

Licensing Committee

Ward(s) affected: All

Report of Director of Service Delivery

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Caravan Site Licensing: Fit & Proper Regulations

Executive Summary

The report advises the Licensing Committee of new legislation that requires relevant and responsible persons of relevant protected caravan sites (caravan sites that require a licence to operate lawfully) to be fit and proper. The Mobile Homes Requirement for Manager of Site to be Fit and Proper Person (England) Regulations 2020 ("The Regulations") requires those managing or in control of relevant protected sites to make application for inclusion on the Fit and Proper (F&P) Register. The Regulations also require the Council to assess Fit and Proper applications, Publish/maintain a public register and to publish a fees policy (found in the Caravan licensing Fees Policy in Appendix 1) that justifies the costs charged for Fit and Proper applications. Within Schedule 1, the F&P fee calculation can be observed along with a variation to the annual caravan site licensing fees.

Recommendation to Executive

That the Executive:

Are recommended to approve a proposed charging structure for Fit and Proper applications.

The committee are recommended to approve the following;

- Caravan Licensing Fees Policy (Appendix 1)
- Amended Annual Caravan Site Licensing Fee (Schedule 1; Table 1)
- Fit & Proper Application Fee for Inclusion on the Register (Schedule 1; Table 2)
- Annual Fit & Proper Fee (Schedule 1; Table 3)

Reason for Recommendation:

To enable the Council to approve the caravan site licensing policy so that fees are charged to managers of relevant protected sites in reflection of the legislation and the costs that will be incurred by the Council to undertake new statutory duties. In addition, to approve the amended caravan site licensing annual fee that enables this fee to be charged from financial year 2022 that is more reflective of the Councils corporate fee setting methodology.

1. Purpose of Report

1.1 The purpose of the report is to provide the committee with the information to approve the Fit & Proper charging structure, policy and fee - that will enable the Council to cover its costs whilst undertaking its duties to require managers of relevant protected caravan sites to be fit and proper. In addition, the report presents a variation to the generic caravan site licensing fee (seen in table 1; Schedule 1) that requires approval.

2. Strategic Priorities

2.1 The new Regulations that this report concerns impose another layer of regulation to relevant protected caravan sites (those that require a licence from the Council), that the site manager is assessed as being Fit and Proper. The Regulations exempt holiday parks and some residential sites (that are operated by 1x family only and not run for profit). The new Fit and Proper requirements may serve to increase site licence compliance/management and reduce poor site managers.

2.2 Enabling residents to have access to safe and suitable homes that are compliant with legislation supports the objectives of the current Housing Strategy. Protecting the most vulnerable people from noncompliant housing conditions that emanate from poor site management will inaugurate the community aims of the Councils Corporate Plan 2018-2023.

2.3 Residential caravan sites are often occupied by elderly residents who are captured into the vulnerable group for many of the most serious housing hazards to health and wellbeing. The Fit and Proper Regulations will further protect the residents of caravan sites from poor site managers and increase resident safety and wellbeing.

3. Background

3.1 Private sector housing regulation includes the licensing of relevant protected caravan sites, as defined by The Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 2013. The Council currently regulates over 50 of protected sites that require a site licence to operate lawfully. Such sites range in size and nature, from residential to recreational. Sites that do not require a licence and are exempt from the above legislation are also exempt from the Fit and Proper Person (England) Regulations 2020.

3.2 Sites that are exempted by the Fit and Proper Person (England) Regulations 2020 are those that are only occupied by members of the same family and are not being run as commercial residential sites.

3.3 Unless exempted from the Fit and Proper Person (England) Regulations 2020, relevant persons from both residential and mixed use (holiday and residential) parks are bound by the Regulations.

3.4 Relevant protected sites require a licence from the Council to operate and are subject to additional site licensing requirements. The site licence is permanent and

ultimately provides a mechanism to require conditions to be set/varied for site safety. These sites are inspected routinely for compliance with the site licence and this resource is captured by the annual site licence fee charged to relevant protected sites. The frequency of routine inspections is dependent on a sites size and the sites past history of compliance. Existing legal framework enables Compliance Notices and prosecutions to be enacted in response to noncompliance with a site licence.

- 3.4 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, introduce a fit and proper person test 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 park home site management.
- 3.5 The new Regulations impose a duty on relevant/responsible persons responsible for relevant protected caravan sites to be fit and proper and creates an offence where this is not the case. The Regulations also impose duties upon the Council to fulfil elements of the Regulations.
- 3.6 The implementation of the Regulations is split into two stages. The first stage requires the Council to prepare and publish its register of fit and proper applications by the 1st July 2021. The register has been compiled and was published on time.
- 3.7 The Regulations came into full commencement on 1st October 2021, when the second stage of the Regulations came into force. By this date, all relevant/responsible persons responsible for relevant protected caravan sites should have made application for inclusion of the Council's fit and proper register.
- 3.8 The site owner (or appointed site manager) must apply to the local authority to be included on a register of fit and proper persons. A site owner may only apply if they hold or have applied for a site licence for the site. The same requirements apply where the owner or the site manager is a non-natural person (such as a company).
- 3.9 The Council will consider the application in order to satisfy itself that the relevant person is a fit and proper person to manage the site. They will then make a decision whether to place the person on the register with or without conditions, or not to place them on the register. A site owner will have a right of appeal against a final decision or condition. Appeals will not be assessed by the same officer that processed the initial application.
- 3.9.1 Decisions to grant or refuse applications will be based on the information supplied within the application form in addition to the required supporting evidence documentation; such as funding arrangements, a Disclosure and Barring document (DBS) that does not contain recorded criminal offences listed in paragraph 3.9.2 (or any other relevant offences), satisfactory management arrangements, including proof of interest in the land (land registry or lease agreement).
- 3.9.2 Relevant criminal offences in considering a DBS certificate include but are not limited to;

