

2nd March 2015**Notice of meeting:****Licensing & Regulatory Committee****Tuesday 10th March 2015 at 10.00 a.m.****Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA****AGENDA**

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with adequate notice to accommodate your needs.

Item No	Item
1.	Apologies for absence.
2.	Declarations of Interest.
3.	To confirm for accuracy the minutes of the Licensing and Regulatory Committee held on Tuesday 20 th January 2015 (copy attached).
4.	To consider the Annual Licensing Fees for Financial Year 2015/16 report (copy attached).
5.	To consider the Mobile Homes (Wales) Act 2013 (copy attached).
6.	To note the date and time of the next Licensing and Regulatory Committee: <ul style="list-style-type: none">• Tuesday 21st April 2015 at 10.00am

Paul Matthews**Chief Executive**

MONMOUTHSHIRE COUNTY COUNCIL

CYNGOR SIR FYNWY

THE CONSTITUTION OF THE LICENSING & REGULATORY COMMITTEE IS AS FOLLOWS:

County Councillors:

R. Chapman
R. Edwards
D.J. Evans
L. Guppy
M. Hickman
R.J. Higginson
S.G.M. Howarth
J. Prosser
B. Strong
F. Taylor
P. Watts
A.E. Webb

Aims and Values of Monmouthshire County Council

Building Sustainable and Resilient Communities

Outcomes we are working towards

Nobody Is Left Behind

- Older people are able to live their good life
- People have access to appropriate and affordable housing
- People have good access and mobility

People Are Confident, Capable and Involved

- People's lives are not affected by alcohol and drug misuse
- Families are supported
- People feel safe

Our County Thrives

- Business and enterprise
- People have access to practical and flexible learning
- People protect and enhance the environment

Our priorities

- Schools
- Protection of vulnerable people
- Supporting Business and Job Creation

Our Values

- **Openness:** we aspire to be open and honest to develop trusting relationships.
- **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

**Minutes of the meeting of the Licensing and Regulatory Committee held at
County Hall, Usk on Tuesday 20th January 2015 at 10.00 a.m.**

PRESENT: County Councillor: L. Guppy (Chairman)

County Councillors: R. Chapman, R. Edwards, D.J. Evans, M. Hickman, S.G.M
Howarth, J. Prosser, F. Taylor, B. Strong and A. Webb.

OFFICERS IN ATTENDANCE:

Mrs. L. O’Gorman	-	Principal Licensing Officer
Mr. H. Owen	-	Principal Environment Health Officer
Mr. I. Gealy	-	Solicitor
Mrs. N. Perry	-	Democratic Services Officer

1. APOLOGIES FOR ABSENCE

No apologies for absence were received.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CONFIRMATION OF MINUTES

The minutes of the Licensing and Regulatory Committee meeting held on Tuesday 25th November 2014 were confirmed as a correct record and signed by the Chairman, subject to the following amendment:

- Also Present – County Councillor M. Powell, representing Abergavenny Town Council.

4. DRAFT LICENSING ACT 2003 POLICY STATEMENT

We received a report from the Principal Licensing Officer which considered the Draft Licensing Act 2013 – Policy Statement.

We heard that Section 5 of the Licensing Act 2003 required a Licensing Authority to prepare and publish a statement of its licensing policy every five years. It had been nearly five years since the last policy was approved at full Council on 18th November 2010 and the report set out the procedure and proposed, updated policy statement for consideration at full Council.

The report confirmed that the timetable of events planned for the transition of the Licensing Policy across Gwent were as follows:-

- 23 Dec 2014 - Send out letters for consultation and put on website
- Jan-March 2015 - Consultation on Licensing Act Policy
- 20 Jan 2015 - First draft of Policy to the Licensing and Regulatory Committee

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County Hall, Usk on Tuesday 20th January 2015 at 10.00 a.m.**

- 21 April 2015 - Final Draft, results of consultation to the Licensing and Regulatory Committee
- 14 May 2015 - Policy report to Full Council
- 1 June 2015 - Adoption of Licensing Act Policy 2015

It was noted that it was necessary for the policy to be in place early in June 2015 to avoid a crossover with consultations due to commence on a new gambling act at that time. We heard that the revised policy had taken into account legal changes which affect the Licensing Act 2003 and the preparation of the Statement of Licensing Policy. These included:

- The Police Reform and Social Responsibility Act 2011
- The Live Music Act 2012
- The Licensing Act 2003 (Description of Entertainment)(Amendment) Order 2013
- The Licensing Act 2003 (Mandatory Licensing Conditions)(Amendment) Order 2014

The actual policy was Gwent wide but with differences for two authorities, namely Monmouthshire and Newport, due to the impact of the city centre areas of Newport and Chepstow.

We were informed that the report would be brought back to the Committee following the consultation period for final approval prior to full Council.

During Discussion the following points were noted:

- It was confirmed that Town and Community Councils had been informed of the draft policy.
- It was noted that, in future, it would be helpful for updated documents to include a brief summary of updates or changes. It was agreed that a summary would be included in the draft report following consultation.
- Concern was raised regarding the ban of the sale of alcohol below the cost of duty plus vat, as to whether there had been any comments from the trade. The Principal Licensing Officer advised that the policy had been taken on board and no comments had been received from the trade.
- A Member queried if the Temporary Event Notices (TENs) timings could be being tightened. We were advised that with TENs there were consultations with Environmental Health with the Police regardless of whether they were normal or late TENs. The difference with both TENs would be that if it was a normal TENs of 10 working days it could be brought back to Committee should conditions be required. A late TENs could be refused outright with no right to come back to committee.
- It was confirmed that, as a responsible authority, Aneurin Bevan University Health Board would be consulted. Public Health would be brought in as a 5th element of objections under the Licensing Act.
- It was queried whether the explanations of reasonable timings on page 8 of the policy should be more explicit to avoid confusion. The legal timescales were set out under the legislation but it was agreed that the policy could include specific timings. It was suggested that the policy should include 'results to be provided in a target time of three days, to be displayed on the website, or as soon as possible thereafter'. A Member noted that the applicant would be given the decision on the day, but could expect the decision in writing in a reasonable amount of time.

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- A Member suggested that wording in the policy should use safeguarding rather than protection. It was explained that the policy used the same wording as the Act itself.
- The Chairman expressed that there should be a set training schedule for Members of the Licensing Committee to ensure that Members were up to date with legislation. It was noted that Planning Committee were trained and it was felt that Licensing Committee should follow the same procedures, and that new Members on the Committee should be properly trained. A record of training should be kept up to date.
- A Member advised that the officers were the experts and were relied upon by Committee Members to provide the correct information, and that Members were there to represent the community. It was thought to be more useful to suggest training would be desirable rather than mandatory.
- It was expressed that should a sub-committee be needed, training should be provided on those specific issues.

The Committee resolved to move the report, subject to the comments made.

5. MOBILE HOMES (WALES) ACT 2013

The Chairman agreed to accept an additional report entitled Mobile Homes (Wales) Act 2013.

Members were invited to comment on the proposed approach to discharging the Council's responsibilities under the Mobile Homes (Wales) Act 2013, prior to consideration by Full Council.

We heard that the proposals to be addressed were as follows:

- This report proposed a recommendation to Council that the authority to issue, vary or withdraw a license be delegated to the Licensing and Regulatory Committee. Further, that Licensing and Regulatory Committee agree a "fit and proper person policy". Appendix 2 sets out the prescribed criteria that should be considered. Subject to Council approval of the above, a report would be brought back to a future meeting of the Licensing and Regulatory Committee.
- The Act allows the authority to recover its costs incurred in licensing Caravan sites. Fees may also be charged for applications to change conditions in site licences. Before a local authority can charge a fee, it must prepare and publish a fees policy and then must act in accordance with its fees policy. The local authority may revise its fees policy and, where it does so, must publish the policy as revised. The proposed fees policy is set out in Appendix 3. This fees policy also includes proposed minimum charges for the taking of enforcement action relating to the non-compliance with site license conditions and the setting of a fixed penalty notice fine.

We heard that currently within Monmouthshire there were 2 residential mobile home sites operating for commercial gain with a total of approximately 60 pitches; and 2 other known sites of 2 or less pitches.

