

TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES and HOUSING ADVISORY BOARD

25 May 2021

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

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

Summary

This report recommends the charging of an application fee for the Council's function to determine if a manager of a mobile home/caravan/park home site is a fit and proper person to manage the site under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

1.1 Introduction

- 1.1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduces a fit and proper person test for site owners/caravan site licence holders or for their person appointed to manage the mobile home/caravan/park home site. This only applies to relevant protected sites other than non-commercial family occupied sites. A relevant protected site being a site for permanent residential occupation. The purpose of the Regulations is to improve the standards of management of permanent residential sites that are operated on a commercial basis.
- 1.1.2 The Regulations require site owners/caravan site licence holders to apply to be included or their appointed manager to be included on a register of fit and proper persons from the 1 July 2021. From that date and by the 1 October 2021 all relevant site owners/licence holders must have submitted an application.
- 1.1.3 The Regulations allow local authorities to charge a fee for their fit and proper person functions. If the local authority decides to charge a fee it must prepare and publish a fees policy. The fees should be transparent and reasonable, and may

include an application fee and an annual fee to cover the cost of monitoring the scheme and conditions attached to entries on the register.

1.2 Fit and Proper Person Functions

1.2.1 The Council's fit and proper person (F&PP) functions will include to:

- Consider applications to determine if the relevant person is a fit and proper person to manage the site.
- Decide whether to place the person on the register with or without conditions, or not to place them on the register. An applicant will have the right of appeal to a decision or a condition to the First-tier Tribunal. If the relevant person fails the F&PP test and the site owner/licence holder is unable to appoint a suitable alternative manager, the Council could appoint a person to manage the site with the consent of the site owner. The Council can recover their reasonable costs in doing this from the site owner/licence holder.
- Establish and maintain a register of fit and proper persons.
- Make the register available for inspection by members of the public at Council offices.
- Publish the register online.

1.2.2 Where a person is included on the register unconditionally, they will be included on the register for a period of five years or if conditions are applied the inclusion can be less than five years.

1.2.3 If after the person is included on the register new evidence relevant to the person's inclusion comes to light, the Council may

- Remove the person from the register;
- Impose a condition on the inclusion of the person in the register;
- Vary a condition; or
- Remove a condition.

1.2.4 It is an offence under the Regulations for a site owner/licence holder to

- Operate the site unless they or the person appointed are a fit and proper person to manage the site.
- Provide false or misleading information or fail to provide information in an application.
- Fail to comply with a condition placed on the relevant person on the register.

1.2.5 On summary conviction for a breach of the fit and proper person requirements, the site owner/licence holder would be liable to an unlimited fine.

1.3 Matters for consideration in determining if a fit and proper person

- 1.3.1 When determining if a relevant person is a fit and proper person to manage the site, an applicant will be required to provide information in relation to the conduct of that person, namely if:
- a. Has 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);
 - b. 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;
 - c. Has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
 - d. Has harassed any person in, or in connection with, the carrying on of any business;
 - e. Is or has been within the past 10 years, personally insolvent;
 - f. Is or has been within the past 10 years, disqualified from acting as a company director;
 - g. Has the right to work in the United Kingdom;
 - h. Is a member of any redress scheme for dealing with complaints in connection with the management of the site; and
 - i. Have been rejected from the register of another local authority and the reasons why.
- 1.3.2 In some cases, the applicant will also be required to provide information about other responsible persons who are involved in the management of the site, for example, directors where the site owner/licence holder is a company.
- 1.3.3 As part of the application where the relevant person is an individual or information is required about other responsible persons a Criminal Records Certificate will be required.
- 1.3.4 The applicant will also be required to provide information on the financial and management arrangements in place for the site, and demonstrate the competence of the relevant person to secure the proper management of the site.

1.4 Fit and Proper Person Application Fee

- 1.4.1 The Tonbridge & Malling Borough Council has 41 relevant protected sites in the borough where the majority of these sites are small family occupied sites that are

not run on a commercial basis. There are three caravan/park home sites where the fit and proper person test will apply those being Towngate Wood Park, Bourne Park Home Estate and the Hilltop Manor Hotel.

- 1.4.2 The items in table 1 below give a breakdown of how the application fee for the fit and proper test has been determined, where the HTO is the Housing Technical Officer, HTA the Housing Technical Assistant and SEHO the Senior Environmental Health Officer.

Processing steps	Time (mins)	Officer	Standard cost of 1 hour of working time of officer	Cost £
Written pre-application advice	30	HTO	41.78	20.89
Application receipt, enter on data management system	10	HTA	27.37	4.56
Check application valid	30	HTO	41.78	20.89
Confirm receipt in writing and request further info if needed	20	HTO	41.78	13.93
Land registry and company search if applicable	10	HTA	27.37	4.56
Process application – check documents liaise with other LAs where needed.	120	HTO	41.78	83.56
Update data management system	10	HTA	27.37	4.56
Determine decision as to accept on register, accept with conditions or reject.	10	HTO	41.78	6.96
Draft conditions	30	HTO	41.78	20.89
Review conditions and decision	20	SEHO	53.42	17.8
Issue Preliminary decision notice or Final decision notice	20	HTO	41.78	13.92
Review any representations made	20	SEHO	53.42	17.8
Issue Final Decision Notice	20	HTO	41.78	13.93
Update data management system	10	HTA	27.37	4.56

Update Public Register	15	HTA	27.37	6.84
			Total	234.76

Table 1: Fit and Proper Person Assessment Costs

- 1.4.3 The total fee for processing an application for a relevant person to be included on the fit and proper person register is £235. This fee will be reviewed annually in line with other caravan site licensing fees. If the Council decides not to approve the inclusion of the relevant person on the register, the application fee is not refundable.

1.5 Fit and Proper Person Annual Monitoring Fee

- 1.5.1 The Council is not seeking to introduce an annual fee at the current time for monitoring conditions attached to entries on the Fit and Proper Person register given the low number of caravan sites that fall under this requirement.

1.6 Legal Implications

- 1.6.1 The Council is under a statutory duty to enforce the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

1.7 Financial and Value for Money Considerations

- 1.7.1 Under section 10 of the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 the Council may fix a fee for processing an application and this has been calculated based on the costs to the Council to do this as indicated in 1.4.2.

1.8 Risk Assessment

- 1.8.1 Enforcement of the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 is a statutory function of the local authority. Without a fee policy in place, the Council would not be able to charge a fee for processing the fit and proper person application and therefore there would be an additional cost to the Council.

1.9 Equality Impact Assessment

- 1.9.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act, with no perceived impact to end users.

1.10 Recommendations

- 1.10.1 That Council is **REQUESTED** to **ENDORSE** the charging of a fee of £235 for the processing of an application to determine if the site owner/caravan site licence holder or the person appointed by them to manage the relevant protected site is a fit and proper person to do so and be placed on the register of fit and proper persons.

Background papers:

Nil

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