

## Chichester District Council

### General Licensing Committee

1 November 2021

#### Proposed Fees Policy and Determination Policy under the Caravan Sites & Control of Development Act 1960 – ‘Fit & Proper Person’ test

#### 1. Contacts

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#### 2. Executive Summary

Committee approval is sought to adopt a Fit and Proper Person Fees Policy and Determination Policy to support the introduction of ‘Fit & Proper Person’ test by way of The Mobile Homes (Requirement for Manager of Site to be Fit & Proper Person) (England) Regulations 2020

#### 3. Recommendation

- 3.1 **That the General Licensing Committee approve the Fees Policy and Determination Policy for the ‘Fit & Proper Person’ test introduced under The Mobile Homes (Requirements for Manager of Site to be Fit & Proper Person) (England) Regulations 2020.**

#### 4. Background

- 4.1 Following a Government review of the Mobile Homes Act 2013, the Government introduced a new regime under the Caravan Sites and Control of Development Act 1960 called the ‘Fit and Proper Person Test’.
- 4.2 The new regime has been introduced by way of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020. All protected residential sites which are operated on a commercial basis must demonstrate that they are operated/managed by a fit and proper person.
- 4.3 The ‘Fit & Proper Person’ test requirement is a new mechanism for Local Authorities to determine whether the person with day-to-day responsibility for managing residential, commercial sites with their district *“is fit and proper to do manage the site”*, or if the owner does not manage the site, *“that a person appointed”* to do so by the site owner *“is a fit and proper person to do so”* or has, with the site owner’s consent, *“appointed a person to manage the site”*.

- 4.4 The Local Authority will need to assess the applicant's circumstances in consideration of any Determination Policy. A register of all those approved 'fit and proper' will need to be maintained by the Authority.
- 4.5 This is an entirely new function of the Authority and we can recover costs only in accordance with an adopted Fees Policy.
- 4.5 It is proposed to amend the current fees charged by this Authority for the administration of the licensing functions in respect of 'Relevant Protected Sites' under the Mobile Homes Act 2013 and introduce the proposed Fees Policy at Appendix A which is required to be published. Any charges will need to be justifiable and reasonable in delivering the service, in ensuring full transparency for the site owner.
- 4.6 The items that can be included in calculating the application fee for the 'fit and proper person' test is set out below. The proposed fee has been calculated based on the appropriate personnel involved with each individual task.
- a) Initial enquiries;
  - b) General correspondence/communication to make appointments and requesting any supporting documents or other information to an application from the site owner or from any appointed third party in connection with the 'fit and proper person' application process;
  - c) Distribution of applications forms or publication online;
  - d) Updating back office systems/website & processing of application fee;
  - e) Appropriate background checks i.e. Land Registry, Companies House, Financial Management of applicant etc;
  - f) Review of application and supporting documents/certificates;
  - g) Preparing Notices;
  - h) Review by Licensing Manager;
  - i) Updating/review of the 'fit and proposer person' register/decisions.
- 4.7 It's important to note that charges must be limited to recovering the costs of exercising the new function only and not other costs that have already been charged for by other service areas.
- 4.8 The Local Authority will be required to conduct relevant background checks as set out at 4.6 (f) above regarding the applicant's background in management and their financial standing. The results of these checks will allow the Authority to decide on whether to accept the application. The time taken for these checks have been accounted for in the proposed fee, irrespective of whether the entry on the register is granted. In addition, any preliminary advice given before an application is received must be accounted for in the fee and cannot be charged separately.
- 4.9 In certain circumstances, the Local Authority may determine that no fee is required.
- 4.10 A site is exempt from the new provisions and fee only if it is occupied by members of the same family and is not being run on a commercial basis. For example, park home sites which are only occupied by the site owner or members of the site owner's family do not need to apply. However, if circumstances change, and units are rented out to non-family members, then the owner or site manager will need to apply to be included on the register.