During discussion we noted the following points:

- It was confirmed that the Act would not have an impact on the Planning Committee, as it was an entirely different area.

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- Members welcomed the legislation, and felt that the Act would be beneficial as in certain areas, site owners, particularly residential site owners, could try to impose conditions upon owners of mobile homes.
- A Member requested clarity on the planning issue regarding mobile homes.
- A Member requested clarification on the fees outlined in appendix 2.2. It was suggested that the fees should be determined in report to Council either annually or every 5 years. The Principal Licensing Officer confirmed that this would be an annual report.
- It was noted that all existing sites were currently licensed under the Caravan Sites Act 1960, and would have to apply for a license under the new Act. All residential owners would be protected by the new legislation.

The Committee agreed to approve the report for full Council.

6. TIME AND DATE OF NEXT MEETING

The date and time of the next meeting was confirmed as Tuesday 10th March 2015 at 10.00am

The meeting ended at 10.50am.

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT: Review Of Annual Licensing Fees For Financial Year 2015/2016
DIRECTORATE: Chief Executives
MEETING: Licensing and Regulatory Committee
Date to be considered: 10th March 2015
DIVISION/WARDS AFFECTED: All Wards

1. PURPOSE:

- 1.1 To agree the Authority's licence fees for 2015-16.

2. RECOMMENDATION(S):

- 2.1 Approve the fees set out in Annexe One to this report, entitled "Schedule of Licence Fees for 2015-16", subject, where relevant, to any required public notice.
- 2.2 Any objections, duly made, regarding fees for the grant of licences for hackney carriage and private hire vehicles be brought back to Committee at the earliest opportunity for due consideration .

3. KEY ISSUES

- 3.1 The Authority has a broad range of licensing responsibilities including the regulation of licensed premises, taxis and hackney carriages, gambling, street trading, street collections and scrap metal dealers. Whilst some license fees are set by Government, others are locally set at the discretion of the Authority.
- 3.2 The European Services Directive, along with other regulations, statutory guidance and case law underline that fees must be set on a "reasonable" cost recovery basis only and cannot be set in such a manner as to generate a profit or act as an economic deterrent to traders. In determining reasonable costs the Authority may take account of costs averaged over a reasonable period (up to three years).
- 3.3 Given the current resource pressures on the Authority, there is a need for clarity about the true costs of administering licenses so that fees can be set, if considered appropriate, at a level sufficient to recover those costs. Members will clearly also need to be mindful of the potential burden on businesses of increasing costs and to weigh that against potential burden of underwriting the costs of administering various licensing functions.
- 3.4 Officers have undertaken significant work to calculate the true costs associated with different licenses based upon up to date financial data. Annexe One provides a summary of these assessments of actual cost along with the current fees.
- 3.5 Members will note that this assessment reveals that whilst a number of fees should now be reduced, some would need to be raised if the full costs associated with them are to be recovered.
- 3.6 In accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, the Authority is obliged to give notice of any intention to vary the fees for the grant of licences for hackney carriage and private hire vehicles. It is recommended that any objections to a variation be brought back to Committee for consideration.

- 3.7 Changes to the duration of a Hackney Carriage/Private Hire Drivers Licence will change from one year to three years and Private Hire Operators Licences will change from a one year to five years. This is in line with the proposed changes to the Deregulation Bill, which is due to come into force in April 2015. Whereby the licence will be 3 years for a Driver and 5 years for an Operator or for such lesser period as the Authority thinks appropriate in the circumstances of the case. It is recommended that we change the licence durations in view of this and to alleviate officer time in processing applications.
- 3.8 The Gambling Act 2005 allowed Authorities to set their own fees for Premises Licences under this Act for Casinos, Bingo, Betting, Tracks, Family Entertainment Centres and Adult Gaming Centres. The fees for these types of licences are to be reviewed and set annually on the 21st May each year. These fees have a limit on how much they can be set and an assessment of those fees must also be set to recover costs only. A further report will be submitted to the Licensing and Regulatory Committee on 21st April 2015 to review the Gambling Act fees to commence 21st May 2015.

4 REASONS

- 4.1 The fees are set at a level that will recover the costs associated with administering them;
- 4.2 Duly made objections must be considered.

5. RESOURCE IMPLICATIONS:

The Schedule of fees in Annexe One are set out to ensure the recovery of reasonable costs. If fees are set below the level indicated, the Authority will be underwriting the cost of some licenses. For the reasons set out in para 3.2, the Authority cannot legally set the fees higher than the cost recovery basis set out in Annexe One.

6. CONSULTEES:

None

7. BACKGROUND PAPERS:

None

8. AUTHOR:

Graham Perry Public Protection Manager
Linda O’Gorman Principal Licensing Officer

CONTACT DETAILS: Tel: 01633 644214
Email: lindaogorman@monmouthshire.gov.uk

ANNEXE ONE

SCHEDULE OF LICENCE FEES FOR 2015-16

	Current Fees 2014/2015	Proposed Fees 2015/16
1. LICENSING ACT 2003		
Premises Initial (Dependant on Business Rate)	£100.00 - £1,905.00	Fee Set By
Premises Annual (Dependant on Business Rate)	£ 70.00 - £1,050	Central
Personal Licence Holder	£37.00	Government
Temporary Event Notice	£21.00	
Theft, loss, etc of premises licence or summary	£10.50	
Provisional Statement	£315.00	
Notification of change of name and address	£10.50	
Application to vary licence to specify individual as designated premises supervisor (DPS)	£23.00	
Application for transfer of premises licence	£23.00	
Interim authority notice following death etc. of licence holder	£23.00	
Theft, loss etc. of certificate or summary	£10.50	
Notification of change of name or alteration of rules of club	£10.50	
Change of relevant registered address of club	£10.50	
Theft, loss etc. of temporary notice	£10.50	
Theft, loss of personal licence	£10.50	
Duty to notify change of name and address	£10.50	
Right of freeholder etc. to be notified of licensing matters	£21.00	
Land without rateable value	Band A	
Land without rateable value – when a building is under construction	Band C	
Application to remove the mandatory condition requiring a DPS at Community Halls	£23.00	
Application for a Minor Variation on a Premises Licence or Club Premises Certificate	£89.00	
2. GAMBLING ACT 2005		
(For Premises and Permit Fees please refer to separate list)		
Lotteries		Fee Set By
Initial	£40.00	Central
Renewal	£20.00	Government
3. STREET / HOUSE COLLECTIONS		
No Fee charged under current legislation.		
4. HACKNEY CARRIAGE / PRIVATE HIRE		
(a) Hackney Carriage Vehicle - New	£181.00	£184.00
Hackney Carriage Vehicle – Renewal	£147.00	£150.00
Hackney Carriage Vehicle - Substitution (Transfer of Vehicle)	£181.00	£184.00
(b) Horse Drawn Hackney Carriage Vehicle – As 4(a) above.		
(c) Private Hire Vehicle – New	£179.00	£181.00
Private Hire Vehicle – Renewal	£156.00	£158.00
Private Hire Vehicle - Substitution (Transfer of Vehicle)	£179.00	£181.00
(d) Private Hire Operator – New	1yr £183.00	5yr £737.00
Private Hire Operator – Renewal	1yr £167.00	5yr £727.00
(e) Driver Licence (Dual Badge) – New	1yr £142.00	3yr £224.00
Driver Licence (Dual Badge) – Renewal	1yr £79.00	3yr £147.00
(f) Basic Literacy/Numeracy Test (MACE)	£7.50	Set By MACE
(g) Disclosure and Barring Service Check (DBS)	£44.00	Set By DBS
5. STREET TRADING CONSENTS		
(a) Annual Street Trading Consent - New	£592.00	£600.00
Annual Street Trading Consent – Renewal	£364.00	£365.00
(b) Annual Block Street Trading Consent - New	£688.00	£693.00
Annual Block Street Trading Consent - Renewal	£458.00	£462.00
(c) Street Trading Consent– Substitution (Replacement Vehicle)	£334.00	£334.00
(d) Day Street Trading Consent – For Events (no entrance fee)	£41.00	£43.00
(e) Day Block Street Trading Consent – For Events (no entrance fee)	£119.00	£122.00

6. SCRAP METAL DEALERS		
(a) Site Licence - New	£346.00	£352.00
Site Licence – Renewal	£281.00	£277.00
Site Licence – Change of Details	£32.00	£35.00
(b) Collectors Licence – New	£292.00	£315.00
Collectors Licence - Renewal	£281.00	£224.00
Collectors Licence – Change of Details	£32.00	£35.00
7. BOATS		
(a) Pleasure Boat Licence - New	£335.00	£348.00
Pleasure Boat Licence – Renewal	£122.00	£127.00
Pleasure Boat Licence – Transfer of Boat	£335.00	£348.00
(b) Pleasure Boatman’s Licence - New	£89.00	£94.00
Pleasure Boatman’s Licence – Renewal	£78.00	£82.00
8. SEX ESTABLISHMENTS		
Sex Establishment - New	£392.00	£409.00
Sex Establishment – Renewal	£135.00	£141.00
Sex Establishment – Transfer of Premises Usage	£392.00	£409.00
9. HYPNOTISM		
No Fee charged under current legislation.		