- a) Whether the applicant has 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);
- b) Whether the named person 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;
- c) Whether the named person has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- d) Whether the named person has harassed any person in, or in connection with, the carrying on of any business;
- e) Whether the named person is, or has been within the past 10 years, personally insolvent;
- f) Whether the named person is, or has been within the past 10 years, disqualified from acting as a company director; and
- g) Whether the named person has the right to work in the United Kingdom.

3.9.3 Where a site owner or their manager fails a test and they are also 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.

Scope

- 4.1 The legislation will apply to all existing site owners and any person who has applied to the local authority for a new licence or for the transfer of an existing licence.
- 4.2 The test will apply to all relevant protected sites (those where a site licence is legally required) unless exempted by the Regulations.
- 4.3 Sites that are exempted by the Regulations are those that are only occupied by members of the same family and are not being run as commercial residential sites.
- 4.4 In determining whether a site is a “non-commercial family-occupied site”, the Council will take the considerations prescribed in the government guidance into account before making a decision.

Framework

F&P Application

- 5.1 Applications will only be accepted once they are deemed full and valid. Full and valid applications are those where all relevant information and required

supplementary documentation have been supplied, inclusive of all signatures having been obtained and/or completed – applications must be legible.

Documents Required to be Supplied Along with Application

5.2 Relevant supplementary documents that are required to be included with application are compulsory. Applications will not be deemed “full and Valid” until all compulsory documents are received. The documents to be included with application are:

- i. DBS (also known as Criminal Records Certificate) for each individual in relation to whom the applicant is required to provide information. The certificate must have been issued no more than six months before the date of the application. It is for the site owner to ensure that any certificate they provide with an application meets this requirement.
- ii. Freeholders are required to supply the current land registry search document
- iii. Leaseholders are required to supply the current lease agreement.
- iv. Satisfactory management plan that details the management arrangements and personnel.
- v. Satisfactory funding arrangements that detail the funding amounts, frequency and personnel.

Inclusion on Fit and Proper Register

6.1 Fit and Proper (hereafter F&P) application is made for inclusion on the F&P register that is maintained by the Council. The register will be published on the Council's website as downloadable content, in the same manner the current HMO register is published. However, the Government response to consultation details the Council will also have to keep a hard copy of the register in the Council offices, so that those without internet access do not suffer a disadvantage.

6.2 The Register will contain only the information that the legislation prescribes must be included on the register.

F&P Conditions and Refused Applications

7.1 F&P applications can be refused, granted unconditionally or granted subject to conditions, such as requiring a current manager to undertake a management course. Making a F&P application assessment includes both considering an application for inclusion on the F&P register and also deciding whether it is appropriate to apply conditions to the F&P applicant(s) of the site. Applying conditions to any site will be made in consideration of the application, supplementary documents and the sites history of compliance with the F&P Regulations and its site licence. F&P conditions imposed on relevant applications may also be varied, where circumstances change. All legislation and statutory guidance will be followed when imposing site conditions.

7.2 The Fit and Proper test is aimed at ensuring that the person managing the site is competent to do so. Conditions set against any application shall relate to the person's ability to secure the proper management of the site. The factors that will be considered are;

- i. The relevant person's competence to manage the site.
- ii. The management structure or funding arrangements for the site.
- iii. An associated person's influence.
- iv. Any other relevant factors.

7.3 The Council will assess whether to grant with/without conditions or refuse each application based on the above points by examining the information in the F&P application form and documentation that must accompany the F&P application. These documents are listed in paragraph 5.2.

7.4 The Council may alter the conditions attached to an entry on the F&P register by adding new conditions or changing or deleting existing ones. This will only be undertaken following a review of the specific case at hand and any material changes to the original application. Where conditions are to be altered the Council 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 a site owner wishes to challenge a decision to alter or not alter any conditions, they will have a right of appeal to the Tribunal.

F&P Assessments & Decisions

8.1 F&P assessments will be considered in consultation with government guidance and on a case-by-case basis in consideration of the information in the application & supplementary documents, site/management past history, previous compliance and any other relevant matters. Delegated officers will undertake the assessment of applications and issue decisions.

