

# Torbay Council

**Caravan Sites and Control of Development Act 1960**

**(as amended)**

**Policy on the licensing & compliance of  
Residential Park Home Sites**

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## 1. Introduction

The Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes act 2013) ('the Act') provides a structure for all matters involved in the licensing and control of relevant protected caravan sites by local authorities.

A relevant protected caravan site is defined by the Act as a site where an application for a licence is for holiday use only or where it is subject to restrictions or conditions limiting the times of the year when it can be used for habitation.

This policy describes the procedures adopted by Torbay Council when dealing with matters relating to licensed caravan sites. The policy has been developed in accordance with the provisions of the Act.

## 2. Fees

Torbay Council's 'Fees Policy for Licensing of Residential Park Homes Sites' provides details of how the fees were determined, their review, payment procedures and the fees themselves:

(<http://www.torbay.gov.uk/index/yourbusiness/licensing/caravansites/residentialparkhomesfees.htm> ).

Fees are reviewed annually and agreed by Full Council.

Fees are required for:

- An application for a site licence
- An application for the transfer of a site licence
- An application to vary the conditions of a site licence
- The annual licence fee (for which is there is a lower and higher rate)

The annual site licence fee becomes due on the 1<sup>st</sup> May each year. Torbay Council will send an invoice to each site owner requiring payment of the annual fee. Where the fee has been altered from the previous year an explanation of the matters considering when setting the fee and their impact on the alteration will be provided to the site owner.

Where a site owner fails to submit payment to Torbay Council action for payment will be taken via the Property Tribunal.

### **3. Publishing Information**

The Act requires a local authority to publish information relating to licensed caravan sites. To comply with the provisions of the Act, Torbay Council makes the following available on its website:

- Fees policy  
<http://www.torbay.gov.uk/index/yourbusiness/licensing/caravansites/residentialparkhomesfees.htm>
- Register of site licences  
<http://www.torbay.gov.uk/index/yourbusiness/licensing/hs-licensedcaravansitespublicregister.pdf>
- Site rules (if submitted)  
<http://www.torbay.gov.uk/index/yourbusiness/licensing/caravansites/mobilehomesrules.htm>

### **4. Licence Applications**

Application forms for a new site licence, the transfer of a site licence, and to vary conditions of an existing site licence are available on Torbay Council's website (<http://www.torbay.gov.uk/index/yourbusiness/licensing/caravansites.htm>).

Applications should be made in writing accompanied by the appropriate fee or online using the relevant application form. If submitting an online application payment should be submitted to Torbay Council during the online process.

Application for a new licence:

Following the submission of an application Torbay Council may request additional information in order to determine whether an application should be granted.

The licence and conditions of licence will be issued within 2 months of receipt of all information required unless a longer period of time is agreed with the applicant. An annual licence fee is then required, payable on the 1<sup>st</sup> May.

An application can be rejected for a number of reasons:

- The applicant has failed to provide information reasonably required of them
- A full application including the appropriate fee has not been submitted
- The land subject to the application has not been granted permission for use as a caravan site

Where Torbay Council decides not to issue a licence it will notify the applicant of the reasons for its' decision and information will be provided regarding their legal right to appeal.

Application for the transfer of a licence:

Following the submission of an application Torbay Council may request additional information in order to determine whether an application should be granted. It may also seek undertakings from the applicant where deemed appropriate.

Torbay Council will notify the applicant and the proposed licence holder of its decision to approve the transfer or not. Where the transfer is approved the new licence and existing conditions will be provided. Where the transfer is refused Torbay Council will

notify the applicant and the proposed licence holder of its decision and its reason for the decision.

Application to vary the conditions of an existing licence:

Following the submission of an application Torbay Council will consider the variation requested and may opt to consult residents or the Resident's Association of the site in question. Torbay Council may choose to agree to the variation, vary the applicant's proposal and enter consultation with the applicant, or refuse the application.

