April 2020

PRESS STATEMENT

**COVID-19: Holiday park closures and pitch fee refunds**

The NCC has obtained Counsel’s advice regarding refunding holiday caravan owners a proportion of their pitch fees

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (and similar regulations in Wales, Scotland and NI) prescribed that parks must close (unless there are permitted exceptions) and that no one must travel to a second home without reasonable excuse.

The legal advice indicated that for a caravan owner to claim that they are entitled to money back from the park owner, they (the caravan owner) would first need to establish that they have a legal basis or justification for the return of the amount claimed - for example, that the holiday park owner is in breach of their legal obligation(s) and as a result the holiday caravan owner has a legal remedy which is the refund of monies already paid. The caravan owner would need to establish a legal cause of action which entitles them to a full or partial refund of the pitch fee for 2020/2021.

Furthermore, the advice given was that:

* Any breach of an express or implied contractual obligation is unlikely. There is therefore no legal justification to claim a refund of the pitch fee or anything else.
* Even if a court were to be persuaded that there was a breach of contractual obligation, any claim for damages (such as loss of lettings), is likely to be defeated on the basis that it is a) illegal for the holiday park to be open; and b) illegal for holiday caravan owners or their guests to come to the park.

The NCC’s Alicia Dunne, points out however that: “There are no tried and tested legal authorities on the issues raised by this instruction to Counsel. A Court, if tasked to determine the issues may interpret the contract documentation differently and make different findings or draw different conclusions.”

It will ultimately be for each park business to decide the best strategy for them, based first on what the business can afford in order to maintain financial stability and then on a number of practical issues, including retaining loyal customers.

Alicia Dunne continues: “Parks must consider a number of practical issues: retaining loyal customers; their ability to make any refund and if so when; the level of any refund and how that will be made. One size will not fit all. Whatever a park decides, it must be appropriate, fair and consistent.

“It is less costly to retain an existing customer than it is to find a new one. Parks should approach any refund in a considerate way, designed to demonstrate that they acknowledge that this situation is neither their fault nor yours. Where possible, give customers options so that they have the power to make their own choice.”

In relation to business rates refunds, the ‘holiday period’ differs across the different nations of the UK. Where business rates are re-charged back to the park by the local authority, caravan owners who have made a contribution to the rates in their pitch fee should have the benefit passed on.

Ends

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