1DRAFT – DRAFT – DRAFT - DRAFT**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT:	Mobile Homes (Wales) Act 2013
DIRECTORATE:	Chief Executives
MEETING:	Licensing & Regulatory Committee
Date to be considered:	10th March 2015
DIVISION/WARDS AFFECTED:	All Wards

1. PURPOSE:

- 1.1 To consider the proposed approach to discharging the Council's responsibilities under the Mobile Homes (Wales) Act 2013.

2. RECOMMENDATION(S):

- 2.1 To agree Standard Conditions which may be attached to a site licence as set out in Appendix 1.
- 2.2 To agree a fit and proper person policy, as set out in Appendix 2.
- 2.3 Where there are no relevant issues to consider (fit and proper person test and site conditions) officers may approve applications.

3. KEY ISSUES

- 3.1 The Mobile Homes (Wales) Act 2013 came into force on 1st October 2014. The key aim of the Act is to better protect the rights of people living in residential mobile homes all year round as their primary residence. They are commonly referred to as "park homes". The Act amends and updates a range of existing provisions relating to mobile homes (including the existing licensing regime) and introduces a number of new provisions.
- 3.2 The key provisions of the Act include:
- An offence to operate a regulated site without a site licence
 - Sets a limit of up to 5 years for the duration of a site licence.
 - A "fit and proper person test" for site managers
 - A range of enforcement provisions for the local authority if a site owner fails to comply with licence conditions.

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- Site owners will no longer be able to block the sale of a mobile home. The mobile home owner will be free to sell their home to who they wish
- Pitch fees will only be increased in line with the Consumer Prices Index

3.3 The Act places a responsibility on the Council to:

- Issue a site licence if it considers appropriate within 2 months of an application being made providing the site has the benefit of planning permission.
- Have regard to Model Standards in specifying conditions that may accompany a site licence. These are the Model Standards for Caravan Sites in Wales 2008.
- Keep a register of site licences issued in its area open to inspection for the public at all reasonable times.

3.4 Following a report to L&R on the 20th January 2015 a report was submitted to Council on the 26th February 2015 and it was agreed that the authority to issue/vary licences and attach conditions be delegated to L&R committee. This included:

- L&R may determine that routine applications, with no relevant issues to consider, may be issued by officers.
- L&R may determine policy in relation to standard conditions that may be applied.
- Officers may attach conditions in accordance with policy set by L&R.
- Responsibility for determining a fit and proper person policy to be delegated to L&R.

3.5 A proposed policy in relation to standard conditions that may be applied is set out in Appendix 1.

3.6 A proposed policy in relation to the fit and proper person test is set out in Appendix 2.

3.7 The current approach to the issue of caravan site licences, set out in the Council's constitution, provides for site licences to be issued by officers in consultation with the Chair and Vice Chair of the Licensing Committee. The proposed approach mirrors this but enables applications to be brought to L&R for decision where issues concerning the fit and proper person test and/or conditions require further consideration and discussion. The Touring Caravan site licence process remains unchanged.

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- 3.7 Council (26th February 2015) agreed the fees policy which was proposed and delegated authority to L&R to set future fees following annual reviews.
- 3.8 Council (26th February 2015) agreed the schedule of enforcement charges that was proposed and delegated authority to L&R to review the charges in the future.
- 3.9 Currently within Monmouthshire there 2 residential mobile home sites operating for commercial gain with a total of approximately 60 pitches; and 2 other known sites of 2 or less pitches.

4. REASONS:

To ensure fair, transparent, efficient and effective discharge of the Council's obligations under the Act.

5. RESOURCE IMPLICATIONS:

None as the caravan site licensing and enforcement will be subject, generally, to full cost recovery.

6. CONSULTEES:**7. BACKGROUND PAPERS:**

None

8. AUTHOR:

Graham Perry Public Protection Manager
Huw Owen, Principal Environmental Health Officer

CONTACT DETAILS:

Tel: 01633 644100

grahamperry@monmouthshire.gov.uk

huwowen@monmouthshire.gov.uk



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Mobile Homes (Wales) Act 2013 – Information Sheet

Fit and Proper Person Test

Advice for Local Authority Officers

August 2014



This information is part of a series about the rights and obligations of mobile home owners, site owners and local authority officers in Wales.

This information gives some basic guidance to local authority officers about the 'fit and proper person' test which applies to mobile home licence holders under the Homes (Wales) Act 2013.

This factsheet does not give an authoritative interpretation of the law; only the courts can do that. Nor does it cover all cases. If further advice or information about legal rights or obligations is needed, a Citizen's Advice Bureau or a solicitor should be contacted.

Introduction

In deciding to grant a site licence for a regulated mobile home site under the Mobile Homes (Wales) Act 2013, a local authority must be satisfied that the site owner *“is a fit and proper person to manage the site or (if the owner does not manage the site) that a person appointed to do so by the owner is a fit and proper person to do so...”* or *“has, with the owner’s consent, itself appointed a person to manage the site.”*

This requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes to which the application relates and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

A licence should be refused if there is a finding that the licence holder and/or his manager is unfit, if there are doubts as to someone’s fitness these can be addressed through the setting of appropriate site licence conditions. However, the question of the person’s fitness must be in relation to the **management** of the mobile home site to which the application relates.

1. Evidence

When considering whether a person is 'fit and proper' the local authority must have regard to any 'wrong doings' of the person concerned. These are evidence that the person has:

(a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),

(b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or

(c) contravened any provision of the law relating to housing (including mobile homes) or landlord and tenant.

2. Items to Consider

A local authority must also consider evidence that anyone associated or formerly associated with the person has done any of the offences set out above and whether that evidence is relevant to the question of whether the person is a fit and proper person to manage the regulated site.

Local authorities should not consider poor management practices as wrong doings, unless they are in breach of the criminal or civil law. A person cannot be deemed unfit, simply because of poor management, although that is highly relevant to determining any question of suitability or competence (as discussed below).

The wrong doing has to be relevant to the person's fitness to hold a licence and/or manage the particular mobile home site to which the application for a licence relates and, in regard to criminal offences, the local authority must only have regard to unspent convictions.

An unspent conviction will not necessarily prevent a fit and proper judgement by the local authority. A local authority should not adopt a blanket policy with respect to its treatment of wrong doings. Each case must be considered on its own merits and if a licence is to be refused on the ground that a person is unfit, the local authority must be able to defend that decision with cogent reasons. Upon refusal, the local authority must notify the person of the reasons for the decision and their right to appeal. The proposed licence holder then has 28 days to appeal to the Residential Property Tribunal against the decision.

3. Applications

In an application for a site licence the proposed licence holder must provide details of the following in relation to him/herself and the proposed manager (if the applicant is not to be the licence holder):

- details of any refusal to grant a licence, or details of the revocation of a licence in the past 3 years in respect of a regulated mobile home site under his/her management or ownership.
- the details of any offence involving fraud, violence, firearms or drugs or any offence listed in Schedule 3 of the Sexual Offences Act 2003. This should include the offence, the date of sentence and the court that passed sentence.
- any findings of a court/tribunal that the person has practised unlawful discrimination under Section 4 of the Equality Act 2010.
- any judgement entered against that person in relation to a contravention of housing (including mobile homes) or landlord and tenant law (and, in so far it relates to the housing or landlord and tenant law, any contravention of any enactment relating to public or environmental health)

Since an applicant for a licence must disclose his/her and any proposed manager's wrong doings, if any, a local authority should normally have sufficient information to decide a person's fitness based on the application. If the local authority is satisfied that it has sufficient information (being that supplied in connection with the application) to make a determination, it may require the applicant to provide further details. In some cases it may wish to invite the applicant and/or the manager to a meeting to discuss and clarify any issues arising.

