

Mobile Home Sites

Fit and Proper Person Assessment

Fee Policy

September 2021

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1. Introduction

- 1.1 This policy sets out the approach taken in the setting of fees for the processing of applications for the Fit and Proper Person Assessment, for the owners and managers of residential mobile home sites.
- 1.2 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the regulations) introduce a fit and proper person assessment for mobile home site owners or the person appointed to manage the site. The purpose of the fit and proper person test is to improve the standards of mobile home site management.
- 1.3 By 1st October 2021, all site owners must have applied to the Council to be assessed as fit and proper persons and to be included on the register.
- 1.4 Fees may be charged for assessing applications to enable local authorities to recover the costs of this activity. Furthermore, local authorities may cover the cost of monitoring the scheme or conditions attached to entries in the register by the levy of an annual fee.
- 1.5 Burnley Council, is the local authority for the purposes of the Regulations and has agreed to charge a fee for the Fit and Proper Person Assessment. An annual monitoring fee will not be charged.
- 1.5 Before a local authority can charge a fee, it must prepare and publish a fees policy. When fixing a fee, the local authority:
- Must act in accordance with its fees policy
 - May fix different fees in different cases
 - May determine that no fee is required in some cases
- 1.6 Any charges relating to the Fit and Proper Person function will be limited to recovering the costs of exercising that function. Both the level of fees and how they are charged are, subject to legal restrictions, at the discretion of the local authority.
- 1.7 There are exemptions from the requirement for the owner of a site to apply for a FPPA:
- A site that is only occupied by members of the same family
 - A site that is not being run as a commercial residential site
 - A site occupied by and managed by the council

2. Fee Structure

2.1 In setting its fees policy and the fees to be charged, the Council has had regard to the Regulations, and the relevant guidance, the 'Fit and Proper Person Test Guide for Local Authorities on Setting Fees' issued by the Department for Communities and Local Government 2021.

2.2 In determining those fees, the Council has considered all administrative costs incurred in the FPPA process, including consultations, meetings, scrutiny of the information provided on application for the assessment and providing informal, pre-application advice.

2.3 The regulations permit the Council to charge two types of fee to cover its costs:

- Fit and Proper Person application fee - to cover the cost of assessing applications to be included on the fit and proper register.
- Fit and Proper Person annual fee - to cover the cost of monitoring the scheme or conditions attached to the register. Payment of the annual fee may also be required as a condition of inclusion in the register.

| Fee Type | Cost |
|---------------------------------------|-------------|
| Fit and Proper Person application fee | £290 |
| Fit and Proper Person annual fee | £0 |

2.4 The reason the Council have not set an annual monitoring fee is that the Council already charge an annual site licence fee which includes an inspection of the site and dealing with any complaints raised by residents.

3. Costs that can be included in application fees

3.1 The Council has taken into account the following matters on which costs are incurred (or likely to be incurred) when determining its fee policy for consideration of applications for entry on a fit and proper register:

- Initial enquiries;
- 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;
- sending out forms;

- updating files/ computer systems and websites;
- processing the application fee;
- land registry searches;
- time for reviewing necessary documents and certificates;
- preparing preliminary and final decision notices;
- review by manager or lawyers;
- review any representations made by applicants or responses from third parties;
- updating the public register;

3.2 In addition, the Council will need to make such inquiries as are necessary in connection with the application, such as those relating to the applicant's management and financial standing.

3.3 All time taken in establishing the information required to make an informed decision is included in the application fee, whether or not the entry on the register is granted.

3.4 Where an applicant contacts the Council before making an application to ascertain the likelihood of the success of that application, the authority will give informal advice, including on likely conditions that may be attached to an entry, so the applicant can make an informed judgement on how to proceed with the application.

4. Payment and Processing

4.1 The Council requires payment of fees for applications for a FPPA and subsequent inclusion on the Fit and Proper Person register. The Council will not start processing any applications until such time as the correct fee is received. Application fees will be invoiced, the invoice contains a range of options for payment.

4.2 The application will be processed within 6 weeks of the Council receiving the full application and all supplementary documentation and the fee. Fees are not refundable if the application is not granted.

5. Matters to be Considered in the Fit and Proper Person Assessment

5.1 When considering whether a person is 'fit and proper' the Council must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These include;

Whether the relevant person is able to secure the proper management of the site. This includes, but is not limited to;

- a) compliance with the site licence;
- b) the long term maintenance of the site;
- c) whether the relevant person has sufficient level of competence to manage the site;
- d) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- e) committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- f) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- g) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- h) has harassed any person in, or in connection with, the carrying on of any business;
- i) is, or has been within the past 10 years, personally insolvent;
- j) is, or has been within the last 10 years, disqualified from acting as a company director;
- k) whether the relevant person has the right to work within the United Kingdom;
- l) whether any other local authority has rejected an application for the responsible person to be included in a register;

5.3 The Council 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 site.

6. Application

Once an application has been received the local authority may:

- a) grant the application unconditionally;
- b) grant the application subject to conditions;
- c) reject the application.

7. Decision

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the Council must make a decision on the application and either;

- a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or;
- b) otherwise serve a preliminary decision notice on the applicant.

8. Appeals

8.1 Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority.

8.2 Once written representations have been received the Council may then make a final decision which may include approving an application subject to specific conditions.

8.3 The Council may seek to remove a relevant person from the register or to impose further conditions a notice of proposed action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.

The Council may withdraw or amend:

- a) a preliminary decision notice before service of the final decision notice;
- b) a final decision notice before the decision to which it relates takes effect or;
- c) a notice of proposed action before the proposed action is taken

8.4 A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- a) any decision to include the relevant person on the register for an effective period of less than 5 years;
- b) any decision to include the relevant person on the register subject to conditions and;
- c) any decision to reject the application.

8.5 A person on whom a notice of action is served may appeal to the FTT against:

- a) any decision to remove the relevant person from the register;
- b) any decision to impose a condition on the inclusion of the relevant person in the register and;
- c) any decision to vary a condition.

8.6 No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

9. Register

9.1 The Regulations require the Council to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.

9.2 The Council must also publish the register online and the contents of the register will be in accordance with the Regulations.

9.3 A person's inclusion in the register has effect for a maximum period of 5 years.

10. Appointment of a Person to Manage the Site

10.1 Where a site owner, or their manager fails a FPPA and they are unable to identify, and appoint a suitable alternative manager, who must also undergo the fit and proper assessment, the local authority could appoint a person to manage the site, with the consent of the site owner.

10.2 If the Council is required to appoint a person to manage the site, the reasonable costs of this action can also be recovered from the site. If this were to be required, the Council would seek full cost recovery of all officer time and any other resources required to undertake this action.

11. Review of the Fee Policy

11.1 The policy for Fit and Proper Person Fees will be reviewed annually from implementation. The review will assess and incorporate any changes that need to be made. This will include a full review of the fee levels and any adjustments will consider variations in officer and administration time to those used in calculating the fees set out in this policy document, along with any changes to other costs incurred in providing the FPPA function.

11.2 The fees policy will be published on the Council's website, <http://www.burnley.gov.uk> and if the Council revises the fee policy, it will replace the published policy with the revised policy.