



Regulatory Services and Health

Mobile Homes
Fees and Charges Policy
Fit and Proper Person

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1. Executive Summary

The Mobile Homes Act 2013 (MHA 2013) introduced new requirements for residential caravan sites, which are referred to as Relevant Protected Sites in the legislation. The legislation also amended the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 1983. Reference to the Mobile Homes Act 2013 within this Policy therefore recognises the extant requirements of the 1960 and 1983 Acts.

These changes included the ability to be able to charge for a range of licensing functions on a cost recovery basis following the development and publication of a Fees and Charges Policy. Cheshire East has taken this approach for several years.

The Mobile Homes Act 2013 also committed to the development of a requirement for sites to be managed by a 'Fit and Proper Person'. This was subsequently enacted through the Mobile Homes Regulations 2020.

Like the requirements laid down in the MHA 2013, local authorities have a duty to implement the Fit and Proper Persons requirement but can only levy a fee for this process following the development and publication of a Fit and Proper Person Policy.

Therefore, the purpose of this document is to detail the Council's policy for charging a fee for the processing and determination of 'Fit and Proper Person' requirements in respect of the management of relevant residential mobile sites in its area.

In future years it is expected that the Fit and Proper Person Policy will be subsumed into a single fee policy covering all chargeable aspects of Mobile Home Licensing.

2. Introduction

The Mobile Homes Act 2013 introduced the ability for a Local Authority to charge for a range of functions under the mobile home licensing regime. These functions have recently been extended by the Mobile Home Regulations 2020 to include those processes necessary for the determination of Fit and Proper Person.

The Mobile Homes Regulations 2020 requires all park home (permanent residential) sites which operate on a commercial basis to be managed by a 'fit and proper person' and for the Council to keep a public register of those persons managing sites in their area. Sites which are in mixed use i.e., partly holiday with some permanent Mobile Homes Act protected residential pitches, fall within the definition of a relevant protected site, and are covered by Fit and Proper Person requirements.

Such sites cannot operate unless the Council is satisfied that the site owner or their appointed manager qualifies as a fit and proper person. They must therefore apply to the Council to be assessed as to whether they meet the relevant conditions to be deemed as 'fit and proper' and for their details to be added to a published register.

The Council can charge fees in respect of applications to be included in a register of fit and proper persons and can require additional payments by annual fee if an application is granted subject to a condition.

In setting its fees the Council has had regard to guidance issued by central government:

[Mobile homes: a guide for local authorities on the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

3. Establishing Fit and Proper Status

All applicants must demonstrate that they have suitable financial and management arrangements in place for the site and are required to provide information relating to their general conduct. This includes details relating to:

- Offences relating to fraud, dishonesty, violence, arson or drugs or listed in schedule 3 of the Sexual Offences Act 2003
- Contraventions of law in relation to; housing, caravan sites, mobile homes, public health, planning, environmental health or landlord and tenant law
- Contraventions of law in relation to the Equality Act 2010
- Contraventions of law in connection with the carrying out of any business
- Harassment of any person in connection with the carrying out of any business
- Insolvency within the last ten years
- Disqualification from acting as a company director within the last ten years
- Their right to work in the UK

The site owner/site manager may only apply to be added to the register if they hold or have applied for a site licence.

This provision also applies where the site owner or site manager is a registered company.

The Regulations permit the Council to determine a fee for processing an application to be added to the register.

4. Setting of Fees and Charges

In setting the fees and charges relating to the MHA13 functions, the Council has considered both national guidance and local policies. The aim being to ensure that the setting of the various fees is proportionate and transparent. In line with this, the MHA13 only allows Councils to set fees and charges to recover the actual costs incurred.

Fees have been calculated for the following aspects of the fit and proper person process.

- Initial Application Fee
- Annual Fee
- Five Year Reapplication Fee

The service has already accepted and determined Fit and Proper Person applications and has used this experience to determine the level of fee to be set from 1 April 2023.

It is acknowledged that the work involved in dealing with different applications will not be equal. Therefore, in all cases fees are based on what would be considered an average application rather than a best case or worst case. As experience of the process develops, for all parties involved, then this will have the potential to be reflected in subsequent fee calculations.

4.1 Initial Application Fee

To calculate the costs incurred in processing an initial application the Council has taken the following matters into account when determining its fee policy:

- Initial enquiries
- Sending out forms to applicants
- Letter writing/telephone calls etc to make appointments, request documentation or any other information from the site owner or from any third party in connection with the fit and proper process
- Updating files, computer systems and websites
- Land registry searches
- Processing the application fee
- Time spent reviewing necessary documents and certificates
- Preparing preliminary and final decision notices
- Review of representations made by applicants or responses from third parties
- Consultation with service manager and/or Legal services
- Carrying out risk assessments where this is considered necessary
- Reviews of decisions (and defence of appeals)
- Updating the public register

The Council must also carry out relevant background checks regarding the applicant's background in management and their financial standing which will enable it to decide on whether to accept the application. The time taken for these checks is also accounted for in the calculation of the fee.

Having assessed the work involved the Council believes that the fit and proper person assessment and associated checks required to be included on the register will take approximately 9 hours per application. This time also includes updating and publishing the register itself and is split between several officers including management oversight.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £358.00.

4.2 Annual Fee

Where the Council agrees to the inclusion of a person on the fit and proper person register subject to condition, those conditions may include the requirement for additional payment by way of an annual fee.

To calculate the costs incurred in establishing an annual fee, the Council has taken the following matters into account:

- Letter writing/telephone calls etc to make appointments, request documentation or any other information from the site owner or from any third party in connection with the fit and proper process
- Handling enquiries and complaints
- Updating files, computer systems and websites if appropriate
- Time spent reviewing necessary documents and certificates
- Review any representations from an applicant or third parties, including reviews carried out by managers and/or legal services
- Carrying out risk assessments where this is considered necessary
- Time spent on consulting the site owner and third parties
- Time spent on meetings/discussions and in giving informal advice and assistance to site owners
- Monitoring and enforcement of fit and proper person requirements.
- Travel costs

The annual fee will be set as a condition of entry of being added to the register. The condition will state the amount and date by which the annual payment is due. Failure to make such a payment will be breach of the condition and may lead to legal proceedings being issued.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £113.00.

4.3 Five Yearly Reapplication

Site owners or their appointed manager must renew their entry on to the register of Fit and Proper Person every five years and where there has been no change to the named individual within that period.

This process will mirror that of the original application, however it is accepted that processing time will be shortened due to previous experience and so officer costs will be reduced.

A detailed breakdown of activities, time scales and officer costs has identified that this work amounts to a total cost of £183.00.

5. Other relevant matters

5.1 Fee Exemptions

A site is exempted from a fee if it is occupied only by members of the same family and is not being run as a commercial residential site.

There is specific guidance available to the Council to determine the applicability of this exemption which will be considered as part of the formal decision-making process.

5.2 Payment of Fees

The Council is not required to consider an application for entry on to the fit and proper person register unless the application is accompanied by the correct fee. If the correct fee is not included, the application will not be valid,

5.3 Refunds

If the Council decides not to approve an application the applicant is not entitled to a refund of the fees paid.

6. Review

The Fit and Proper Person Fees Policy will be published on the Cheshire East Council website.

The fees detailed in this policy have been determined based on recent experience of receiving and processing initial applications under Fit and Proper Person requirements.

This policy will be revised no later than 31 March 2024 in accordance with the Council's fee setting process to ensure that fees remain accurate and reflective of the costs to administer the fit and proper person requirements.