8.2 F&P assessment decisions will be made in consideration of the following points prescribed in the Regulations:

- Named applicants ability to secure the proper management of the site;
Specifically:
 - i. Compliance with the site licence,
 - ii. The long-term maintenance of the site,
 - iii. Whether the relevant person has a sufficient level of competence to manage the site,
 - iv. The management structure and funding arrangements for the site or proposed management structure and funding arrangements – (as supplied in the supplementary documents along with F&P application)

- Responsible and Relevant Persons shall not have committed any of the prescribed crimes or offences in the Regulations nor have had an application under these Regulations rejected by any other local authority. The Guidance specific to these Regulations identifies that the burden is upon the applicant(s) to specify that they have not had a F&P application rejected by another local authority.
- Having regard to the conduct of any person associated or formerly associated with the responsible and/or relevant person(s).
- Having regard to any evidence as to any other relevant matters.

8.3 Decisions to grant or refuse a F&P application will be made on a case-by-case basis, in light of the information and supporting documentation supplied with application. Conditions will not be applied to F&P applications where there are serious and significant concerns over the information supplied – such applications will be refused and investigated.

8.4 The Council is required to have considered the F&P application as soon as reasonably practicable once a full and valid F&P application has been received. The Council must serve both an Initial Decision Notice and then after a 28 day consultation period, serve a Final Decision Notice to formalise its decision upon processing the application. The initial decision notice and the final decision notice may either grant (unconditionally or subject to conditions) or refuse the application.

8.5 Between the service of an Initial Decision Notice an applicant has the right to representation within 28 days of the Council serving such an Interim Decision Notice. An applicant may appeal the Council's final decision to refuse an application or grant an application subject to conditions or reduced terms. The Council must consider any representations received before issuing a Final Decision Notice.

Rejected Applications

9.1 Where a local authority has rejected an application, the local authority must include the following information in the register:

- i. The name and address of the site to which the application relates.
- i. That an application in respect of the site has been rejected.
- ii. The date on which the application was rejected.

9.2 Information about a rejected application will remain in the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

9.3 For privacy reasons, the name of the rejected applicant will not be included on the register. Local authorities will however be able to consider requests for further information about the entry on the register, for example the details of the specific conditions attached and any additional information, on a case-by-case basis and in accordance with data protection legislation.

Revocation of Site Licence

10.1 In certain circumstances the Council can apply to a court or tribunal for an order to revoke a site licence. These are;

- i. If a site owner (or an appointed manager) is convicted twice or more for operating a site without having been assessed by the Council as a fit and proper person. The Council may apply to the magistrates court for an order to revoke the site licence.
- ii. If a site owner (or an appointed manager) is convicted for operating a site without having been assessed by the local authority as a fit and proper person, the Council may apply to the First-tier Tribunal for an order to revoke a licence.

10.3 The Council is enabled to apply to the Tribunal for an order to revoke a site licence without any requirement of a prior conviction. This provision is reserved for the most extreme of cases. Where there is an urgent need to protect the safety and security of residents, the Council may revoke a site licence without any requirement of a prior conviction.

10.4 The Council is expected to use other powers first where appropriate and in line with the Regulatory Service enforcement policy. The power to revoke a licence without any prior convictions shall be used as a last resort where there is imminent risk to residents and/or the public.

Appeals

11.1 A person on whom a final decision notice is served may appeal to the First-tier Tribunal against the following;

- i. Any decision to include the relevant person on the register for an effective period of less than 5 years,
- ii. Any decision to include the relevant person on the register subject to conditions,
- iii. Any decision to reject the application

Notices of Action

11.2 The local authority must serve a notice of proposed action on the occupier if it intends to withdraw or amend a preliminary or final decision notice.

Enforcement

12.1 The Council will ensure that all specific Guidance and the current specifics prescribed in the legislation are followed. Any enforcement decisions will be

consulted with the Council's legal department before significant enforcement action or decisions based upon significant appeals/representations are made/taken.

12.2 Any enforcement will be aligned with the Council's enforcement policy.

Fees

Annual Site Licensing Fee

13.1 The annual site licensing fee (seen in Schedule 1) has been amended and recalculated to be in line with the corporate fee setting methodology that is based on officer time spent regulating licensed caravan sites. The caravan licensing annual fee is separate to the Fit and Proper annual fee. The caravan licensing annual fee recovers the costs of routine caravan site inspections and running the service by including all relevant aspects of the caravan licensing procedure – such as travel, inspection and document issuing. The relevant factors can be seen in Table 1; Schedule 1.

Fit and Proper Fees

14.1 F&P applications must be accompanied by a fee set by the local authority as appropriate. The fee levied will cover the council's costs for this area of work. The fee will not run at a profit and serves to cover the costs of running the service.

14.2 There are two fees that the Council may charge in relation to the F&P Regulations.

- i. Application fee - (Inclusive of inclusion on the F&P register)
- ii. Annual fee – (Inclusive of additional costs incurred from implementing the F&P Regulations)

Annual Fee

15.1 The Annual fee will not be charged. The option to introduce an annual fee is optional and a method to further cover costs to the Council from undertaking its duties under the F&P Regulations. Introducing annual fees will only be considered if the Council spends significant additional time (not captured by the application fee) regulating F&P legislation. Annual fees will not even be considered until 12-months after the Regulations come into full effect. After 12-months there may be evidence that caravan park sites are broadly non-compliant with the F&P Regulations - in full review of any F&P enforcement.