If an applicant provides false or misleading information about any wrong doings, he commits an offence and can receive an unlimited fine upon summary conviction. If an applicant has provided false or misleading information (without reasonable excuse), that would be a clear indication of his unfitness. Local authorities should not routinely make police checks or request information on criminal convictions. This is particularly the case because any evidence relating to criminal convictions is only part of the picture in assessing a person's fitness.

Where a business or organisation is to be the licence holder or manager, a 'fit and proper person' declaration signed by the company secretary or other responsible person is needed on behalf of the company, partnership or trust. Any employee who is involved with the management of the mobile home site can be regarded as an 'associate'. Consequently, in signing the declaration the responsible people should be satisfied that these employees would be able to sign the declaration themselves, for example by requesting CRB or Disclosure Scotland checks.

4. Seeking further evidence

In some circumstances it may be appropriate for the local authority to seek further information on whether a person has relevant convictions. Currently this can be done through the basic disclosure service offered by Disclosure Scotland or the Disclosure Barring Service (DBS). A Disclosure Scotland Criminal Conviction Certificate costs around £25, a standard DBS check costs around £26 and an enhanced DBS check £44. These services will give details of all unspent convictions, if any. However, the service is only available to the person whose record is being sought and there is no requirement in the 2013 Act for that person to seek or provide the information to a local authority.

Consequently a local authority must have good reasons for asking that person to do so, especially if the local authority is to consider that a refusal to do so may indicate that the person in question is not a fit and proper person. Such reasons may include that:

- the local authority has had a history of complaints or problems with the site owner or manager (which in themselves might not amount to 'evidence' of unfitness to meet the test), but further investigation may be required,
- there is reason to believe that an applicant has been evasive or untruthful in his application for a licence,
- the applicant, or proposed manager, is unknown to the local authority and has not demonstrated any history or competence of managing a regulated mobile home site, or;
- the local authority has reasonable grounds to suspect that the applicant, or the proposed manager, has committed an offence which is relevant to the determination of any question of his/her fitness.

In deciding whether a wrong doing (including a criminal offence) is relevant to the determination of a person's fitness a local authority may wish to consider the following factors:

- the relevance of the wrong doing(s) in relation to the person's character and integrity to manage a regulated mobile home site,
- the seriousness of the wrong doing(s) in terms of impact, or potential impact, upon the site residents and the wider community, including if more than wrong doing has been carried out the cumulative impact of that,
- the length of time since any wrong doing,
- and any mitigating circumstances.

In the case of an applicant who has a relevant conviction which was correctly declared, a judgement must still be made taking account of other information available about the applicant and if necessary by interview to assess whether he or she is able and willing to operate in a manner regarded by the local authority as fit and proper. In considering past actions of the applicant and the conviction, the local authority should consider whether any problems are likely to occur again

and whether they are likely to affect the applicant's management and conduct on the site. In particular, the nature of any agency arrangement should be taken into account.

It is quite possible to conclude that if the applicant represents a low risk, registration is appropriate. It should be noted however that future actions may result in an applicant failing the fit and proper person test in the future, leaving the applicant open to an unlimited fine and the revocation of the licence.

Local authorities will need to establish a decision-making process for applications which do not allow for a clear cut decision, but are encouraged to delegate routine decision making functions to officers.

5. Completion

Where a licence holder under the Mobile Homes (Wales) Act 2013 contravenes the fit and proper person test during the period of the licence, a local authority may apply to the Residential Property Tribunal Wales for an order revoking the site licence. A person guilty of an offence is liable on conviction to an unlimited fine.

Similarly, the fit and proper person status can be removed from managers and anyone else involved in the management of the site. It would then be a breach of a licence condition if that person continues in that capacity.

If the local authority is however satisfied that the applicant is a fit and proper person to manage the site then Section 3 of the application for a site licence is completed.



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Model standards 2008 for Caravan Sites in Wales
**Caravan Sites and Control of Development Act 1960 –
Section 5**

July 2008
Llywodraeth Cynulliad Cymru/Welsh Assembly Government

Model Standards 2008

Introduction

1. Under section 5(6) of the Caravan Sites and Control of Development Act 1960 (the Act) the Welsh Ministers 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 in deciding what (if any) conditions to attach to a site licence, the local authority should have regard to any standards so specified.
2. 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). The standards also do not apply to sites occupied by Gypsies or Travellers or caravan sites which house agricultural workers.
3. These standards should be considered when applying licence conditions to new sites and sites that have been substantially redeveloped. In considering alterations 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 the alteration of a licence the local authority must consult the site licence holder on its proposed alterations 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
4. 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.
5. The annex to this document provides advice on the application and enforcement of the model standards when considering attaching conditions to licences.
6. In the model standards any references to "site" includes a park home site (including a mobile home site) and to "caravan" includes a mobile or park

home. Any references to “site owner” are references to the occupier of the land on which the site is located, as defined by S1(3) of the Act.

7. This document should be referred to as Model Standards 2008 for Caravan Sites in Wales.

Previous Standards

8. The 2008 Standards replace the document “Model Standards 1989: Permanent Residential Mobile Homes Sites”. When issuing any new licences or reviewing current ones the local authority should have regard to the 2008 Standards in setting or altering any of the conditions attached.

THE STANDARDS

1. The boundaries and plan of the site

(i) The boundaries of the site from any adjoining land must be clearly marked by a man made or natural feature.

(ii) Caravans or combustible structures must not be positioned within 3 metres of the boundary of the site.

(iii) (a) A plan of the site must be supplied to the local authority upon the application for a licence and, thereafter whenever there is a material change to the boundaries or layout of the site, or at any other time on the demand of the local authority.

(b) The plan supplied must clearly illustrate the layout of the site including all relevant structures, features and facilities on it and shall be of suitable quality.

2. Density, Spacing and Parking Between Caravans

(i) Except in the case mentioned in sub paragraph (iii) and subject to sub paragraph (iv), every caravan must be spaced at a distance of no less than 6 metres (the separation distance) from any other caravan which is occupied as a separate residence.

(ii) No caravan must be stationed within 2 metres of any road or communal car park within the site or more than 50 metres from such a road within the site.

(iii) Where a caravan has retrospectively been fitted with cladding that accords with currently approved fire rated materials to its facing walls, then the separation distance between it and an adjacent caravan may be reduced to a minimum of 5.25 metres.

(iv) In any case mentioned in subparagraph (i) or (iii):

(a) A porch attached to the caravan may protrude one metre into the separation zone and must not exceed 2 metres in length and 1 metre in depth. The porch must not exceed the height of the caravan. Where a porch is installed only one door may be permitted at that entrance to the home, either on the porch or on the home.

(b) Eaves, drainpipes and bay windows may extend into the separation distance provided the total distance between the extremities of two facing caravans is not less than 5 metres

(c) Any structure including steps, ramps, etc (except a garage or car port), which extends more than 1 metre into the separation zone must be of non-combustible construction. There should be a 4.5 metre clear space between adjoining caravans.

(d) A garage or car port may only be permitted within the separation distance if it is of non-combustible construction.

(e) Windows in structures within the separation distance must not face towards the caravan on either side.

(f) Fences and hedges, where allowed and forming the boundary between neighbouring caravans, must be a maximum of 1 metre high.

(v) The density of caravans on a site must be determined in accordance with relevant health and safety standards and fire risk assessments.

3. Roads, Gateways and Overhead Cables

(i) Roads must be designed to provide adequate access for emergency vehicles and routes within the site for such vehicles must be kept clear of obstruction at all times.

(ii) New roads must be constructed and laid of suitable bitumen macadem or concrete with a suitable compacted base.

(iii) All roads must have adequate surface water/storm drainage.

(iv) New two way roads must not be less than 3.7 metres wide, or if they are designed for and used by one way traffic, 3 metres wide.

(v) One-way systems must be clearly signposted.

