



Castle Point Borough Council

Fees Policy for Inclusion on the Fit and Proper Person Register

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

Contents

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1. Introduction

- 1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a fit and proper person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations.
- 1.2 The Regulations apply to all relevant protected sites.
- 1.3 A relevant protected site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person.
- 1.4 A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) (“the Regulations”) must apply to the Local Authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area (“the register”).
- 1.5 The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 1.6 The Regulations permit the Local Authority to determine the fee for an application or registration for someone to be added to the register. It is imperative that the fee is included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.
- 1.7 It is important to highlight that this fee policy will refer to any annual fee to recover costs which the Local Authority may have incurred, or which will be incurred, in appointing a person to manage a site with the site owner’s consent.
- 1.8 Site owners will be required to submit a completed application from 1 July until October 1st, 2021 (3 months) and pay the fee, outlined below, which will also include any additional fees such as an annual site fee.

2. Fee Structure

- 2.1 For the sake of transparency, it is necessary to produce and publish a Fees Policy for the Fit and Proper Person application. The Council will Not charge an additional fit and proper person fee to cover expenses incurred in administering the fit and proper person test by way of an annual fee.
- 2.2 The Mobile Homes Act 2013 guide provides several variations of a fee structure that can be considered by a local authority. A local authority can adopt a fee structure it is comfortable with and should consider the pros and cons to each.

2.3 The following three options have been considered:

- A. Fixed Initial Application Fee
- B. Risk Based Assessment Fee
- C. No Fee

Option B: A fee based on a risk assessment has not been adopted on the basis it would mean that a site that is less well run and which requires greater resources from the local authority to ensure compliance with the fit and proper person's requirements to effectively manage the site would attract a higher fee.

The law does not prevent the site owner from passing on the fee to occupiers of the site, thus a higher fee will be passed on to occupiers via their annual pitch fees resulting in them paying more to live on a poorly managed site. This will cause upset and will lead to more complaints which will affect the Council's administrative resources for dealing with the increased workload.

Option C: has not been adopted even though it would safeguard against owner's passing on the fit and proper person fee because the Council charges for all other licensing functions in the Environmental Health department and the implementation of the scheme and the processing of applications is an additional resource burden, so it is fair and proper to apply a fee.

3. Decision

- 3.1 The Council has decided to adopt **Option A:** Fixed Initial Application Fee as it is deemed to be straight forward and fair because the cost to the Council in terms of officer time and administration is the same regardless of the size and nature of the site.
- 3.2 The Council has considered the possibility of the site owner passing on these fees and realises that this could mean that residents on smaller sites have a disproportionately larger pitch fee to pay than residents on larger sites. However, this fee policy relates to the administrative costs for processing applications only and is not connected to activities related to site licensing fees.
- 3.3 The Council has not consulted with residents and park homeowners in relation to this fee policy as it is not legally obliged to do so.
- 3.4 The Fee Structure for inclusion in the Fit and Proper Person Register for mobile home sites is attached at Appendix 1.

4. Review of the Fee Structure

- 4.1 A review of the fee structure will be carried out annually in March and revised if necessary. Any adjustments will consider variations in actual officer and administration time to those predicted in Appendix 1; any changes to officer hourly rates, or any other typical associated costs in providing the function.
- 4.2 Any surpluses and deficits from the previous year will be presented to the Service Manager, Commercial and Regulatory Services, and where agreed, the fees to the site owner will be adjusted accordingly for the following year.

5. Publishing the Fee Policy

5.1 The Fees Policy for Inclusion on the Fit and Proper Person Register for mobile home sites will be published on the Council's website.

5.2 If the Council revises its fee policy, it will replace the published policy with the revised policy.

6. Payment of Fees

6.1 The Council will not consider an application for entry into the register unless the 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.

6.2 The Council requires payment to be made by BACS or by Card payment over the telephone.

6.3 If the Council decides not to approve an application the applicant is not entitled to a refund of the fee paid.

7. Appeals against the fees charged

7.1 The applicant has the right to apply to the First Tier Tribunal where they disagree with the fee being charged.

APPENDIX 1

Castle Point Borough Council

FEES FOR FIT AND PROPER PERSON TEST 2021

8. Fixed Initial Application Fee

- 8.1 The fit and proper person assessment and/or checks to be included on the fit and proper register will take a total of 150 minutes per application. This time of 150 minutes includes updating and publishing the register.
- 8.2 The checks are likely to be carried out by Officers in the Environmental Health team and, therefore, an hourly rate of £38.00 as per **Table 1** should be applied. Therefore, the fee is set at £95.00 (Non Vatable) for the fit and proper person application.
- 8.3 We will consider the following matters on which costs are incurred, or likely to be incurred (by various departments), when determining the fee policy for consideration of applications for entry on a fit and proper person register:
- (a) Initial enquiries.
 - (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process.
 - (c) sending out forms.
 - (d) updating files/ computer systems and websites.
 - (e) processing the application fee.
 - (f) land registry searches.
 - (g) time for reviewing necessary documents and certificates.
 - (h) preparing preliminary and final decision notices.
 - (i) review by manager or lawyers; review any representations made by applicants or responses from third parties.
 - (j) updating the public register.
 - (k) carrying out any risk assessment process considered necessary and
 - (l) reviews of decisions or in defending appeals.
- 8.5 Fee charges are limited to recovering the costs of exercising the fit and proper person test function only and no other costs that have already been charged for by other service areas.

9. Additional considerations for an application fee

- 9.1 The Council will conduct relevant checks against the applicant's background in management and their financial standing. The result of these checks will allow the Council to decide on whether to accept the application. The time taken for these checks is accounted for in the fee, irrespective of whether the entry on the register is granted.
- 9.2 Where an applicant contacts the Council before making an application to ascertain the likelihood of the success of the application, the Council will provide informal advice, for example, the conditions surrounding an application, the information required to be submitted and general guidance on making the application. Further guidance relating to the fit and proper person test can be found in the determination policy.
- 9.3 Any preliminary advice the Council gives, prior to receiving the application, is accounted for in the fee and will not be charged separately.

10. Appointed Manager Fee

- 10.1 This is where the Council is provided with the site owner's consent to appoint an individual to manage a site. The Council's costs associated with this will be in line with those detailed at paragraph 8.2 above and will be recoverable from the site owner.

TABLE 1

Details	Officer Hourly Rate	Application Fee (based on 150 minutes of Officer Time).
Fit and Proper Person Test for Entry onto Register	£38.00	£95.00
Annual Fee for monitoring Fit and Proper Person Register	N/A	N/A