15.2 The conditions which may be imposed upon any F&P application may include conditions requiring additional payments to be made to the local authority by way of annual fee to cover costs incurred monitoring compliance with any specific conditions.

15.3 The government guidance details that annual fees are to be calculated in consideration of two possible methods that the Council may choose to adopt:

- i. Based on the number of conditions applied to F&P applications that relate to specific sites. In other words, sites that require more Council resources, will require a higher annual fee.

This method will be adopted (if appropriate after 12-month review) specific to individual sites that have conditions imposed upon their F&P applications.

Or

- ii. Based on the average time the Council has spent on F&P compliance and monitoring on a site.

This method will not be considered due to the difficulty and inaccuracy of evaluating officer time spent enforcing a specific activity at caravan sites. It will not be practicable to split time spent enforcing F&P, when site visits may be undertaken by a range of officers on a range of salary grades – undertaking a range of routine/enforcement activities.

15.4 The decision to levy an annual fee will only apply to sites where conditions are applied to a site F&P application. The burden of additional annual site fees will act as a deterrent to poor site management and reward sites where adequate management arrangements are already in place.

15.5 The Council will not charge an annual fee to any sites until full review that will take place after the Regulations have been in force for a minimum of 12 months. The annual fee is only to be charged based on additional Council time spent delivering the F&P service. After 12-months the Council will be aware of sites that have conditions attached to their F&P application and will therefore be able to charge for this additional resource in 2022-2023. The Council will consider if an annual fee is proportionate to the nature and number of conditions applied on a case-by-case basis.

15.6 The Council will not charge annual fees, if after 12-months, all sites have no conditions applied to applications for inclusion on the register and are also complying with the Regulations.

15.7 Where conditions are applied to a F&P application, these conditions must be monitored for compliance by the Council. Private Sector Housing Compliance Officers will be required to check compliance. Where sites have accrued conditions, these sites will require more monitoring than sites that do not have conditions applied to their F&P applications. This additional cost to the Council will be reflected by way of an annual fee – where appropriate.

15.8 In setting the level of annual fee, the Council may take into account the following matters on which costs are incurred;

- i. 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;

- ii. Handling enquiries and complaints;
- iii. Updating files/ computer systems and website if appropriate;
- iv. Processing the annual fee;
- v. Time for reviewing necessary documents and certificates;
- vi. Preparing reports on breaches of conditions attached to an entry;
- vii. Review any representations from an applicant or third parties, including reviews carried out by manager or lawyers
- viii. Carrying out risk assessment where considered necessary
- ix. Time spent on consulting the site owner and third parties
- x. Time spent on meetings/discussions and in giving informal advice and assistance to site owners
- xi. Officer time can be considered as it may be necessary to visit a site to ascertain whether or not the condition(s) has been met

Fit and Proper Application Fee

16.1 The Council has determined its fee policy and levy (seen in Table 2; Schedule 1) in consideration of the following areas prescribed in the government guidance, in relation to applications for entry on a fit and proper register.

- i. Initial enquiries; Publicity/Advertising of new FPP requirements
- ii. 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;
- iii. Sending out forms;
- iv. Updating files/ computer systems and websites;
- v. Processing the application fee;
- vi. Land registry searches;
- vii. Time for reviewing necessary documents and certificates;
- viii. Preparing preliminary and final decision notices;
- ix. Review by manager or lawyers; review any representations made by applicants or responses from third parties;
- x. Updating the public register;
- xi. Carrying out any risk assessment process considered necessary;
- xii.** Reviews of decisions or in defending appeals.

Pre-Application Advice

17.1 The fee applied to F&P applications may also include a charge for pre-application advice. The F&P application fee will be considered for review after 12-months, if a significant proportion of sites are requesting detailed pre-application advice.

Frequency of the Fees

- 18.1 The Council will require renewal F&P application and charge Fit & Proper application fees every 5 years - the minimum frequency enabled by the Regulations.
- 18.2 The Council will review if any annual fee(s) are to be implemented to specific sites after 12-months of the Regulations coming into force in October 2022.

Fee Review

- 19.1 The F&P Application fee and the option to levy Annual fees will be reviewed after 12-months of the legislation coming into force.
- 19.2 The fee review will include a review of the following;
- i. A review of the accuracy of charges levied - The actual time and resources spent assessing F&P applications.
 - ii. Any surplus or deficit charges of fees. The guidance requires discrepancies from previous years to be levelled with site owners upon renewal of F&P – where they have been over or under charged.
 - iii. Review of additional costs incurred delivering the service, whether these have been significant and/or whether an annual fee is required for specific sites.