(vi) Where existing two way roads are not 3.7 metres wide, passing places must

be provided where practical.

(vii) Vehicular access and all gateways to the site must be a minimum of 3.1 metres wide and have a minimum height clearance of 3.7 metres.

(viii) Roads must be maintained in a good condition.

(ix) Cable overhangs must meet the statutory requirements.

4. Footpaths and Pavements

(i) Every caravan must be connected to a road by a footpath with a hard surface which shall be maintained in good condition.

(ii) Where practicable, communal footpaths and pavements must not be less than 0.9 metres wide.

5. Lighting

Roads, communal footpaths and pavements must be adequately lit between dusk and dawn to allow the safe movement of pedestrians and vehicles around the site during the hours of darkness.

6. Bases

(i) Every unit must stand on a concrete base or hard-standing.

(ii) The base must extend over the whole area occupied by the unit, and must project a sufficient distance outwards from its entrance or entrances to enable occupants to enter and leave safely. The hard standings must be constructed to the industry guidance, current at the time of siting, taking into account local conditions.

7. Maintenance of Common Areas, including Grass, Vegetation and Trees

(i) Every part of the site to which the public have access must be kept in a clean and tidy condition.

(ii) Every road, communal footpath and pavement on the site must be maintained in a good condition, good repair and clear of rubbish.

(iii) Grass and vegetation must be cut and removed at frequent and regular intervals.

(iv) Trees within the site must (subject to the necessary consents) be maintained.

(v) Any cuttings, litter or waste must be removed from the immediate surrounds of a pitch

8. Supply & Storage of Gas etc

(i) Gas (including natural gas) and oil installations, and the storage of supplies must meet current statutory requirements, relevant standards and codes of practice.

(ii) Liquefied Petroleum Gas cylinders must not be positioned or secured in such a way as to impede access or removal in the event of an emergency.

9. Electrical Installations

(i) An electricity network of adequate capacity must be installed on the site to meet safely all reasonable demands of the caravans and other facilities and services within it.

(ii) The electrical network installations must be subject to regulation under current relevant legislation and must be designed, installed, tested, inspected and maintained in accordance with the provisions of the current relevant statutory requirements.

(iii) Any work on electrical installations and appliances must be carried out only by persons who are qualified in the particular type of work being undertaken, and in accordance with current relevant regulations.

(iv) Any work on the electrical network within the site must be carried out by a competent person fully conversant with the appropriate statutory requirements.

10. Water Supply

(i) All pitches on the site must be provided with a water supply sufficient in all respects to meet all reasonable demands of the caravans situated on them.

(ii) All new water supplies must be in accordance with all current legislation, regulations and relevant British or European standards.

(iii) All repairs and improvements to water supplies and installations must be carried out to conform with current legislation and British or European standards.

(iv) Work on water supplies and installations must be carried out only by persons who are qualified in the particular type of work being undertaken and must be in accordance with current relevant legislation and British or European standards.

11. Drainage and Sanitation

- (i) Surface water drainage must be provided where appropriate to avoid standing pools of water.
- (ii) There must be satisfactory provision for foul and waste water drainage either by connection to a public sewer or sewage treatment works or by discharge to a properly constructed septic tank or cesspool approved by the local authority.
- (iii) All drainage and sanitation provision must be in accordance with all current legislation and British or European Standards.
- (iv) Work on drains and sewers must be carried out only by persons who are qualified in the particular type of work being undertaken and in accordance with current legislation and British or European standards.

12. Domestic Refuse Storage & Disposal

- (i) Where communal refuse bins are provided these must be non-combustible and housed within a properly constructed bin store.
- (ii) All refuse disposal must be in accordance with all current legislation and regulations.

13. Communal Vehicular Parking

Suitably surfaced parking spaces must be provided to meet the requirements of residents and their visitors.

14. Communal Recreation Space

On sites where it is practical to do so, suitable space equivalent to about one tenth of the total area of the site must be allocated for recreational purposes, unless in the local authority's opinion there are adequate recreational facilities within a close proximity to the site.

15. Notices and Information

- (i) The name of the site must be displayed on a sign in a prominent position at the entrances to the site, together with;
 - (a) The name, current address and telephone number of the licence holder and manager, and emergency contact details for both;
 - (b) A copy of the site licence or the front page of the said licence and details of where the full licence and other information required to be

available under this standard can be viewed, and between which times (if not displayed on the notice board).

(ii) A current plan of the site with roads and pitches marked on it must be prominently displayed at the entrances to it.

(iii) In addition, at the prominent place the following information must also be available for inspection;

- (a) A copy of the most recent periodic electrical inspection report;
- (b) A copy of the site owner's certificate of public liability insurance;
- (c) A copy of the local flood warning system and evacuation procedures if appropriate; and
- (d) A copy of the fire risk assessment made for the site.

(iv) All notices must be suitably protected from the weather and from direct sunlight.

16. Flooding

(i) The site owner must establish whether the site is at risk from flooding by referring to the Environment Agency's Flood Map.

(ii) Where there is risk from flooding the site owner must consult the Environment Agency for advice on the likelihood of flooding, the depths and velocities that might be expected, the availability of a warning service and to take appropriate measures.

17. Requirement to Comply with the Regulatory Reform (Fire Safety) Order 2005

The site owner must make available the latest version of the fire risk assessment carried out under the Regulatory Reform (Fire Safety) Order 2005 for inspection by residents, and when demanded, a copy of the risk assessment must be made available to the local authority.

18. Fire safety measures where the Regulatory Reform (Fire Safety) Order 2005 does not apply

(i) The standards in this paragraph only apply if the site is **not** subject to the Regulatory Reform (Fire Safety) Order 2005.

Fire Points

(ii) These must be located so that no caravan or site building is more than 30 metres from a fire point. Equipment provided at a fire point must be housed in a weather-proof structure, easily accessible and clearly and conspicuously marked "FIRE POINT".

Fire Fighting Equipment

(iii) Where water standpipes are provided;

(a) The water supply must be of sufficient pressure to project a jet of water not less than 5 metres from the nozzle;

(b) There must be a reel that complies with the current British or European Standard, with a hose not less than 35 metres long, having a means of connection to a water standpipe (preferably a screw thread connection) with a water supply of sufficient pressure and terminating in a small hand nozzle; and

(c) Hoses must be housed in a red box and marked "HOSE REEL".

(iv) Where hydrants are provided, hydrants must conform to the current British or European Standard.

(v) Access to hydrants and other water supplies must not be obstructed or obscured.

(vi) Where standpipes are not provided or the water pressure or flow is not sufficient, each fire point must be provided with water extinguishers (2 x 9 litres) which comply with the current British or European Standard.

Fire Warning

(vii) A suitable means of raising the alarm in the event of a fire must be provided at each fire point.

Maintenance and Testing of Fire Fighting Equipment

(viii) All alarm and fire fighting equipment must be installed, tested and maintained in working order by persons who are qualified in the particular type of work being undertaken and be available for inspection by, or on behalf of, the licensing authority or the Fire and Rescue Authority.

(ix) A record must be kept of all testing and remedial action taken.

(x) All equipment susceptible to damage by frost must be suitably protected.

Fire Notices

(xi) A clearly written and conspicuous notice must be provided and maintained at each fire point to indicate the action to be taken in case of fire. This notice should include the following;

“On discovering a fire:

I. Ensure the caravan or site building involved is evacuated.

II. Raise the alarm.

III. Call the fire brigade (the nearest phone is sited at).”

Annex to Model Standards 2008 for Caravan Sites in Wales: Explanatory Notes

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Preface

1. These explanatory notes are designed to be read in conjunction with Model Standards 2008 for Caravan Sites in Wales (“the Standards”) and are intended to offer guidance to local authorities on the application and enforcement of the standards.
2. The standards are a revision and modernisation of the 1989 standards, incorporating a number of new requirements, particularly in relation to maintenance of sites and flood protection measures. Other standards have been modified and the standard relating to telephones has been deleted. The standards also take account of the effect of the Regulatory Reform (Fire Safety) Order 2005.
3. These standards do not apply to sites used exclusively for siting holiday or touring caravans. However, the standards apply to holiday sites containing permanent residential caravans (except those holiday sites where the only permanent residents are the site owner and members of his family and/ or his employees who are employed on the site and occupy the caravan pursuant to their contract of employment). The standards should be applied with due regard to the particular circumstances of the site to which they are intended to apply, including its physical characteristics, size, density, layout, amenities and services. See also paragraph 3 of the standards document for further advice on the application of the standards.