Torbay Council will notify the applicant of its decision. If its' decision is to agree to vary the licensing conditions in accordance with the application, licensing conditions will be issued reflecting the variation.

## **5. Annual Inspections**

Annual inspections will be carried at each residential caravan site by Officers of Torbay Council. Prior to the inspection Torbay Council will contact the Resident's Association of the site, where in existence, to request a list of any outstanding matters which are of concern and which may consist of breaches of the licensing conditions. Written notification will be provided to the site owner of the proposed inspection date, and an invitation for the site owner or their representation to attend.

Where a breach of licensing conditions are identified during the inspection and it is considered that there is an imminent risk of serious harm to the health or safety of anyone on site emergency action may be taken by Torbay Council.

Where minor breaches of site licensing conditions are identified:

- The breaches will be listed in a 'schedule of breaches' which will be sent to the site owner. The schedule will give a reasonable timeframe within which remedial works must be carried out.

- Once that timeframe has expired a re-inspection will be carried out.
- Where remedial works have not been carried out within the timeframe given consideration will be given to issuing Compliance Notices.

Where breaches of site licensing conditions are identified during an inspection consideration will also be given as to whether the licensing conditions are adequate to control the matter in question. It may be decided that a variation to the licensing conditions is required, in which case Torbay Council will enter consultation with the site owner.

## **6. Complaints**

Complaints relating to the caravan site must be communicated to the site owner by the complainant before being considered by Torbay Council, unless the complaint highlights a significant risk of harm to the health or safety of any person or property of site.

Where a complainant has raised their issue with the site owner and no action has been taken to resolve it, Torbay Council will consider taking steps to intervene and/or investigate where:

- The issue represents a breach of the site licensing conditions
- The matter has been addressed at the previous annual inspection but has not been rectified
- The matter has safety implications for the complainant or the residents generally
- The issue indicates that a criminal offence may have been committed e.g. unfair commercial practice, contravention of health and safety requirements

Where a complaint does not fall within the scope of these issues, it is likely to be considered a civil dispute between the complainant and site owner. The complainant will be advised to seek civil advice.

Where it is determined that steps can be taken to intervene and/or investigate Torbay Council will bring the matter to the attention of the site owner. Alternatively, where an annual inspection is approaching Torbay Council will consider whether it would be more appropriate to raise/address the issue during the inspection.

Where the matter is not resolved/addressed by the site owner within the period specified by Torbay Council consideration will be given to formal action appropriate to the situation e.g. issuing a Compliance Notice or Improvement Notice, submitting an infringement report to Torbay Council's Legal Team, or varying conditions of licence to bring the matter under control. In making such a decision the Community Safety's Enforcement Policy and Prosecution Policy will be taken into account.

## **7. Compliance Notices**

Where appropriate, and in situations described within the Policy, Compliance Notices may be issued to the site owner requiring remedial works within a set timeframe. A Notice will:

- Set out the licensing condition breached
- Detail how the condition has been breached
- Require the site owner to take specified appropriate steps in order to comply with the licensing condition
- Specify a time period within which to take those steps
- Explain the site owner's legal right of appeal

An invoice will follow the Compliance Notice to recover the expenses incurred by Torbay Council in deciding to serve the notice and in preparing and serving the notice. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered. The invoice will include:

- The total expenses



- A detailed breakdown of the expenses
- The interest rate to be charged

If Torbay Council decides to revoke or vary a Compliance Notice it will notify the site owner of that decision.

Once the time limit set in a Compliance Notice has expired Torbay Council will take steps to ascertain whether or not the requirements of the Notice have been undertaken so as to satisfy the licensing conditions. Where a site owner fails to take the specified steps within a Notice consideration will be given to further formal action i.e. instituting legal proceedings. In making such a decision the Community Safety's Enforcement and Prosecution Policy will be taken into account. Where formal action is deemed appropriate this will be communicated to the site owner.