F&P Application Fee Calculation

- 20.1 The Council will follow its corporate fee setting policy/methodology and have full regard to the prescribed legislation/guidance. The fee has been calculated by estimating the probabilistic time spent processing applications by the number of named persons in each F&P application related to a site. Each named person requires several documents to be assessed against the application form itself. It is envisioned that this method will be the most accurate to estimate and in addition the fairest method to site owners alike. Increasing named relevant persons in each application is akin to increased time spent assessing such applications. This should result in a higher fee that is reflective of sites with multiple named persons in a F&P application. The fee is calculated per relevant person for inclusion on the register and as such sites with multiple named persons for inclusion on the register will be calculated by multiplying the fee amount for each applicant by the number of applicants. When the F&P fee is reviewed, time recording data will be analysed to ensure the actual time spent processing applications is equal to the probabilistic estimations of likely time spent assessing F&P applications in relation to the elements in paragraph 16.1.
- 20.2 To assess the F&P application fee the legislation requires the Council to have considered to the following areas:
- The Council may fix different fees for different cases or descriptions of case. The time taken to assess F&P applications may vary in consideration of the type and number of responsible and/or relevant

person(s) who are making an application. Applications made in the name of multiple persons will take longer to process due to the additional checks required – such as multiple Directors, managers, personnel and stakeholders.

- The Council may calculate F&P fees to account for specific activities listed in the guidance and in paragraph 16.1.
- The Council must act in accordance with its published fees policy. The fees have been constructed in line with the Councils published fees policy.
- The Council may determine that no fee is required to be paid in certain cases or descriptions of case. No fee will be applied only to exempt relevant sites – such as those controlled by non-commercial family-occupied sites.
- The Regulations require the Local Authority to establish, publish and keep up to date a register of persons they are satisfied are fit and proper persons to manage protected sites in their area, ensuring a fee is charged to applications for inclusion on the register. The fit and proper application fee will be reflective of this requirement.
- Where the local authority have, with an occupier's consent, appointed a person to manage a site, the local authority may recover from the occupier the reasonable costs incurred or to be incurred in making the appointment. It is envisioned this will be a last resort for the Council after informal and formal enforcement has been made.

20.3 The fees will be reviewed annually to ensure they reflect any changes.

F&P Policy

21.1 The new Regulations require a policy to be published regarding F&P applications that is approved by the Licensing Committee and Executive. This has been inaugurated into the updated caravan site licensing fee policy seen in Appendix 1.

21.2 The new Regulations require the F&P fee to be approved by the Licensing Committee and Executive. The fees for assessing F&P applications are attached to this report in Schedule 1.

21.3 The legislation provides a mechanism for the Council to review its fees and, where they do so, must publish the revised policy.

Consultations

22.1 The Government consulted local authorities regarding the imposition of The Mobile Homes Requirement for Manager of Site to be Fit and Proper Person) (England)

Regulations 2020 proposed charges to caravan site licensing legislation. Guildford Borough Council along with 21 other Councils made constructive representation.

22.2 The requirements that these Regulations impose on the Council are statutory and therefore public and/or stakeholder consultation is not appropriate.

22.3 There is no requirement to consult with site owners or homeowners on setting fees but a local authority may consider doing so. The fee will be set in line with the Corporate fee setting methodology and only account for time spent delivering the service and processing each application. As such, consultation in relation to a fee level is not proportionate. For the Council to comply with its duties to fulfil the legislation, if the recovery of costs incurred were not charged in the form of a fee, the cost of the service would have to be subsidised by Council taxpayers.

Equality and Diversity Implications

23.1 There may be circumstances where Officers will be dealing with responsible persons/parties for whom English is not their first language or have a hearing or visual impairment. In such circumstances Officers will ensure that applications are translated and/or the legal requirements and consequences of non-compliance are fully understood. Where necessary appropriate translation services will be used to ensure the requirements are fully understood.

Financial Implications

24.1 Where a fee becomes overdue for payment, the council may apply to a residential property tribunal for an order requiring the licence holder to pay the council the amount due by the date specified in the order. If the licence holder has still not paid the fee within three months from the date specified in the order, the council may apply to the tribunal for an order revoking the site licence. Noncompliance with the F&P Regulations may also result in a level 5 fine (up to £5,000) being issued by the courts upon prosecution of a noncompliant site - after full investigation by the Council.

24.2 F&P applications will be assessed within the current resourcing within Regulatory Services (Private Sector Housing). The F&P applications will be received every 5 years and only at these points in time will resources be required to deliver the service. Upon renewal application (around 2026) Case Services Officers will be trained to receive the F&P applications in 2026 and the fee reviewed and adjusted to account for this; This will reduce the Regulatory Services resources required to assess each application, as Case Services Offices will undertake the initial receipt and checking of F&P applications.

24.2 The F&P applications with conditions (if any are entered onto the register with conditions attached) will require follow up and compliance checking. Regulatory Services will utilise the new Future Guildford model and train Compliance Officers to undertake this element of work, along with and supported by Private Sector Housing Officers. An annual fee may then be levied against such sites with conditions applied to their entries on the register which will recover the costs

of any enforcement visits and repercussions. The initial fee for inclusion on the F&P register cannot be inclusive of enforcement and cannot generate a profit to the Council.

