

Licensing Committee

Date of Meeting:	6 March 2023
Report Title:	The introduction of a new fee policy for Fit and Proper Person (Mobile Homes Act 2013).
Report of:	Jayne Traverse, Executive Director – Place
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The purpose of this report is to provide a background to new Fit and Proper Person requirements with respect to the management of residential mobile home sites and to propose a Fees Policy to seek to recover associated costs with the delivery of the assessment, decision-making and monitoring process.
- 1.2. This report seeks to support two Corporate Plan strategic aims and objectives.
- **Open**
Ensure there is transparency in all aspects of council decision making.
Look at opportunities to bring more income into the Borough.
 - **Fair**
Protect and support our communities and safeguard children, adults at risk and families from abuse, neglect and exploitation

2. Executive Summary

- 2.1 In accordance with the introduction of The Mobile Homes (Requirement for Manager of Site to be a Fit and Proper Person) (England) Regulations 2020 (F&PP Regulations) the Council is required to introduce a Fit and Proper

Persons test for the owners of residential mobile home sites, or the person appointed to manage the site.

- 2.2 The Council is permitted to charge a fee for this administrative test but in order to do so must develop and publish a fees policy which incorporates the costs involved in the assessment, determination, and monitoring process.
- 2.3 This report provides the background and purpose to the new Fit and Proper requirements and the relevant tests that must be applied as part of the decision-making process. Appendix 1 provides the proposed Fee Policy for this new area of work.

3. Recommendations

- 3.1. That Licensing Committee approve the new fee policy for the purpose of the Fit and Proper person assessment and determination process for implementation from 1 April 2023.
- 3.2. That Licensing Committee agree that in future years the fees for Fit and Proper Person will be included in the general Mobile Homes Fees and Charges Policy.

4. Reasons for Recommendations

- 4.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduce new responsibilities within the mobile homes licensing regime. To compensate for this additional work the Regulations permit the introduction of a charging scheme to cover the cost of implementation and monitoring of the scheme on a cost recovery basis.
- 4.2. That the approval of a Fees and Charges Policy with respect to Fit and Proper Persons will allow Regulatory Services to charge for its activities relating to this specific work in the same way that it does for general Mobile Home licensing and inspection work.
- 4.3. That going forward a single fees policy for all Mobile Home related activities will ensure clarity and transparency to those that are affected. This will be done by including Fit and Proper Person fees into the general Mobile Home Fees and Charges Policy which has been in existence for several years.

5. Other Options Considered

- 5.1. The Council can implement the requirements of the Regulations without the development of a charging policy however, this approach would be contrary to the Council's Charging and Trading Policy.
- 5.2. A published charging policy will allow for the recovery of reasonable costs associated with the assessment and determination process as well as providing clear cost related information to service users.

Option	Impact	Risk
Do nothing – Carry out F&PP function without a published fees policy.	The Council would not receive eligible income for the work required to administer the F&PP function.	Medium Risk – impacts to service budgets through reduced income.

6. Background

- 6.1.** The Mobile Homes Act 2013 introduced the provision for a Fit and Proper Person test as part of plans to tighten up the law on Park Homes following growing concerns around bullying, harassment and unnecessary and unreasonable charges levied on residents of the site. At the time no specific regulations were implemented and it was determined that these would follow when considered appropriate.
- 6.2.** The Mobile Homes (Requirements for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 came into force in September 2020 with relevant individuals being able to submit applications to the Council from 1 July 2021. Applications can be received from a site owner or their appointed site manager (relevant person) and must be accompanied by a criminal record certificate (DBS) dated no more than six months before the date of the application.
- 6.3.** On receipt of an application the Council needs to satisfy itself that the relevant person is a fit and proper person to manage the site. This assessment must have regard to matters laid down within the F&PP Regulations which include general matters and also specific information on the conduct of the relevant person and their ability to secure the proper management of the site.
- 6.4.** The conduct assessment includes, amongst others, matters relating to previous offences including fraud or dishonesty; contraventions of law relating to housing, caravan sites, mobile homes, planning or environmental health; contraventions under the Equality Act 2021; matters of insolvency and any disqualifications from acting as a company director.
- 6.5.** A local authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work, or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the residential mobile home site (or proposed mobile home site).
- 6.6.** Following the assessment of an application the Council will then decide whether to place the relevant person on the Fit and Proper Persons Register with or without conditions. Conditions can relate to any factors which are relevant to the person's competence to manage the site, the management

structure, funding arrangements for the site, an associated persons influence or any other relevant factor. Registration lasts for a period of 5 years.

