

KEY DECISION? NO

**MOBILE HOMES FIT AND PROPER PERSON
FEES POLICY**

SUMMARY AND RECOMMENDATIONS:

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the local authority to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site.

The Mobile Homes Fit and Proper Person Fees Policy has been developed in response to this legislation as we are required to have a fees policy in place before the application deadline of 1 October 2021. The policy sets out the matters which are taken into account when setting the fees payable for administering this function.

A Mobile Homes Fit and Proper Person Determination Policy is also being developed, which will set out the arrangements the local authority will normally apply and consider in carrying out its responsibilities for the fit and proper person test.

Cabinet is recommended to:

1. Approve the adoption of the Mobile Homes Fit and Proper Person Fees Policy (Appendix 1).
2. Approve the proposed fees for 2021-2022 for the mobile homes fit and proper person function (Appendix 2).
3. Delegate authority to the Head of Operational Services to approve the Mobile Homes Fit and Proper Person Determination Policy, in consultation with the Operational Services Portfolio Holder.

1. INTRODUCTION

- 1.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter “the Regulations”), introduce the requirement that the owner or manager of a residential mobile homes site must be a fit and proper person.

- 1.2. This report provides an overview of the new requirements placed on the local authority by these Regulations and seeks approval for the fees policy for mobile homes fit and proper person, together with approval of the proposed fees for 2021-2022. Approval is also sought for the authorisation of the Head of Operational Services, in consultation with the Operational Services Portfolio Holder to approve the fit and proper person determination policy which is being developed.

2. BACKGROUND

- 2.1. In July 2019, the Government launched a consultation to seek views on proposals to introduce a fit and proper test for mobile site owners and managers in England following a review of park (mobile) homes legislation. The purpose of the test was to improve the standards of park home management. In response to the consultation, the Government committed to implementing the fit and proper test and introduced the new Regulations.

3. FIT AND PROPER PERSON TEST

- 3.1. The fees policy to be approved, sets out the matters taken into account when setting the fees payable for administering this function.
- 3.2. In preparing this policy, consideration has been given to the relevant legislation and the non-statutory guidance for local authorities produced by Ministry of Housing, Communities and Local Government regarding the fit and proper person test and setting fees for the fit and proper person test.
- 3.3. The fit and proper person test applies to a “relevant protected site”. This is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park homeowners.
- 3.4. The Regulations require the local authority to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations. An exempt site would include a non-commercial, family occupied site.
- 3.5. There are currently four relevant protected mobile home sites in the borough that the fit and proper person provisions will apply to.
- 3.6. All site owners must submit an application for a relevant person to be assessed as a fit and proper person by 1 October 2021. The local authority will consider the application to satisfy itself that the relevant person is a fit and proper person to manage the site.

- 3.7. When carrying out the fit and proper person assessment, the local authority must consider:
- Whether the relevant person has a sufficient level of competence to manage the site
 - The management structure and funding arrangements for the site
 - Information regarding relevant person and responsible person
 - Conduct of any person associated or formerly associated with the relevant person
 - Any other relevant matters
- 3.8. The local authority is required to establish and maintain a public register of persons who they are satisfied are fit and proper persons to manage a relevant protected site. Following the assessment, a decision will be made as to whether to place the relevant person on the register for up to 5 years, with or without conditions, or to not place them on the register where they do not meet the requirements.
- 3.9. A site owner can make a representation to the local authority against a preliminary decision or condition, which must be considered before making a final decision. There is a right of appeal to a First Tier Tribunal against any decision to reject an application, place the relevant person on the register for less than 5 years or to include conditions on the register entry.

4. FEES

- 4.1. The local authority has discretion to charge for their functions under the Regulations and if they decide to charge fees, they must prepare and publish a fees policy. There is no requirement in the Regulations to consult with site owners or homeowners on setting fees.
- 4.2. The Council does not currently charge for other functions associated with the licensing of mobile homes sites. However, it is entitled to do so, and these licensing fees will be reviewed as part of the mobile homes licensing policy which is also being developed. As the fit and proper person regulations give new responsibilities to the local authority, it is considered appropriate to introduce fees for this function now to cover the costs of undertaking this function, in advance of the review of licensing fees for mobile home sites.
- 4.3. The fit and proper person fees policy sets out the matters which are taken into account when setting the fee for an application for an entry on the fit and proper person register. The fee is set to cover the cost of processing the applications and will be reviewed annually.
- 4.4. An annual fee will also be set to monitor entries on the fit and proper person register, including a review of attached conditions. This fee will also be reviewed annually.

4.5. Where the relevant person fails an assessment and the site owner is unable to identify and appoint a suitable alternative manager to undergo the fit and proper person assessment, the local authority could appoint a person to manage the site, with the consent of the site owner. The local authority can recover reasonable expenses incurred in making this appointment.