Legal Implications

25.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 sets out the framework for site licence holders or persons appointed to manage relevant protected sites in England to provide the Council with a fit and proper person test application for inclusion on a public register.

The framework set out in the Regulations include;

- i. Powers for local authorities to charge fees in respect of “relevant protected sites” unless exempted, for considering applications to be included in a fit and proper register and for the administration and monitoring of the fit and proper person test.
- ii. Powers to appoint a person to manage a site with the site owner’s consent and recover costs they incur, or which will be incurred, in appointing a person to manage a site.
- iii. Powers to attach conditions to an entry on a register. The conditions may include those that require additional payments to be made to the local authority by way of annual fee.
- iv. That fees must be reasonable, that the authority must prepare and publish a fees policy before they can charge a fee and that an authority may revise their fees policy and, where they do so, they must publish the revised fee policy.
- v. When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee, the local authority;
 - i. Must act in accordance with their published fees policy;
 - ii. May fix different fees for different cases or descriptions of case;
 - iii. May determine that no fee is required to be paid in certain cases or descriptions of case.

25.2 A person guilty of an offence to which the new Regulations apply is liable on summary conviction to an unlimited fine (level 5), set by the courts by way of a local authority perusing a prosecution for noncompliance with the Regulations.

25.3 All legal enforcement action will be taken in accordance with the Council’s adopted regulatory enforcement policy and case consultation with the Council’s legal department.

Relevant Offences

- 26.1 An occupier of land may not cause or permit any part of the land to be used as a relevant protected site unless the relevant local authority;
- i. Are satisfied that the occupier is a fit and proper person to manage the site,
 - ii. Are satisfied that a person appointed by the occupier to manage the site is a fit and proper person to do so,
 - iii. Have, with the occupier's consent, appointed a person to manage the site.
 - iv. Are satisfied the land is not used as a non-commercial family-occupied site.
- 26.2 An applicant commits an offence if the applicant;
- i. Withholds information from a registration application,
 - ii. Includes false or misleading information in a registration application.
- 26.3 An occupier of land commits an offence if the occupier fails to comply with a condition imposed on the F&P registration application, removal or variation.

Human Resource Implications

- 27.1 There are human resource implications as a result of this legislation. As many as 50 applications will need to be processed by case services and/or Private Sector Housing Compliance Officers. All applications will need to be assessed on a case-by-case basis by Officers. Case services will need full training before this function can be transferred and will be aligned with the current Future Guildford transition procedure(s).
- 27.2 It is predicted that each application will vary in its complexity and in turn the length required to process and the assess it, due to the mixed nature of individual sites across the Borough.
- 27.3 The work captured by this new statutory function will be fed into the Service Plan for Environment and Regulatory Services to enable the 5-yearly influx of renewal applications to be appropriately prioritised and resourced.

Summary of Options

- 28.1 The Council has a statutory duty to enforce and comply with the provisions in The Mobile Homes Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020. The committee has two decisions;
1. To adopt or reject the F&P Policy – Specifically;
 - a) Adopt the F&P policy in Appendix 1.

- b) Reject the F&P policy in Appendix 1.
- c) Adopt the F&P policy in Appendix 1 - in an amended form.

And/Or...

2. To adopt or reject the F&P proposed fee; - Specifically;

- a) Adopt the F&P proposed fees in Schedule 1.
- b) Reject the F&P proposed fees in Schedule 1.
- c) Adopt the F&P fees in Schedule in – in an amended form.

Conclusion

29.1 The new legislation adds to the tools that exist to regulate relevant protected caravan sites, ensuring relevant/responsible persons are fit and proper to undertake site management - Ultimately helping improving standards and compliance. It is expected that the majority of site managers/owners/occupiers in the Borough will meet their obligations and responsibilities and make a full and valid F&P application and remain in compliance with any conditions it may impose. Where there is non-compliance, officers will continue to use a combination of informal and formal means to secure compliance in accordance with the Council's Regulatory Enforcement Policy.

Background Papers

[The Mobile Homes \(Requirement for Manager of Site to be Fit and Proper Person\) \(England\) Regulations 2020](#)

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

[Mobile homes: a fit and proper person test for park home sites: Summary of consultation responses and Government response](#)

[Corporate Regulatory Enforcement Policy](#)

Appendices

Appendix 1: Caravan Site Licensing Fee Policy 2021

Please ensure the following service areas have signed off your report. Please complete this box and do not delete

Service	Sign off date
<i>Finance / 151 Officer</i>	<i>12.10.2021</i>
<i>Legal / Governance</i>	<i>12.10.2021</i> <i>Delwyn jones</i> <i>11102021</i>
<i>HR</i>	<i>12.10.2021</i>
<i>Equalities</i>	<i>12.10.2021</i>
<i>Lead Councillor</i>	<i>13.10.2021</i>
<i>CMT</i>	<i>12.10.2021</i>
<i>Committee Services</i>	<i>12.10.2021</i>

APPENDIX 1

Caravan Site Licensing Fee Policy

Scope/Purpose

This policy sets out the fee structure for the processing of applications for the issue, variation/transfer of caravan site licences, annual fees for administration, monitoring of site licences and Fit and Proper Person assessments, together with the fee for holding a register of site rules.