- 6.7.** A relevant person has the right of appeal against a decision and/or any condition applied to that decision. The appeal will be dealt with by the First Tier Tribunal Property Chamber.
- 6.8.** Where a relevant person fails the fit and proper person test and they are unable to identify and appoint a suitable alternative manager the Council can appoint, with the consent of the site owner, a person to manage the site.
- 6.9.** The F&PP Regulations provide for a number of offences relating to the fit and proper person requirement where it is an offence for the site owner to:
- Cause or permit land to be operated as a residential park home site unless they or the person appointed to manage the site is a fit and proper person.
 - Provide false or misleading information or fail to provide information in the application.
 - Fail to comply with a requirement set as a condition to the decision to include a person on the register.
- 6.10.** Appendix 1 provides the proposed fees policy to support the implementation of the F&PP Regulations requirements. Charges are based on work that has already been undertaken in assessing and determining the initial applications received by the Council and have considered the refinement of processes as officers have become more confident with applications. In accordance with the Regulations and guidance issued by the Secretary of State fees are set on a cost recovery only basis.
- 6.11.** All fees must be published in a Fee Policy document and be transparent. Where, in accordance with guidance, exemptions or reductions in fees are determined as appropriate then these shall be clearly stated within the Policy.

7. Implications

7.1. Legal

- 7.1.1.** The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person (England) Regulations 2020 allows for the Council to introduce a fee to recover the cost of the assessment and determination of a fit and proper person application.
- 7.1.2.** In order to implement a charging scheme and recover costs the Council must develop and publish a charging strategy outlining the fees to be charged for this service. Appendix 1 provides the proposed Fee Policy for approval.
- 7.1.3.** The publication of a Fee Policy will help to mitigate any challenge around the charging for the administration of the Fit and Proper Person requirements.

7.2. Finance

7.2.1. With respect to residential caravan sites, local authorities are able to set a range of fees and charges on a “cost recovery” only basis, as set out in guidance issued by the Secretary of State to local authorities.

7.2.2. More recently specific legislation has introduced the test of Fit and Proper Person and the potential to charge for the administration of this process where a fees policy exists. This fee policy is included as Appendix 1.

7.2.3. The proposed new fees for this function have been calculated and are based on a cost accounting process that reflect the work involved in receiving, assessing and determining applications.

7.3. Policy

7.3.1. The Council’s Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. This policy will therefore ensure that there is transparency in our approach to the Fit and Proper Person requirements and our fee setting processes.

7.4. Equality

7.4.1. There are no equality implications arising from this report. Legislation is clear on the requirement to meet Fit and Proper person requirements and where exemptions exist they are included in the Policy document.

7.5. Human Resources

7.5.1. There are no human resource implications arising from this report. Work required by the F&PP Regulations will form an extension to established mobile home licensing work.

7.6. Risk Management

7.6.1. The Mobile Homes Act 2013 allows a Local Authority to set a local scheme of fees for the administration of the Fit and Proper Person requirements.

7.6.2. Where a Local Authority does choose to implement a charging regime this must be supported by a charging policy.

7.6.3. As with all locally set fees there is a risk of challenge by those to whom the fee relates. However, it is expected that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

7.7. Rural Communities

7.7.1. There are no implications for rural communities arising from this report.

7.8. Children and Young People/Cared for Children

7.8.1. There are no implications for children and young people/cared for children arising from this report.

7.9. Public Health

7.9.1. There are no implications for public health arising from this report.

7.10. Climate Change

7.11. There are no implications for climate change arising from this report. The activities described are purely administrative.

Access to Information	
Contact Officer:	Name: Paula Firth Job Title: Senior Enforcement Officer Email: paula.firth@cheshireeast.gov.uk
Appendices:	Appendix 1 Fees and Charges Policy – Fit and Proper Person
Background Papers:	Mobile homes: a guide for local authorities on the fit and proper person test - GOV.UK (www.gov.uk) Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK (www.gov.uk)