



Mobile Home Sites Fit and Proper Person Assessment Fee Policy

August 2021

1. Scope of policy

This policy sets out the approach taken in the setting of fees for the processing of applications for the Fit and Proper Person Assessment, for the owners and managers of residential mobile home sites.

2. Background

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the regulations') introduce a fit and proper person assessment for mobile home site owners or the person appointed to manage the site. The purpose of the fit and proper person test is to improve the standards of mobile home site management.

From 1 July 2021 and by 1 October 2021, all site owners must have applied to the local authority to be assessed as fit and proper persons and to be included on the register. Fees may be charged for assessing applications to enable local authorities to recover the costs of this activity. Furthermore, local authorities may cover the cost of monitoring the scheme or conditions attached to entries in the register by the levy of an annual fee.

Woking Borough Council, 'the Council', is the local authority for the purposes of the Regulations and has agreed to charge a fee for the FPPA and also an annual fee to cover the cost in cases where it is necessary to monitor the scheme or conditions attached to the registration.

Before a local authority can charge a fee, it must prepare and publish a fees policy. When fixing a fee, the local authority:

- Must act in accordance with its fees policy.
- May fix different fees in different cases.
- May determine that no fee is required in some cases.

Any charges relating to the Fit and Proper Person function will be limited to recovering the costs of exercising that function. Both the level of fees and how they are charged are, subject to legal restrictions, at the discretion of the local authority.

There are exemptions from the requirement for the owner of a site to apply for a FPPA, some of these include:

- A site that is only occupied by members of the same family and is not being run as a commercial residential site.
- A site occupied by and managed by the council.

3. Fee structure

In setting its fees policy and the fees to be charged, the Council has had regard to the Regulations, and the relevant guidance – guide for local authorities on setting fees for the fit and proper person test issued by the Department for Communities and Local Government (June 2021).

In determining those fees, the Council has considered all administrative costs incurred in the FPPA process, including consultations, meetings, scrutiny of the information provided on application for the assessment and providing informal, pre-application advice.

The regulations permit the Council to charge two types of fee to cover its costs:

- Fit and Proper Person application fee - to cover the cost of assessing applications to be included on the fit and proper register.
- Fit and Proper Person annual fee - to cover the cost of monitoring conditions attached to the register. Payment of the annual fee may also be required as a condition of inclusion in the register.

Fee type cost

- Fit and Proper Person application fee: £335
- Fit and Proper Person annual fee where this applies: £114

4. Costs that can be included in application fees

Currently there is one residential mobile home park within the Borough to which these new requirements apply and it is anticipated that this application will be able to be processed with straightforward enquiries. It is possible that in future, there may be others involving complicated issues to investigate, however a flat rate application fee is proposed based on the average complexity of a case, with an additional annual fee where conditions have been imposed which require monitoring, in accordance with the guidance.

The council has taken into account the following matters on which costs are incurred (or likely to be incurred) when determining its fee policy for consideration of applications for entry on a fit and proper register:

- initial enquiries;
- 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; sending out forms;
- updating files/ computer systems and websites;
- processing the application fee;
- land registry searches;
- time for reviewing necessary documents and certificates;
- preparing preliminary and final decision notices;
- review by manager or lawyers;
- review any representations made by applicants or responses from third parties;
- updating the public register;

- annual review and maintenance of register;
- reviews of decisions or in defending appeals.

In addition, the Council will need to make such inquiries as are necessary in connection with the application, such as those relating to the applicant's management and financial standing. All time taken in establishing the information required to make an informed decision is included in the application fee, whether or not the entry on the register is granted.

Where an applicant contacts the Council before making an application to ascertain the likelihood of the success of that application, the authority will give informal advice, including on likely conditions that may be attached to an entry, so the applicant can make an informed judgement on how to proceed with the application.

5. Payment and processing

The Council requires payment of fees for applications for a FPPA and subsequent inclusion on the Fit and Proper Person register. The Council will not start processing any applications until such time as the correct fee is received.

The application must be processed as soon as is reasonably practicable on receipt of the full application and all supplementary documents. Fees are not refundable if the application is not granted.

The annual FPP fee where payable will become due on 1st October every year, starting on 1st October 2022, and then on each anniversary thereafter.

6. Matters to be considered in the fit and proper person assessment

When considering whether a person is 'fit and proper' the Council must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application.

Whether the relevant person is able to secure the proper management of the site includes, but is not limited to:

- a) compliance with the site licence;
- b) the long term maintenance of the site;
- c) whether the relevant person has sufficient level of competence to manage the site;
- d) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- e) committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- f) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- g) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- h) has harassed any person in, or in connection with, the carrying on of any business;

- i) is, or has been within the past 10 years, personally insolvent;
- j) is, or has been within the last 10 years, disqualified from acting as a company director;
- k) whether the relevant person has the right to work within the United Kingdom;
- l) whether any other local authority has rejected an application for the responsible person to be included in a register.

The Council may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the site.

7. Application

Once an application has been received the local authority may:

- a) grant the application unconditionally;
- b) grant the application subject to conditions;
- c) reject the application.

8. Decision

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the Council must make a decision on the application and either;

- a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or;
- b) otherwise serve a preliminary decision notice on the applicant.

9. Appeals

Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority.

Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

Where the authority may seek to remove a relevant person from the register or to impose further conditions a notice of proposed action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued. The local authority may withdraw or amend:

- a) a preliminary decision notice before service of the final decision notice;
- b) a final decision notice before the decision to which it relates takes effect or;
- c) a notice of proposed action before the proposed action is taken

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- a) any decision to include the relevant person on the register for an effective period of less than 5 years;

- b) any decision to include the relevant person on the register subject to conditions and;
- c) any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- a) any decision to remove the relevant person from the register;
- b) any decision to impose a condition on the inclusion of the relevant person in the register and;
- c) any decision to vary a condition.

No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

10. Register

The Regulations require a local authority to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.

The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.

A person's inclusion in the register has effect for a maximum period of five years.

11. Appointment of a person to manage the site

Where a site owner, or their manager fails a FPPA and they are unable to identify, and appoint a suitable alternative manager, who must also undergo the fit and proper assessment, the local authority could appoint a person to manage the site, with the consent of the site owner. If the Council is required to appoint a person to manage the site, the reasonable costs of this action can also be recovered from the site. If this were to be required, the Council would seek full cost recovery of all officer time and any other resources required to undertake this action.

12. Review of the fee policy

The policy for Fit and Proper Person Fees will be reviewed two years from implementation, and thereafter, annually. The review will assess and incorporate any changes that need to be made. This will include a full review of the fee levels, to take into account the effect of inflation and any surpluses or deficits incurred on the predicted level of expenditure in the first two years.

Any adjustments will consider variations in officer and administration time to those used in calculating the fees set out in this policy document, along with any changes to other costs incurred in providing the FPP function.

Changes will be introduced into this document where necessary to accommodate new legislation, guidance and local needs.

The fees policy will be published on the Council's website and if the Council revises the fee policy, it will replace the published policy with the revised policy.