Legal background

4. The use of land as caravan sites is controlled by relevant planning legislation, whereas the physical standards and layout, amenities and other standards are controlled by a site licence issued under the Caravan Sites and Control of Development Act 1960 (“the Act”). Section 5 of the Act enables local authorities to set licence conditions.
5. Under the Act, most privately owned sites must be licensed by the local authority, unless exempted under the Act¹. A licence will be granted unless the applicant does not have relevant planning permission to operate the site or has had a licence revoked in the last three years.²
6. The local authority may attach conditions to the licence, but these can only relate to the physical use of the site and its management³. The Welsh Ministers may issue model standards which the local authority should have regard to in deciding what conditions to attach to a licence⁴.

¹ Section 2 and Schedule 1 to the Act set out in which circumstances a site licence is not required.

² Section 3 (4) and (6).

³ Section 5 (1) to (5). For restriction see *Mixnam's Properties v Chertsey UDC* A.C. 735.

⁴ Section 5 (6).

The authority may from time to time alter a site licence condition (either of its own volition or upon the application of the licence holder)⁵.

7. A licence holder may appeal against the imposition of a condition in a licence or any proposed alteration to a condition or a refusal to alter a condition⁶.

8. It is an offence to breach a licence condition and on summary conviction the offender can currently be fined up to £2,500⁷. Where a condition requires works to the site to be carried out and these are not done, either within the time specified or to the satisfaction of the local authority, the authority may carry out the works itself and recover from the licence holder any expenses it has reasonably incurred in doing so⁸.

9. The local authority may apply to the court to have a licence revoked if the licence holder has been convicted on three or more occasions of breaches of licence conditions⁹.

10. The local authority is required, under Section 25 of the Act, to maintain an accurate register of the site licences in their area. Given the number of different types of sites that local authorities may deal with, it is recommended that the register shows what type of site each is, be it holiday, residential, mixed use or Gypsy and Traveller. We recommend as a minimum the information the site register has is:

- Name and address of site (if available the Geographic Information Service mapping code should also be logged);
- Name of the licence holder and any person managing the site on behalf of that person;
- Type of site; and
- The number of pitches

⁵ Section 8.

⁶ Sections 7 and 8 (2).

⁷ Section 9 (1). The maximum penalty on summary conviction is a fine not exceeding level 4 on the standard scale.

⁸ Section 9 (3).

⁹ Section 9 (2).

MODEL STANDARDS - GUIDANCE

Introduction

11. The Model Standards 2008 for Caravan Sites in Wales have been made under powers conferred on the Welsh Ministers under section 5(6) of the Act. These powers were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006. A local authority must have regard to the standards when it imposes conditions in a site licence.

12. The standards do not apply to sites used solely for caravan holiday homes (although they do apply to mixed residential/holiday sites), touring caravans or to sites occupied by Gypsies and Travellers or agricultural workers. The standards, as laid out, represent what would normally be expected as a matter of good practice on such sites.

13. The local authority must apply the Model Standards with regard to the particular characteristics of the site to which they are intended to apply, and in particular its existing layout and size. It is recognised that not all sites will easily be able to meet the Model Standards in every case due to their particular characteristics, but a local authority will need to be able to justify any decision not to have regard to a standard in setting a licence condition.

14. The standards are not intended to be the “ideal”; local authorities may in the circumstances set more demanding ones if that can be justified.

15. There will be some licence conditions which require inter and cross agency input and advice from other teams within the local authority and outside organisations, such as the Health and Safety Executive (the “HSE”), the local Fire and Rescue Authority and the Environment Agency. It is important for all parties concerned with caravan sites that effective lines of communication are established to ensure that any problems are identified and resolved as early as possible.

16. The Disability Discrimination Act also applies to sites and this should be borne in mind when framing licence conditions and considering possible enforcement action. Guidance can be found at www.dwp.gov.uk and this can also help local authorities in their consideration of licence conditions. Further guidance can also be found on the Equality and Rights Commission website at www.equalityhumanrights.com.

Enforcement

17. Local authorities must allow a reasonable period of time after any site licence alteration for compliance with the revised conditions, unless the reason for making the alteration was to address a matter requiring immediate attention.

18. When considering taking enforcement action local authorities should take into account all relevant factors in relation to the prosecution.

The Boundaries and Plan of the Site

19. The boundary must clearly define the limit of the site owner's responsibility. The boundary must be suitably marked and properly maintained. This boundary could be formed of a fence, hedge, wall, natural feature (such as a river or a wood) or any other suitable structure, or any combination of these. It would not normally be appropriate for that natural feature to simply include an open field.

20. Plans must be provided to the local authority at the site owners' expense.

21. It is best practice for copies of the plan to be made available to the emergency services.

22. The 3 metre separation distance inside the boundary serves the purpose of ensuring privacy from whatever is on the other side of the boundary, such as a road, and other developments, such as houses etc.

23. The 3 metre separation distance measurement must be taken from the caravan wall.

Density, Spacing and Parking Between Caravans

24. The 6 metre separation distance is required for two reasons:

- Health and safety considerations; and
- Privacy from neighbouring caravans.

25. A diagram explaining the separation distances is attached at Annex 1.

26. If a caravan has been fitted with cladding that accords with currently approved fire rated materials then the distance between units may be reduced. However,

there is a need for the privacy of residents to be taken into consideration. Health and safety matters, such as the positioning of gas bottles, etc. will also need to be taken into account.

27. For the purposes of calculating the distance between the caravans, the point from which measurements are taken is the exterior cladding of the relevant caravan. Eaves, drainpipes, gutters, sills, threshold, door canopies and bay windows must be discounted.

28. Porches must not render the home incapable of being moved, which means they must be demountable.

29. If structures, other than garages, are on pitches within the separation distance and are of a combustible construction, then the local authority must consider allowing sufficient time for them to be replaced with an acceptable model.

30. At no time must a garage constructed of combustible material be allowed in the separation distance.

Enforcement

31. In considering the enforcement of the separation distance the local authority must consult with the local Fire and Rescue Authority. It must also seek the views and take account of representations from the site owner and affected residents before taking any steps to enforce this standard, where practicable.

32. Before the local authority undertakes any enforcement action it must consider the benefit of the works against the potential impact on the residents' enjoyment of their homes.

Roads Gateways and Overhead Cables

33. Roads must be constructed of bitumen macadam or concrete with suitable compacted base. However, sites with roads constructed of tarmac (which is now obsolete and no longer commercially available) will not be required to automatically upgrade their roads. The roads will only be required to be upgraded as and when they begin to fall into disrepair.

34. Some larger sites may have traffic calming measures such as speed humps on their roads. Though not specifically covered in this standard, it will be worth ensuring that any legal requirements applying to un-adopted roads are met. Guidance and assistance can be found on the Department for Transport website, www.dft.gov.uk.

35. Gateways, roads and turnings must have enough clearance to allow safe entry for emergency vehicles and new units on lorries. The widths and heights given are based on the maximum sizes of emergency vehicles that may regularly attend incidents on sites.

36. In determining the permitted height of cable overhangs the local authority must take into account the current statutory requirements. Those applying as at the date of this guidance are found in the Electricity Safety Quality and Continuity Regulations 2002 (the “ESQCR”). These regulations provide that, in general, cables should not overhang a road at a height of less than 5.8 metres. In the case of fully insulated overhead conductors the ground clearance is 3.8 metres. There are a number of exceptions where:

- The overhead line follows a route along a hedgerow, fences, boundary walls or similar features. The minimum clearance in these circumstances is 4 metres.
- If it crosses a driveway with an access width of no more than 2.5 metres (and the driveway is defined by gateposts or similar features), the minimum clearance is 4.3 metres.

Further advice on minimum clearances is available from the HSE.

37. It is good practice that all overhead lines on sites be fully insulated and where a cable is in within easy reach of a property, it must be so and it must also be protected from interference.

38. The authority must require the site owner to comply with regulation 3 of the ESQCR and in considering any enforcement action in relation to cables must consult with the HSE.