4.6. **Proposed fees for 2021-2022 (to be added to the Council's Fees and Charges)**

Fee Type	Fee
Application for entry on the Fit and Proper Person Register	£339
Annual fee for existing entry on the Fit Proper Person Register	£0 standard condition only £37 per specific condition
Local Authority appointed site manager	Recovery from the site owner of reasonable costs incurred in making the appointment

4.7. These fees have been calculated in accordance with the fees policy. Further information regarding these calculations are in the fee schedule In Appendix 2.

4.8. The proposed fees are considered to be fair and sufficient only to cover the costs associated with the application process and monitoring of conditions.

5. DETERMINATION POLICY

5.1. A mobile homes fit and proper person determination policy is currently being developed, which will set out the arrangements the local authority will normally apply and consider in carrying out its responsibilities for the mobile homes fit and proper person test. This document will be used to inform and direct the local authority's decision making, particularly when making decisions on relevant applications and enforcement action.

5.2. As this is a minor and relatively straightforward policy, it is considered appropriate that the Head of Operational Services is authorised to approve the policy, in consultation with the Operational Services Portfolio Holder.

6. IMPLICATIONS

Risks

6.1. As this is new legislation, the processing time of applications is unknown, these are currently based on the intended process. Once applications are received, it may be that it is appropriate to reconsider the fees for the future based on actual data.

Legal Implications

- 6.2. The fees policy meets the Council's duty to provide a fees policy in order to enable us to charge fees, to recover the costs of this function.

Financial and Resource Implications

- 6.3. There will be an increase on staff resource required to implement these Regulations. The fees proposed are intended to cover the costs associated with this additional statutory function, however as this is a new function the fees proposed are based on the intended process, as the processing time of applications is not currently known.

Equalities Impact Implications

- 6.4. It is considered that the proposed policy presents no specific impact on those with protected characteristics.

7. CONCLUSIONS

- 7.1. The Fit and Proper Person Fees Policy has been developed in response to the new Regulations which have been implemented by the Government following consultation on proposals to introduce a fit and proper person test for site owners or managers.
- 7.2. The fees policy seeks to provide transparency and consistency in respect of how the fees are set in accordance with the regulations.
- 7.3. The Head of Operational Services will be authorised to approve the determination policy which is currently being developed for the fit and proper person function.

BACKGROUND DOCUMENTS:

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

MHCLG Guidance – Mobile Homes: a guide for local authorities on the fit and proper person test

MHCLG Guidance – Mobile Homes: a guide for local authorities on setting fees for the fit and proper person test

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MOBILE HOMES FIT AND PROPER PERSON FEES POLICY

**The Mobile Homes (Requirement for Manager of Site to be Fit and
Proper Person) (England) Regulations 2020**

September 2021

1.0. SUMMARY

This document sets out Rushmoor Borough Council's fees policy for mobile home site fit and proper person applications and registration in recognition of its role and functions as the relevant local authority in this regard.

In preparing this document, consideration has been given to the relevant legislation and the non-statutory guidance for local authorities produced by Ministry of Housing, Communities and Local Government regarding the fit and proper person test and setting fees for the fit and proper person test.

This policy document was approved and adopted by the executive (Cabinet) meeting on the 21 September 2021. While subject to review, this document shall constitute RBC's mobile homes fit and proper person fees policy.

2.0 INTRODUCTION

Background

The [Mobile Homes \(Requirement for Manager of Site to be Fit and Proper Person\) \(England\) Regulations 2020](#) (hereafter "the Regulations") prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the occupier and anyone appointed to manage the site is a fit and proper person to do so.

Under this legislation, all site owners must submit an application for a relevant person to be assessed as a fit and proper person by the local authority.

The Regulations allow the local authority to charge fees to cover its costs of assessing applications to be included on the fit and proper person register and for an annual fee to cover the costs of monitoring the scheme or condition's attached to the register entries. All fees must be set in accordance with the local authority's published fees policy and be transparent and reasonable. In circumstances where the local authority appoints a person to manage the site, then the local authority is able to recover the costs incurred in making this appointment from the site owner.

The Council does not currently charge application or inspection fees for licensing of mobile homes sites. However, it is entitled to do so, and these fees will be reviewed as part of the mobile homes licensing policy which is also being developed. As the fit and proper person regulations give new responsibilities to the local authority, it is considered appropriate to introduce fees for this function now in advance of a review of licensing fees for mobile home sites.

Status

This policy sets out the arrangements the local authority will normally apply and consider in setting the fees for carrying out its responsibilities for the mobile homes fit and proper person test. This document will be used to inform and direct the local authority's decision making in respect of fee setting.

APPENDIX 1

The document is not intended to be a full and/or authoritative statement of the law or its associated guidance and does not in any way constitute legal advice. The relevant statutory provisions together with any subordinate legislation will take precedence.

