

GENERAL PURPOSES AND LICENSING COMMITTEE – 18 JUNE 2021

THE MOBILE HOMES (REQUIREMENT FOR MANAGER OF SITE TO BE FIT AND PROPER) (ENGLAND) REGULATIONS 2020

1. INTRODUCTION

- 1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, introduce the requirement that the owner or manager of residential caravan site must be a fit and proper person to manage the site.
- 1.2 This report provides the General Purposes and Licensing Committee with an overview of the new requirements placed on the local authority and seeks approval for the charging policy to cover these costs.

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 homes legislation. The purpose of the test was to improve the standards of park home site management.
- 2.2 In response to the consultation, the Government committed to implementing the test and introduced The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the Regulations').
- 2.3 The test will 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. It will verify that the management of the site does not pose a risk to the welfare or safety of persons occupying mobile homes on the site.
- 2.4 Given that there are over 1400 residents in the New Forest District living on mobile home sites, this new legislation is of particular significance to them.
- 2.5 The Regulations give local authorities until 1 July 2021 to prepare to receive applications from site owners, establish their processes for decisions making and for a fit and proper person register. All site owners must submit an application for a relevant person to be assessed as a fit and proper person by 1 October 2021.
- 2.6 The local authority will consider the application in order to satisfy itself that the relevant person is a fit and proper person to manage the site. This will include considering information provided on the site owner and site, conduct of the relevant person in relation to offences committed and review of the criminal records certificate and also whether any other local authority has rejected an application for the responsible person.

- 2.7 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 not place them on the register.
- 2.8 A site owner can make a representation to the local authority against a 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 include conditions.
- 2.9 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, prior to charging.

3. FEES POLICY

- 3.1 It is proposed that the Council should charge fees for the fit and proper functions in relation to the operation of relevant protected sites, for which it currently has 30 sites in the district.
- 3.2 The Council has a Relevant Protected Site Licensing Fees Policy (attached as **Appendix 1**) for existing fees relating to new applications for caravan sites, annual fees, alteration of conditions and charges for enforcement notices. The proposal to charge for fit and proper persons register applications has been included in the amended policy.
- 3.3 The fee policy sets out that the fees are payable for applications for an entry on the register and the matters which are taken into account when setting the fee. The fee is set to cover the cost of processing the applications and will be reviewed annually.
- 3.4 The Council may also set an annual fee to monitor the existing entries on the fit and proper persons register, including a review of attached conditions. This will also be reviewed annually.
- 3.5 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 assessment, the local authority could appoint a person to manage the site with the consent of the site owner. The Council can recover reasonable costs incurred in making this appointment.

4. PROPOSED FEES FOR 2021-2022

- 4.1 The proposed fee for applications to be included on the register is £214 and the application must be accompanied by this fee for the application to be considered as valid. It is not refundable should the application be rejected.
- 4.2 It is proposed that there will be no annual fee for fit and proper person register entries based on standard conditions. However, should entries have specific conditions, there will be a proposed charge of £30 for one specific condition, £60 for two specific conditions and a fixed £90 for three or more specific conditions.

- 4.3 The proposed fees are considered to be fair, sufficient only to cover the costs associated with the application process and monitoring of conditions, and comparable to the limited benchmarking possible with other local authorities.
- 4.4 The fees will be subject to annual review and Member approval, in accordance with all other discretionary fees and charges. Consideration will be given to the extent of deficits or surpluses in the accounts for the annual fee for previous years.

5. REQUEST FOR DELEGATION OF POWERS

- 5.1 As the enforcing authority for the new regulations, it is recommended that the additional powers be delegated to respective posts by amendments to the delegations as follows;

Source	Power Delegated	Delegated to
Caravan Sites and Control of Development Act 1960, Part I as amended, including any Regulations made thereunder	(a) Sec 3 – to determine applications for caravan site licences and under Sec 8 – to change conditions attached to existing licences. Sec 10 – to transfer licences and to determine applications and under.	Executive Head, or Chief Planning Officer, or Service Manager
	(b) To administer and enforce all the powers and duties of the local authority and the provisions of Part 1 of the Act, including any Regulations made thereunder, save for those specifically referred to in (a) above.	Executive Head, or Chief Planning Officer, or Service Manager, or Environmental and Regulation Team Manager, or Environmental Health Officers, or Environmental Health Technical Officers

- 5.2 Delegations of the above powers supersede existing entries in the list of Council delegations and GP & L 116 should be deleted.

6. FINANCIAL IMPLICATIONS

- 6.1 There will be an increase on staff resource required to implement these Regulations. The charges proposed will cover the costs associated with this additional statutory function.

7. CRIME AND DISORDER, EQUALITY AND DIVERSITY AND ENVIRONMENTAL IMPLICATIONS

- 7.1 None.

8. CONCLUSION

- 8.1 The new Regulations have been introduced to provide higher standards for New Forest residents living on mobile home sites, by ensuring that site owners or managers are fit and proper to manage the site.
- 8.2 The Relevant Protected Site Licensing Fees Policy has been updated to include a fee policy for the fit and proper person function within the Regulations.
- 8.3 Proposed fees have been set for applications for inclusion on the register and to monitor specific conditions relating to the fit and proper person assessment.
- 8.4 The Council has additional enforcement powers in respect of fit and proper person assessments to ensure all sites comply with the new legal requirements.

9. RECOMMENDATIONS

- 9.1 The Committee approves the adoption of the amended Relevant Protected Site Licensing Fees Policy and supports the introduction of the Fit and Proper Person Test for residential caravan site licensing from 1 July 2021.
- 9.2 The Committee agrees to the proposed fees for applications for entry on the Fit and Proper Persons Register and the annual fee for an existing entry which specific conditions on the register.
- 9.3 The Committee approves the proposed delegation of powers as set out in Section 5 of this report and for its addition to the Council's scheme of delegations. The existing entries identified in 5.2 should be deleted.

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Background Papers:

List of residential mobile home sites in the New Forest District:
[Caravan site locations and rules - New Forest District Council](#)

Appendix 1

New Forest District Council Relevant Protected Sites Fees Policy,
Fees for 2021-2022 (Annex A)