Footpaths and Pavements

39. Communal path widths will normally be 0.9 metres in respect of new sites or sites that are undergoing substantial redevelopment (including expansion to part of the site); otherwise paths of not less than 0.75 metres must be accepted where they already exist.

Lighting

40. The lighting provided for communal paths and roads must be adequate to allow safe movement around the site during the hours of darkness. Many sites use low lighters rather than traditional street lamps and these work well as long as they are well maintained and plants/vegetation are not allowed to grow around them and stop them emitting light effectively. The lighting must be fit for purpose i.e. to allow vehicles and pedestrians to navigate around the site between dusk and dawn.

Bases

41. It is important to note that the construction, maintenance and repair of the concrete base are the responsibility of the site owner. New bases must be laid as a minimum in accordance with the current industry guidelines issued by the National Park Homes Council and the British Holiday and Home Parks Association. The Industry's current standard for the bases provides:

“A hard core base to a minimum depth of 150 mm, well consolidated and topped with 100 mm of concrete (mix as BS8500-2:2006¹⁰) shall be used. The finished raft must be generally level with due allowance for surface drainage. Where the ground conditions so require, thickening or the introduction of reinforcement of the raft may be necessary.”

42. Particular attention will need to be paid to the terrain of the site before a base is laid, which may mean a thicker base is needed. The base must be sufficient to handle the load placed upon it by the caravan and its contents.

Enforcement

43. When considering any enforcement action, the authority should also seek the views and take account of representations from the site owner and affected residents before taking any steps to enforce this standard, where practicable.

44. Before the local authority undertakes any enforcement action it must consider the benefit of the works against the potential impact on the residents' enjoyment of their homes.

45. Where a caravan has to be removed in order to facilitate works to the base the authority must normally, if it is feasible and if it is the resident's wish, require the site owner to reinstate, at his own expense, the caravan on the original pitch on completion of the works.

Maintenance of Common Areas, including Grass, Vegetation and Trees

46. Cut grass and vegetation must be removed from the site as soon as practicable. Bonfires must not be used as a means of disposal. Vegetation is often used for sight screening but must be kept at a reasonable height.

¹⁰ Copies of the Standard can be obtained from the British Standards Institute.

47. Trees on the site will normally be the responsibility of the site owner. Where trees are in need of care and maintenance the local authority must, before any action is taken, liaise with the officer responsible for trees at the authority to ensure that all statutory and other requirements are complied with.

48. The common parts of the site (including roads, paths and pavements) must be kept free of any rubbish and maintained in a clean and tidy condition. The local authority may wish to consider whether appropriate receptacles for litter need to be provided in such areas. In any case the site owner must be required to make arrangement for the regular collection of routine rubbish from the site. The site owner must also be required to make arrangements for the prompt disposal of waste and other materials which accumulate on the site during any works etc. Secure non combustible facilities must be provided on the site for the proper storage of rubbish and waste prior to its removal and disposal off the site.

Supply and Storage of Gas etc

49. The HSE website, www.hse.gov.uk, provides details and information about the various legislative requirements and contacts if further information is needed. In addition the trade body for Liquid Petroleum Gas suppliers, [uklpg, www.lpga.co.uk](http://www.lpga.co.uk), also has information which may be of use.

50. Anyone being employed by a site owner to carry out work on gas (including natural gas) or oil installations must be suitably qualified to do the work. The Communities and Local Government website contains details of various certification schemes which may apply. The details of these schemes can be found at www.communities.gov.uk. The HSE pages also contain details of some of the schemes.

Enforcement

51. In considering whether to take enforcement action for a breach of site licence conditions officers must liaise with the HSE to ensure any action taken by the authority is not in conflict with any action the HSE are proposing to take.

52. Local authority officials who identify areas of concern on sites must always consult the HSE about the problem(s).

53. All new installations must be to the current regulations and maintained at that standard.

Electrical Installations

54. The electrical installations on the site will be a distributor's network either

belonging to the local regional electricity network operator or the owner of the site. The HSE website: www.hse.gov.uk contains information on the electricity legislation which may well apply to the site and can provide further information if needed.

55. A suitably qualified person for the purpose of carrying out work on electrical installations and appliances, including maintenance and inspections, includes a professionally qualified electrical engineer, a member of the Electrical Contractors Association, a contractor approved by the National Inspection Council for Electrical Installations Contracting (NICEIC), or a qualified person acting on behalf of the above.

56. It may be necessary to ensure the electricity distribution network complies with ESQCR, in which case such work must only be undertaken by a competent person familiar with those Regulations.

57. All new installations must meet the requirements of the current regulations and maintained at that standard.

Enforcement

58. In considering whether to take enforcement action for a breach of site licence conditions, officers must liaise with the HSE to ensure any action taken by the authority is not in conflict with any action the HSE are proposing to take.

59. Local authority officials who identify significant areas of concern with site electrical networks and installations must always consult the HSE about the problem(s).

Water Supply

60. The Office of Water Services lay down service standards for the water suppliers and details can be found on their website at www.ofwat.gov.uk. In addition there are various schemes for suitably qualified persons and authorities must check to see those undertaking works are qualified. The main scheme is run by NICEIC Group certification and details can be found about the scheme at www.niccertification.com.

Enforcement

61. With the majority of well established sites, enforcement of this section will need to be carefully handled, as most sites will have long established water systems. As with gas and electricity above, there may be a case for dual enforcement if an offence is identified. Consultation with the Environment Agency and the local water company is essential.

62. As with the previous sections, local authority officers who identify an issue with the water supply on a particular site may wish to advise the Environment

Agency, and the local water company of the problem.

63. All new installations must be to the current regulations and maintained at the appropriate standard.

Drainage and Sanitation

64. As with water supplies, provision of sewerage facilities is overseen by OFWAT and codes of practice are in place.

65. It is important that all drains and sewers are well maintained and are connected to the appropriate system. If left unchecked, there can be consequences for the health of residents, along with those who live near the site.

66. The environmental quality of drainage is regulated by the Environment Agency, with whom the local authority must consult about any problems.

Enforcement

67. In considering whether to take enforcement action for a breach of site licence conditions officers must liaise with the Environment Agency to ensure any action taken by the authority is not in conflict with any action the Agency are proposing to take.

68. Local authority officials who identify areas of concern on sites must alert the Environment Agency and the local water company to the possible defects.

69. All new installations must be to the current regulations and maintained at that standard.

Domestic Refuse Storage and Disposal

70. If communal bins are provided they must be of a type that is non-combustible and stored properly. Liaison with colleagues who deal with refuse collection matters will help in ensuring that the bins provided by the site owner (in the case of communal bins) are acceptable to the local authority in pursuance of its collection of rubbish from them.

71. The site owner must be required to discuss with the local authority arrangements for the separation of waste for the purpose of recycling it, and require the site owner to provide the necessary receptacles etc on the site.

Communal Vehicular Parking

72. Parking needs will vary considerably between individual parks. Parking requirements must reflect the reasonable needs of the residents, having regard to the size and layout of the site, the number of units, the occupation criteria of the site and the availability of public transport in the immediate vicinity.

73. Provision of parking spaces on new sites or those undergoing redevelopment or extension must be consistent with local planning policies.

Communal Recreation Space

74. This standard must only be applied if the local authority is satisfied that it is both practicable to provide recreation space on the site and there is insufficient recreation space off the site in the near locality.

75. It will only be practicable to provide such space on the site if there is sufficient open space which is available and it is possible to safely use that space for recreation. The standard requires the local authority to consider the need for recreation space; it does not require it to consider the need for recreation facilities, although the local authority may consider that need as part of a licence condition. The larger the site the more recreation space or spaces may be needed. On small sites there may be no need for space at all. In deciding whether it is practicable to provide the space the authority must also consider the site layout, the availability of private open spaces (e.g. within the pitch), the availability of other amenities on the site (e.g. club houses) and the age and number of residents on the site.

76. On site recreation space may be considered unnecessary if there is sufficient suitable space available off site within close (walking) distance of it. The space must, however, be freely accessible by the public, such as a municipal park, commons land, and greens or any part of the countryside to which the public have a right to walk.

Notices and Information

77. It is important that all notices are protected from the weather and are prominently displayed, either on a board, in an office open to the public, or other places on the site and to which the residents have free and reasonable access. .

