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## **FIT AND PROPER PERSON FEE POLICY (MOBILE HOMES) 2021/22**

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### **Introduction**

1. 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, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013 (subject to paragraph 10 below).
2. 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 their 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").
3. 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.
4. 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.
5. 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.
6. Site owners will be required to submit a completed application from 1 July until October 2021 (3 months) and pay the fee, outlined below, to their local authority.

## **Fees for Fit and Proper Persons Register Applications**

### **Application fee**

7. Boston Borough Council has provided a breakdown of tasks associated with the fit and proper person's assessment and/or checks to be included on the fit and proper register in table A on page 5.
8. The fees are set as per table A at £205 for the fit and proper person application process.
9. The local authority will take into account the following matters on which costs are incurred, or likely to be incurred (by various departments, including costs incurred by outsourcing contracts), when determining its 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.
10. It is important that charges must 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.
11. Please see table A found at page 5 which outlines the above and provides transparent justification for the fee to be imposed upon receipt of the initial application. The purpose of this table is to demonstrate that the fees imposed are fair and transparent providing justification as to why a site is required to pay the fee.

### **Additional considerations for an application fee:**

12. The local authority will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow the local authority to decide on whether or not to accept the application. The time taken for these checks should be accounted for in the fee, irrespective whether or not the entry on the register is granted.

13. Where an applicant contacts the local authority before making an application, to ascertain the likelihood of the success of that application, the authority is expected to provide informal advice, for example, the conditions surrounding an application, for example the information required to be submitted and general guidance on making the application. There is further guidance relating to this in the fit and proper person determination policy.
14. Any preliminary advice the local authority provides, prior to receiving an application, is accounted for in the fee and will not be charged separately.

### **An appointed manager fee**

15. This is 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 should be reasonable and are recoverable from the site owner. These fall outside the application process fees.
16. Costs that can be recovered will depend on the agreement made between Boston Borough Council and the site owner. Before entering into any discussions or agreement relating to the appointment of a manager, legal advice will be sought.

### **Revising Fees**

17. Boston Borough Council will review its fees policy annually and will publish the revised policy. Any changes will be justifiable and reasonable, ensuring full transparency for the site owner.
18. The purpose of publishing the fee policy is to show that the fees imposed by the local authority are fair and transparent so that anyone required to pay a fee can understand the charges.

### **Amending conditions attached to an entry on a register**

19. Boston Borough Council may alter the conditions attached to an entry on a register (by adding new conditions or changing or deleting existing ones), following a review. Boston Borough Council will notify the site owner of its interim decision (except in the case where it is deleting a condition) and consider any representations made by the site owner, before reaching a final decision. If the site owner is unhappy with the decision to alter, or not alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).
20. There are no requirements for a site owner to make an application for a condition to be altered. Any costs involved with amending existing conditions, or adding new conditions to an entry, are factored into the fee cost.

### **Payment of fees**

21. As outlined above in paragraph 4, Boston Borough Council 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.

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

**Table A**

<b>Costs Associated with Fit &amp; Proper Persons</b>	<b>Hrs</b>	<b>Rate</b>	<b>Total</b>
Pre-Application advice and Information	0.5	EHO	15.84
Receipt of application, recording in Civica and emailing acknowledgement	0.25	ADM	6.31
Check Application is full and proper, complete, signed and fee paid. Enter details onto system.	0.5	EHO	15.84
Review application and make enquiries reFFP documents and declarations (including management & finance) - check certificates	2	EHO	63.36
Update Civica	0.25	ADM	6.31
Time for reviewing any representations from applicant or third parties, including reviews carried out by PEHO/Manager	0.5	EHO	15.84
Application of any conditions	0.5	EHO	15.84
Grant of application (final notice) or serve preliminary notice (approved by PEHO or Manager)	0.5	PEHO	17.84
As above for PEHO or Manager	0.25	PEHO	8.92
Add relevant person's details onto public register	0.25	ADM	6.31
Review appeal paperwork (assume 1in10 apps). Produce appeal response and relevant notice, issue final decision	0.25	EHO	7.92
Oversight of appeal	0.25	PEHO	8.92
Enforcement - removal from register or in relation to conditions (assume 1in10)	0.5	EHO	15.84

**Total Cost Per Application****£205.09**

An assumption has been made that no cases will result in an appeal to FFT.