Relevant Legislation

The provision for charging fees was introduced by the Mobile Homes Act (MHA) 2013. The parts of the Act amending the Caravan Sites and Control of Development Act 1960, which is the principal legislation covering the licensing and control of caravan sites, came into force on 1 April 2014. The Act came into effect on 26 May 2013 with respect to amendments to the Mobile Homes Act 1983, which regulates the agreements between site owners and occupiers. The Mobile Homes Requirement for Manager of Site to be Fit and Proper Person (England) Regulations 2020 has amended the MHA 2013 and places new duties on site owners and managers.

The Licence Fee Structure

The annual fee includes all administrative costs in ensuring that each site complies with the site licence conditions. It does not include any costs associated with enforcement action, as these must be recovered separately under a demand for recovery notice.

Exemptions

The licence fee requirement does not apply to the following sites:

- i. Sites for holiday use only
- ii. Sites where conditions require that there are times of the year when no caravan may be stationed on the land for human habitation
- iii. Sites that are occupied only by the site owner and his/her family or by a person employed by the site owner except where under an agreement to which the Mobile Homes Act 1983 applies.

Calculation of licence fees

In setting its fees policy and the fees to be charged, the council has had regard to the Councils corporate fee charging procedure and the Guide for Local Authorities on Setting Site Licensing Fees issued by the Department for Communities and Local Government (2014).

In determining those fees, the council has taken into account administrative costs incurred in the licensing process, officer visits to sites, travel costs, consultations, meetings, monitoring of sites/investigation of complaints and the giving of informal advice. The charges are set out in Schedule 1.

Payment

Once a fee policy has been published, the Council requires application fees to accompany any application in relation to a new site licence, Amending a site licence, Fit and proper persons tests, Fit and proper annual fees or for transferring a site licence. The council will not commence the application process until the fee is received.

Once a fee policy has been published, The Fit and Proper Regulations state that 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.

Refunds

Application fees are not refundable if the application is not approved, or if a decision is delayed. All application & Annual fees are not refundable unless in exceptional circumstances and are at the discretion of the Director of Service Delivery or Officers authorised to act on their behalf.

Fit & Proper fees will become due every 5-years starting on 1st October 2021.

Fit & Proper Annual fees, (where applicable) will become due on 1 October 2022. The request for payment will be accompanied by information detailing what matters the council took into account in fixing the annual fee and the extent to which it had regard to deficits and surpluses from the previous year.

Site licence Annual fees, (where applicable) will become due on 1st April. The request for payment will be accompanied by information detailing what matters the council took into account in fixing the annual fee and the extent to which it had regard to deficits and surpluses from the previous year.

Where a fee becomes overdue for payment, the council may apply to a residential property tribunal for an order requiring the licence holder to pay the council the amount due by the date specified in the order. If the licence holder has still not paid the fee within three months from the date specified in the order, the council may apply to the tribunal for an order revoking the site licence.

Review

The policy for fee calculation will be reviewed periodically to assess any changes that need to be made. However, the fee levels can be reviewed, each year to take into account the effect of inflation and any surpluses or deficits incurred on the predicted level of expenditure in the previous year.

In setting annual fees each year the council will inform the site owner of the extent to which they have had regard to any surpluses/deficits from the previous year and will confirm to the site owner the annual fee for the forthcoming year.

Other Charges

Fit and Proper (F&P) Persons Testing

All provisions in The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, as enabled by the MHA 2013, will come into force by 1st October 2021.

The Regulations will, unless an exemption applies, makes it an offence for a site owner to manage a relevant protected site if the Local Authority does not consider them to be a fit and proper person.

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”).

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.

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.

Site owners will be required to submit a completed application from 1 July until October 2021. Fees will become chargeable (which will also include any additional fees such as an annual site fee) once the fee(s) are approved.

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.

The Secretary of State has published guidance for Local Authorities in relation to the charging of Fit and Proper applications fees. Local Authorities must consider the following points in deciding the level and frequency of fee...

- i. Must act in accordance with their published fees policy;
- ii. May fix different fees for different cases or descriptions of case; and
- iii. May determine that no fee is required to be paid in certain cases or descriptions of case.

The Council will require application and charge Fit & Proper fees every 5 years (from enactment of the Regulations), the minimum frequency enabled by the Regulations.

The Council will apply different fees for different cases/descriptions of cases. A higher fee will be charged for F&P applications containing multiple named personnel, due to the increased checks that will be required – as seen in Schedule 1.

Fee Calculation

The local authority will take 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 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.

It is important that charges must be limited to recovering the costs of exercising the fit and proper person test function only.

Please see Table 2 found in Schedule 1 (also referring to the note) which outlines the above and provides transparent justification for the fee to be imposed upon receipt of the initial application. The purpose of this table is to demonstrate that the fees imposed are fair and transparent providing justification as to why a site is required to pay a specific fee.

