the Tribunal confirms the decision, the local authority will be entitled to recover from the park owner all their reasonable costs for works done. Where the Tribunal reverses the decision, the park owner may be entitled to claim compensation from the local authority.

Further Advice

As mentioned enforcement will normally be a last resort. Local authority officers will always prefer to work with park owners in a constructive and positive way to ensure good standards on residential parks and fair and responsible management practices. It is not only easier but also promotes good relations if matters can be resolved informally rather than having to resort to costly enforcement measures.

The local authority for the area in which your site is located should be able to give you further information about its licensing requirements.