78. The notices must include the most recent site licence, and the contact details of the site manager, and if different the licence holder. This must include an out of hours contact number for emergencies, and if available

an e-mail address.

79. The site owner is also required to make available certain information for inspection by residents in a prominent position on the site. That could be the site office provided it is open at reasonable times, a community room which every resident was entitled to use and which is also open at reasonable times or a notice board located at the entrance to or in a central part of the site.

Flooding

80. It is important that if a site is in an area susceptible to flooding, that procedures are in place to ensure that all those on the site are alerted quickly, and that they are aware of any evacuation procedures that may be in place. A notice must be prominently displayed with all relevant information.

81. The site must be included in any local authority flood evacuation plan.

82. Advice on flood risks is available from the Environment Agency website: www.environment-agency.gov.uk

83. It is important in those parts of the country where flooding is an issue that local authorities have effective liaison with the Environment Agency office for their area, as well as officials across their own local authority. Local water authorities should also be contacted.

Fire Safety Measures

84. The Regulatory Reform (Fire Safety) Order 2005 (the "FSO") applies to caravan sites. The FSO disapplies some fire related standards that may be in current site licensing conditions. If the responsible person needs advise on whether or not they fall within the remit of the order they should approach the fire authority for advice

85. Where the FSO applies the local authority must satisfy itself that the site owner is aware of, and is complying with the obligations under it, in particular, that a fire risk assessment under the FSO has been carried out. In this regard the local authority must seek the advice of the local Fire and Rescue Authority who are the main enforcers of the FSO.

86. The Communities and Local Government website: www.communities.gov.uk contains a range of helpful information on fire safety and the requirements of the FSO. This includes links to technical guides for specific types of accommodation, including one for sleeping accommodation.

87. A Fire and Rescue Authority has a duty to provide fire safety advice to those who ask for it, although it will not carry out risk assessments.

88. In applying any standards relating to fire safety measures where the FSO does not apply, the local authority must consult the local Fire and Rescue Authority.

Fire Fighting Equipment

89. The Guidance under the remaining sections only applies to sites to which the FSO does not apply; however these standards will provide a useful benchmark of the sort of preventative and protective measures that may be necessary following completion of a fire risk assessment.

90. The siting of the fire points must be so that they are visible at all times, and marked in a way that makes it obvious as to what they are. They will need to be kept clear of any obstructions at all times.

91. Fire Points are the places on sites where fire fighting equipment is stored, ready for use by anyone in the event of an emergency.

92. If hosepipes are provided, they must be of the relevant British and European Standards¹¹, and positioned in such a way that they are easily attachable to the mains water supply, if not permanently attached. Any valves connecting the hose to the water supply must be easily accessible. The hose reel must be well maintained and in good working order.

93. Any hydrants provided on the site must be kept clear of any obstruction in the event that they need to be used. The positioning of mains connected hydrants is the responsibility of the local water company, and any queries as to whether a site has a hydrant must be directed to them. The positioning of the hydrants must be recorded on the site map, which will assist the emergency service in locating them in the event of an emergency.

94. Fire Extinguishers must only be used if there is not enough water pressure for a hose reel. Where provided, extinguishers must comply with the current British or European Standard.

95. A water tank with buckets and a pump must not be the main means of fighting fire for the following reasons:

- Pumps and buckets are likely to be vandalised or stolen.
- Pumps and buckets are inadequate for fighting a fire.
- A water storage tank must be securely covered to prevent it becoming a health or safety hazard.

¹¹ Details of relevant British Standards can be found at www.communities.gov.uk

Fire Warning

96. The means of raising the alarm in the event of a fire must be appropriate to the size and layout of the site. If you are unsure of which form of raising the alarm is the most suitable to the site, then contact the local Fire and Rescue Authority, who will be able to advise you.

Maintenance and Testing of Fire Fighting Equipment

97. It is important that all fire warning systems and fire fighting equipment are regularly inspected and maintained. The suggestion is that these checks must be carried out on an annual basis. All testing and maintenance must be carried out by a person suitably qualified to do the work. Records must be kept of any testing and when the most recent inspections were carried out. The record of all tests and inspections must be kept on the site for inspection.

Fire Notices

98. The fire action notice must be displayed on a notice board, and at other suitable points around the site. The full address of the site, including the postcode must be included.

Enforcement

99. The main enforcer for the FSO is the local Fire and Rescue Authority.

Appendix 1

Mobile Homes (Wales) Act 2013

Standard Conditions for Mobile Homes Sites

1.0 Background:

1.1 The Mobile Homes (Wales) Act 2013 provides that a site licence issued by a local authority may be issued subject to such conditions as the local authority may consider it necessary or desirable to impose on the owner of the land in the interests of:

- a) persons dwelling on the land in mobile homes,
- b) any other class of persons, or
- c) the public at large.

1.2 Welsh Ministers have for this purpose specified model standards with respect to the layout of and the provision of facilities, services and equipment for, regulated sites or particular types of regulated sites. These are The Model standards 2008 for Caravan Sites in Wales.

1.3 The Act requires that in deciding what (if any) conditions to impose in a site licence, a local authority must have regard to these model standards. They only apply to those sites which contain caravans that are used as permanent residential units. They do not apply to sites used:

- a) exclusively for holidays or touring caravan sites (for which separate model standards have been issued).
- b) to sites occupied by Gypsies or Travellers or
- c) caravan sites which house agricultural workers.

1.4 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.

1.5 The 2008 Standards are a revision and modernisation of the previous ones known as 'Model Standards 1989: Permanent Residential Mobile Homes Sites'. They incorporate a number of new requirements, particularly in relation to maintenance of sites and flood protection measures. They also take account of the effect of the Regulatory Reform (Fire Safety) Order 2005.

2. Policy

2.1 Monmouthshire County Council adopt the Model Standards 2008. Standard site conditions will be attached to site licences issued by the Authority in line with the Model Standards subject to the following:

- at the discretion of authorised officers, variation thereof on the recommendation of the Health and Safety Executive, the Fire and Rescue Authority or Natural Resources Wales.
- In any other case, on the recommendation of officers, variation thereof at the discretion of the Licensing and Regulatory Committee.

2.2 Additional site conditions not provided by the Standard Conditions may be imposed, on a site by site basis, at the discretion of the Licensing and Regulatory Committee.

Appendix 2: Mobile Homes (Wales) Act 2013. A Policy to Establish a Fit and Proper Person test.

1) Introduction

1.1 In deciding whether to grant a site licence for a regulated mobile home site, a local authority must be satisfied that the site owner “is a fit and proper person to manage the site or (if the owner does not manage the site) that a person appointed to do so by the owner is a fit and proper person to do so...” or “has, with the owner’s consent, itself appointed a person to manage the site.” This requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes to which the application relates and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

1.2 A licence should be refused if there is a finding that the owner and/or his manager is unfit.

2) Guidance

2.1 The Welsh Government has issued guidance entitled: *Mobile Homes (Wales) Act 2013 – Information Sheet Fit and Proper Person Test Advice for Local Authority Officers* which is appended below.

Officers will be guided by this in processing applications for a licence under the Act.

3) Evidence

3.1 Since an applicant for a licence must disclose his/her and any proposed manager’s wrong-doings, if any, the authorised officers should normally have sufficient information to decide a person’s fitness based on the application.

3.2 In gathering evidence in relation to the fit and proper person test, authorised officers will have complete discretion to undertake police enquiries or to request information on criminal convictions, where, having regard to the guidance, information is available to suggest this may be needed.

3.3 Where the authorised officer is not satisfied that sufficient information has been supplied to make a determination or the information provided raises one or more relevant issues which require further consideration the matter will be deferred to the Licensing and Regulatory Committee for decision.

4.0 Decisions

4.1 Where no relevant issues come to light the Authorised Officer may determine that the fit and proper person test has been met.

4.2 Where one or more relevant issues come to light the matter will be deferred to the Licensing and Regulatory Committee for consideration and decision. When considering whether a person is 'fit and proper' the local authority must have regard to any 'wrong doings' of the person concerned. In making that decision the Committee will have regard to Welsh Government guidance, noting that each case must be decided on its merits.

Appended: Welsh Government advice for local authority officers.