

# Fit and Proper Person Fees Policy

July 2021

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# 1. INTRODUCTION

- 1.1. This Fit and Proper Person Fees Policy sets out Dartford Borough Council's ('the Council') policy in respect of charging fees under the mobile homes' fit and proper person test, which applies to relevant protected sites<sup>1</sup> requiring a licence. The Policy sets out the methodology, the matters and appropriate costs that the Council has taken into account in setting fees.
- 1.2. The purpose of this Policy is to ensure that the fees imposed by the Council are fair and transparent so that anyone required to pay a fee can understand the charges.
- 1.3. This Policy should be read in conjunction with the Fit and Proper Person Test Determination Policy, which sets out the matters and considerations taken into account for assessing and determining applications for a fit and proper person test.

## Background

- 1.4. A relevant protected site cannot operate in the Borough unless the Council 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*). 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.
- 1.5. 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").
- 1.6. 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.
- 1.7. The Regulations permit local authorities to charge a fee for their fit and proper person functions in respect of applications to be included in the register and to require additional payments by annual fee if an application is granted subject to such a condition. It is at a local authorities' discretion whether to charge for all or any aspect of their functions under the Regulations.
- 1.8. Site owners applying for a fit and proper test after 30 September 2021 will be required to submit a completed application form and pay the fees, outlined in this Policy, to the Council.

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<sup>1</sup> "Relevant protected site", as defined in section 5A(5) of the Caravan Sites and Control of Development Act 1960, is land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is—  
(a) expressed to be granted for holiday use only, or  
(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).

## **2. FEES FOR FIT AND PROPER PERSON REGISTER APPLICATIONS**

### **Initial application fee**

- 2.1. The Council will charge a fixed application fee.
- 2.2. The Council has taken into account the following matters on which costs are incurred, or likely to be incurred in determining applications for entry on the 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.
- 2.3. Charges are 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.
- 2.4. The Council has calculated that a fit and proper person assessment and/or checks to be included on the fit and proper register will take a total of 370 minutes per application (6:10 hours per application). This time includes updating and publishing the register. The average hourly rate for undertaking a fit and proper person assessment and/or checks to be included on the fit and proper person register has been calculated at £42 per hour.
- 2.5. Appendix 1 outlines the above and provides transparent justification for the fee to be imposed upon receipt of the initial application.
- 2.6. The fee is set at £255 for the fit and proper person application in 2021 to 2022 financial year. The charge will commence on 1 October 2021.

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

- 2.7. The Council is 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 Council to decide on whether or not to accept the application. The time taken for these checks is also accounted for in the fee, irrespective whether or not the entry on the register is granted.

- 2.8. Where an applicant contacts the Council before making an application, to ascertain the likelihood of the success of that application, the Council will provide informal advice, for example, on the conditions surrounding an application, the information required to be submitted and general guidance on making the application.
- 2.9. Any preliminary advice the Council provides, prior to receiving an application, will be accounted for in the fee charge set and will not be charged separately.

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

- 2.10. The Council will not charge annual fees.

#### **Appointed Manager Fee**

- 2.11. Where the Council, with the site owner's consent, decide to appoint a person to manage a site, the Council will recover from the site owner costs they incurred or to be incurred, in making the appointment. The costs must however be reasonable. The costs that can be recovered will depend on the agreement made between the local authority and the site owner

### **3. REVISING FEES**

- 3.1. The Council will review these fees annually and any changes will be published in a revised Fit and Proper Person Test Fees Policy. The review will be approved by the Head of Housing. The review may include whether to commence the charging of annual fees alongside the review of the application fee. Any changes will be justifiable and reasonable, ensuring full transparency for the site owner.
- 3.2. The Council will not make a profit and will only pass on to the site owner the costs incurred in carrying out the fit and proper function. Equally, the Council will not make a loss in carrying out its fit and proper functions.
- 3.3. Each year the Council will assesses the previous costs to determine if they were accurate. Where there is a deficit of expenditure the excess monies will be reflected in the fees charged in the next year.

### **4. PAYMENT AND REFUND OF FEES**

- 4.1. The Council will not 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. It is an offence for a site owner to operate the site unless they or the person appointed are a fit and proper person to manage the site. The Council can prosecute under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 for this offence and on summary conviction for a breach of the fit and proper person requirement, the site owner/licence holder will be liable to a level 5 fine (unlimited).

- 4.2. If the Council decides not to approve an application, the applicant is not entitled to a refund of the fee paid.

## **5. DATA PROTECTION**

- 5.1. The Data Protection Act 2018 and the UK GDPR regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.
- 5.2. The Council needs to collect and use certain types of information about its service users in order to carry out its everyday business and to fulfil its objectives and its statutory functions.

The Council's:

- [Data Protection Policy](#) sets out how it will protect special category and criminal convictions personal data; and
- The [Park/Mobile Home Sites Fit and Proper Person Privacy Notice](#) explains that the Council collects personal information to administer these services.

## **6. EQUALITY AND DIVERSITY**

- 6.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.
- 6.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.
- 6.3. A Customer Access Review has been undertaken to assess the impact the policy will have on affected persons with protected characteristics. The review concluded there were no known circumstances of a negative equality impact.

## **7. REVIEW**

- 7.1. In addition to the annual review of fees, this Policy will be reviewed in the event of major legislative or operational change.

## APPENDIX 1 – FIT AND PROPER PERSON APPLICATION FEE CALCULATION

Action	Private Sector Housing Officer £43.50 per hour	Senior Private Sector Housing Officer £46 per hour	Admin Officer £26 per hour	Housing Solutions & Private Sector Housing Manager £52 per hour	Total Hours
Pre application advice (assume 30 minutes in each case)	00:30				00:30
Application received: Uniform case opened/updated, acknowledgement sent			00:15		00:15
Check application valid e.g. all compulsory questions completed and correct fee included. Return application form for completion of missing details, chase missing information including letters and telephone calls	00:30				00:30
Review application and documentation, make relevant enquiries including management and financial arrangements	02:00				02:00
Update Uniform record			00:10		00:10
Application file reviewed by Senior Officer		00:15			00:15
Grant of application (final notice) or serve preliminary notice	00:20				00:20
Establish any conditions applicable Assume average of 1 condition per application	00:30				00:30
Review conditions by Senior Officer		00:15			00:15
Discuss appeal Assumes 1 in 3 applications and total time of 30 minutes per application				00:10	00:10
Review appeal paperwork Assumes 1 in 3 applications appeal and a total of 60 minutes per appeal which is an average of 20 minutes per appeal		00:20			00:20
Produce appeal response and appropriate notice Assumes 1 in 3 applications and total time of 45 minutes	00:15				00:15
Issue final decision notice following appeal. Appeal reviewed and decision issued by the Housing Solutions & Private Sector Housing Manager Assumes 1 in 3 applications and total time of 30 minutes per application	00:10				00:10
Update Uniform record. Add details to public register			00:20		00:20
Update website		00:10			00:10
<b>Total Hours</b>	<b>04:15</b>	<b>01:00</b>	<b>00:45</b>	<b>00:10</b>	<b>06:10</b>
<b>Actual Total Cost</b>	<b>£184.88</b>	<b>£46.00</b>	<b>£19.50</b>	<b>£8.67</b>	<b>£259.05</b>
<b>TOTAL CHARGEABLE COST = £255<sup>2</sup></b>					
<b>Average hourly rate = £42<sup>3</sup></b>					

<sup>2</sup> Total cost has been rounded down to the nearest £5

<sup>3</sup> Average hourly rate has been rounded up to the nearest pound (£)