

# Basildon Council

BASILDON • BILLERICAY • WICKFORD

## **FIT AND PROPER PERSON FEE POLICY (MOBILE HOME SITES)**

### **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 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, which will also include any additional fees such as an annual site fee.

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

## **Initial fixed application fee**

7. The local authority believes that fit and proper person assessment and/or checks to be included on the fit and proper register will take a total of 150 minutes per application. This time of 150 minutes includes updating and publishing the register.
8. The published 2020/21 hourly rate for Environmental Health Services is £52. Therefore, the 2020/21 fee is set at £130 for the fit and proper person application, subject to amendment in usual annual budget-setting processes thereafter.
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.

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

11. 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.
12. 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.

13. Any preliminary advice the local authority provides, prior to receiving an application, must be accounted for in the fee and cannot be charged separately.

#### **Annual fee for an existing entry on the register:**

14. Where the application by a site owner is more complex the local authority is able to increase the fee, referred to at paragraphs 7 and 8 above. This additional payment may be required by way of an annual fee, and will need to be explained in the site's fee policy, outlining why the additional charge is to be incurred. Please refer to the items outlined in paragraph 9 above for the list of matters which may be included in calculating the annual fee.
15. In other words, in order to justify additional fee recovery, the local authority will be required to evidence any further work and time spent on a complex site's fee.
16. The annual fee may also include the cost of monitoring the fit and proper person scheme or conditions attached to entries to the register. The local authority can conduct this annually and can also decide on frequency of payments, this to cover the local authority's annual costs.
17. The annual fee is to be paid by 31 May each year.

#### **Such other matters as the local authority considers to be relevant**

##### **Where no fee is applied**

18. In certain circumstances, the local authority may determine that no fee is required to be paid. A site is exempted from a fee only if it is occupied by members of the same family and is not being run as a commercial residential site.

##### **An appointed manager fee**

19. 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.

##### **Revising Fees**

20. The local authority may revise its fees policy and will be required to publish the revised policy. Any changes will need to be justifiable and reasonable, ensuring full transparency for the site owner.
21. The items that can be included in calculating the application fee and annual fee are set out in the published fee policy at [www.basildon.gov.uk](http://www.basildon.gov.uk).

22. 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**

23. A local authority may alter the conditions attached to an entry on a register (by adding new conditions or changing or deleting existing ones), following a review. The local authority must 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).
24. 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, must also be factored into the cost of calculating the annual fee.

### **Site visits – Officer and travel time**

25. Officer time can be considered as part of the fee, where site visits are required to ascertain whether or not site condition(s) are met. Travel time to and from the site, including fuel costs, can also be taken into account and could be calculated using a single value for travel costs which could be applied to all sites.

### **Payment of fees**

26. As outlined above in paragraph 4, a local authority 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.
27. If a local authority decides not to approve an application the applicant is not entitled to a refund of the fee paid.
28. The annual fee must be set as a condition to any entry being added to the register (please refer to the corresponding Fit and Proper Determination Policy). The condition should state the amount and date by which the annual fee payment is due, also stating that failure to make such payment will be a breach of the condition and may lead to legal proceedings being issued.