Following the conviction of a site owner for failing to take the steps required by a Compliance Notice consideration will be given as to whether the work should be undertaken by Torbay Council. Where this is deemed appropriate a notice will be served on the site owner which:

- Identifies the land and the relevant Compliance Notice
- Informs them that the Council intend to enter the land
- Describes the intended action
- Notifies them of the name of the person carrying out the work, if it is not Torbay Council
- Informs them of the dates and time when the action will be taken

Once these works have been completed an invoice will be sent to the site owner to recover the expenses incurred in deciding whether to undertake the work, in preparing and serving any notices not already compensated for, and in carrying out the work. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered. The invoice will include:

- The total expenses
- A detailed breakdown of the expenses
- The interest rate to be charged
- An explanation of the legal right of appeal

## **8. Emergency Action**

Where a condition of a site licence has been or is being breached and Torbay Council considers that there is an imminent risk of serious harm to the health or safety of anyone on site emergency action can be taken by the Council.

In such circumstances Torbay Council will contact the site owner notifying them of the situation. If remedial action is not initiated a notice will be served on the site owner.

The notice will:

- Identify the land in question
- Inform the site owner that Torbay Council intends to enter the land
- Describe the intended emergency action
- Notify the site of the name of the person/business instructed to carry out the action where it is not Torbay Council
- Specify the powers of entry under Section 26 of the Act
- Specify the powers to take emergency action under Section 9E of the Act

Once emergency action has commenced on behalf of Torbay Council and within 7 days, the Council will serve a notice on the site owner. This notice may be served by fixing it in a prominent place on site or near to the site entrance. The notice will:

- Describe the imminent risk of serious harm to the health or safety of anyone on site
- Describe the emergency action taken or which is to be taken by Torbay Council
- State when the emergency action began and when it is expected to be complete

- Notify the site owner of the person/business carrying out the action where it is not Torbay Council
- Explain the site owner's legal right of appeal

Following completion of the emergency action and within 2 months Torbay Council will issue an invoice to the site owner to recover its expenses incurred in deciding whether to take emergency action, in preparing and serving any notices, and in carrying out the work. This demand for expenses will be registered as a local land charge which will be removed once the full amount has been recovered. The invoice will include:

- The total expenses
- A detailed breakdown of the expenses
- The interest rate to be charged
- An explanation of the site owner's legal right of appeal

#### **9. Varying/Cancelling/Addition of New Conditions of Licence**

On receipt of an application from a site owner to vary/cancel condition(s) of a site licence or add condition(s) to a site licence they are required to deliver the original licence and its conditions to Torbay Council. In consideration Torbay Council will then:

- Ensure that the condition(s) relates to the physical use of the site, its amenities and services, or its management arrangements
- Consult with the Fire and Rescue Authority if necessary
- Consult with the residents if necessary

Where Torbay Council agrees to vary/cancel condition(s) or add condition(s) to the site licence the original site licence and a copy of the new conditions will be issued to the site owner with a request for them to be displayed on site.

Should Torbay Council not agree to vary/cancel condition(s) or add condition(s) to the site licence formal notification of its decision and reasons for that decision will be issued to the applicant.

Where Torbay Council seeks to vary/cancel condition(s) or add condition(s) to a site licence in situations described within this Policy it will:

- Be able to justify the alteration proposed
- Consult with the site owner for a minimum period of 28 days
- Consult with the Fire and Rescue Authority if necessary
- Consult with the residents if necessary

Following consultation Torbay Council will decide whether or not to vary/cancel condition(s) or add condition(s) to a site licence and it will notify the site owner of its decision. Where a licence has been varied on Torbay Council’s initiative it will provide the site owner with:

- An explanation of its reasons for making the variation
- A copy of the varied conditions of licence
- Details of the site owner’s legal right to appeal

## 10. History of Policy Changes

<b>Date</b>	<b>Page</b>	<b>Details of change</b>	<b>Agreed by</b>
16.09.2016	All	New document	Fran Hughes