A mobile homes fit and proper person determination policy is also currently being developed, which will set out the arrangements the local authority will normally apply and consider in carrying out its responsibilities for the mobile homes fit and proper person test. The determination policy will be used to inform and direct the local authority's decision making, particularly when making decisions on relevant applications and enforcement action.

Applicability

This document applies to the fees related to the functions of the Council as the authority responsible for administering the fit and proper person requirements for relevant mobile homes sites within the Borough.

3.0 FEES FOR FIT AND PROPER PERSON APPLICATIONS AND REGISTRATIONS

Initial application fee

The local authority operates a fixed initial application fee which must be paid when the application is submitted. The application will not be considered until the fee has been paid.

To calculate the application fee, the local authority will in the first instance, (given that there is no actual data as this is a new regime), estimate the average time to process an application, and will apply the hourly rates based on the officer posts that will be involved in the process.

The following matters will normally be considered as costs incurred, or likely to be incurred when setting the fee for consideration of applications for entry on a fit and proper person register:

- (a) initial enquiries;
- (b) correspondence with site owner, relevant persons or any third party in connection with the fit and proper process;
- (c) updating files / computer systems and websites;
- (d) processing the application fee;
- (e) checks, searches and reports to determine applications;
- (f) reviewing documents and certificates;
- (g) preparing decision notices;
- (h) determination and review by manager and legal advisors;
- (i) updating the public register; and
- (j) reviews of decisions and/or defending appeals.

Charges will be limited to recovering the costs of exercising the fit and proper person test function only and not other costs that have already been charged for by other service areas.

Annual fee for an existing entry on the register

There will be no annual fee for simple inclusion on the register. In the event that specific conditions are added to a fit and proper person determination, then the local authority will charge an annual fee due to the additional work relating to these matters.

The following matters will be included when calculating the annual fee:

- (a) correspondence with site owner, relevant persons or any third party in connection with the requirements of the condition(s);
- (b) updating files / computer systems and website if appropriate;
- (c) processing the annual fee;
- (d) reviewing documents and certificates; and
- (f) any other action required to ensure compliance with specific conditions

Where applicable, the annual fee is to be paid on the anniversary of inclusion on the register each year.

Appointed Manager Fee

Where the local authority is provided with the site owner's consent to appoint an individual to manage a site. The costs associated with this will be calculated based on the actual costs and officer time of identifying and administering the appointment of a suitable individual, on a case by case basis. These and any ongoing related costs will be payable by the site owner.

Revising Fees

The local authority will normally revise its fees annually and implement new fees to take effect from 1 April each year. The revised fees will be published online. Any changes will be calculated in accordance with the fees policy and based on actual data of average processing time/costs. The purpose of publishing the fees policy is to show that the fees imposed by the local authority are reasonable and transparent, so that anyone required to pay a fee can understand the charges.

Amending conditions attached to an entry on a register (annual fees)

The local authority may alter the conditions attached to an entry on a register (by adding new conditions or changing or deleting existing ones), following a review. Where the number of conditions is amended, the annual fee will be amended in accordance with the published fees from the date that it is next due. Annual fees already paid will not be partially or fully reimbursed, or additional fees charged.

Payment of fees

The local authority is not required to consider an application for entry on the register unless that application is accompanied by the correct fee. If the correct fee is not paid, the application will not be valid and the site owner could be in breach of the Regulations.

APPENDIX 1

If a local authority decides not to approve an application, the applicant is not entitled to a refund of the fee paid.

The annual fee, where applicable will be set as a condition to any entry being added to the register. The condition will state the amount and date by which the annual fee payment is due, also stating that failure to make such payment will be a breach of the condition and may lead to legal proceedings being issued. No fee will be payable for the inclusion of the condition relating to annual fees.

FEES SCHEDULE – MOBILE HOMES FIT AND PROPER PERSON

Proposed fees for 2021-2022 to be added to the Council’s Fees and Charges

Application Activity	Time (hrs)	Rate	Total
Pre-application discussion and send form	0.5	£36.55	£18.28
Generate and send acknowledgement letter	0.5	£36.55	£18:28
Check application valid and correct fee received	0.5	£36.55	£18:28
Review application and associated documents	2	£36.55	£73.10
Conduct F&PP assessment	2	£36.55	£73.10
Update computer system with details	0.5	£36.55	£18:28
Time for meetings/discussion/advice	1	£36.55	£36.55
Preparing and issuing acceptance/refusal documentation and conditions	1	£36.55	£36.55
Manager review and authorisation	0.5	£56.35	£28.18
Registry entry	0.25	£36.55	£9.14
Review and maintain register	0.25	£36.55	£9.14
TOTAL	9		£338.88

Annual fee – monitoring of conditions	Time (hrs)	Rate	Total
Per specific condition	1	£36.55	£36.55

Fee Type	Fee
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