- 4.11 The fees calculation table found at Appendix B outlines the steps at 4.6 above and provides transparent justification for the suggested fee upon receipt of an application based on the steps required in each case being undertaken by the appropriate officer. It is hoped the table demonstrates that the proposed fees are fair, properly calculated and transparent for site owners.
- 4.12 A Local Authority is not required to consider an application for entry on the 'fit and proper person' register unless the application is accompanied by the requisite fee. If the fee is not paid, the application will not be valid.
- 4.13 In determining this Authority's Fees Policy at Appendix A we had regard to guidance and templates produced by a national Local Authority funded specialist caravan site licensing group, of which Chichester District Council is an active member, and also support the adoption of the template Determination Policy at Appendix C which also emanated from the same group following counsel advice.
- 4.14 The Determination Policy broadly sets out the assessment process of applying the 'Fit & Proper Person' test mechanism associated with applications and is supported by the proposed Fees Policy to aid the recovery of costs associated with performing this new function.

## **5. Outcomes to be achieved**

- 5.1 Before charging a fee the Local Authority must prepare and publish a fees policy. Adoption of such will ensure compliance with its duty to administer and enforce the various provisions under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 along with introducing greater protection to park home residents.
- 5.2 There is no legal requirement for consultation to be undertaken. As a minimum it is proposed to publish a copy of the approved fees policy online and write to respective site owners drawing their attention to it along with the proposed Determination Policy.
- 5.3 Adopting the fees policy will enable this Authority to recover the costs associated with delivering this new function. If the fees policy is not adopted, the Authority will not be able to recover the costs associated with this new area of work.

## **6. Proposal**

- 6.1 In order that the Council fulfils its various statutory duties, it is recommended that the General Licensing Committee adopt the Determination Policy and the Fit & Proper Person Fees Policy and delegate to the Director of Growth & Place the ability to make minor revisions to the Fit & Proper Persons Fees Policy, including amendments to the fee schedule where considered appropriate.
- 6.2 It is proposed that the revised Fees Policy be adopted for a period of five (5) years, although kept under review throughout, and reviewed at an earlier time if deemed necessary.

## 7. Alternatives Considered

- 7.1 The aim of the new powers is to protect vulnerable site occupants from poor management practices of certain residential sites. Residents of sites are often older people. No alternatives were considered due to the legal requirement to adopt the new provisions as a result of The Mobile Homes (Requirement for Manager of Site to be Fit & Proper Person) (England) Regulations 2020 and it is felt in adopting these policies it will enable this Authority to effectively resource and determine applications helping to ensure as far as practicable that residential park home sites are operated by 'fit and proper' persons.

## 8. Resources and Legal Implications

- 8.1 It is expected that the proposed fees policy will provide a clear and transparent process for the adopted fees for site owners and the proposed Determination Policy will provide clarity to site owners as to what matter will or won't be taken into consideration.
- 8.2 The new function will be delivered by existing resource within the Licensing Authority.

## 9. Consultation

- 9.1 No specific consultation has been undertaken in view of the mandatory requirements associated with the Regulations and actions incumbent on site owners.

## 10. Community Impact and Corporate Risks

None

## 11. Other Implications

	Yes	No
<b>Crime and Disorder</b>	✓	
<b>Biodiversity and Climate Change Mitigation</b>		✓
<b>Human Rights and Equality Impact</b>	✓	
<b>Safeguarding and Early Help</b>	✓	
<b>General Data Protection Regulations (GDPR)</b>		✓
<b>Health and Wellbeing</b>	✓	

## 12. Appendices

- Appendix A Proposed Fees Policy  
Appendix B Table illustrating fees calculation  
Appendix C Proposed Determination Policy

## 13. Background Papers

Policy templates emanating from the Caravan Site Licensing Forum for England –

- Guidance and template Determination Policy & Fees Policy  
Guidance for site owners  
General Advice