The fee has been calculated by estimating the probabilistic time spent processing applications by the number of named persons in each F&P application related to a site. Each named person requires several documents to be assessed against the application form itself. It is envisioned that this method will be the most accurate to estimate and in addition the fairest method to site owners alike. Increasing named relevant persons in each application is akin to increased time spent assessing such applications. This should result in a higher fee for sites with multiple named persons in a F&P application. The fee is calculated per relevant person for inclusion on the register and as such sites with multiple named persons for inclusion on the register will be calculated by multiplying the fee amount for each applicant by the number of applicants.

After 12 months of the Regulations coming into full effect, the Council will review the application fees. This review will include a review of the available data relating to actual officer time spent assessing fit and proper applications.

Full and valid applications will be assessed as soon as is practicable. The Council will aim to issue a final decision within 3 months of a full and valid F&P application – although in some instances it may take longer.

Assessing F&P Applications

Applications must be deemed full and valid. A full and valid application consists of...

- i. The Guilford Borough Council application form fully completed (including all required signatures).
- ii. Provision of a DBS certificate dated within 6 months of application – for each named relevant person.
- iii. Proof of interest in the land; Lease agreement for leaseholders and a land registry search for landowners.
- iv. Provision of a satisfactory management plan that may consist of but is not limited to; Documented procedures (such as complaints procedures) and management reporting lines.
- v. Provision/evidence of satisfactory financial arrangements and funding sources.
- vi. Full & correct payment made at the same time as the application form is submitted.

Missing Information

Where missing information is identified in applications, applicants will be written to informing them that more information is required to class the application full and valid. If the satisfactory provision of missing information is not supplied within 28 days of the Council sending such a missing information letter/communications, the Council will refuse the application and inform the applicant(s) of this decision.

Register

The Regulations also require the Local Authority to establish, publish and keep up to date a register of persons they are satisfied are fit and proper persons to manage protected sites in their area, enabling a fee to be charged for applications for inclusion on the register. The fit and proper application fee will be inclusive of this.

F&P Decisions

Fit & Proper applications may be granted unconditionally or with conditions. Making a F&P application assessment includes both considering an application for inclusion on the F&P register and also deciding whether it is appropriate to apply conditions to the F&P applicant(s) of the site. Applying conditions to any site will be made in consideration of the legislation/guidance, the information within the F&P application, consultation with other local authorities, supplementary documents and the sites history of compliance with the F&P Regulations/site licence.

It is important to note that there is no prescribed standard or criteria that sites must meet to be accepted as fit and proper. Decisions will be made on a case-by-case basis in review of all documentation provided, the guidance and legislation.

Refused Applications

Applications will be refused where the F&P application is missing information, and the site owner does not supply the required documentation/information within 28 days of being notified.

Refusals are likely to be issued where the information provided identifies serious/significant and/or obvious challenges to effective management based on the evidence within the application form. Refusal decisions may be made on the basis of significant concerns regarding effective funding arrangements, management arrangements, personnel or anything else that is prescribed in the Regulations.

Appointed Manager Fee

This is where the local authority is provided with the site owner's consent to appoint an individual to manage a site. This may occur where an application or specific named personnel in the application have been refused. The costs associated with this should be reasonable and are recoverable from the site owner.

Additional Fees (Annual Fit & Proper Fee)

The Council will not consider charging an annual fee to relevant sites until after the Regulations have been in force for a minimum of 12 months. The annual fee is only to be charged based on additional Council time spent delivering the F&P service and will only be charged to sites with conditions attached to their F&P application. After 12-months of the Regulations coming into full effect, the Council will be aware of sites that have conditions attached to their F&P application and will therefore be able to charge for this additional resource in 2022-2023 – as seen in Schedule 1. The Council will consider if an annual fee is proportionate to the nature & number of conditions applied on a case-by-case basis.

The Fit & Proper Application fee and the option to levy Fit & Proper Annual fees will be reviewed after 12-months of the Fit & Proper legislation coming into force.

The annual fee must be set as a condition to any entry being added to the register. 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.

Revising Fit and Proper Fees

The local authority may revise its fees policy and will be required to publish the revised policy. The Council will review its Fit and Proper fees policy and fee periodically from the date the Regulations come into full effect.

The items that can be included in calculating the application fee and annual fee are set out in the published guidance and legislation.

The revision of fees in line with inflation will be undertaken annually and will not require republishing of the fit and proper person fee policy.

Fit and Proper Conditions

Applying conditions to any site will be made in consideration of the application, supplementary documents and the sites history of compliance with the F&P Regulations and its site licence. F&P conditions imposed on relevant applications may also be varied, where circumstances change.

The Fit and Proper test is aimed at ensuring that the person managing the site is competent to do so. Conditions set against any application shall relate to the person's ability to secure the proper management of the site. The factors that will be considered are;

- i. The relevant person's competence to manage the site.
- ii. The management structure or funding arrangements for the site.
- iii. An associated person's influence.
- iv. Any other relevant factors.

The Council will assess whether to grant with/without conditions or refuse each application on a case-by-case basis and based on the above points by examining the information in the F&P application form and documentation that must accompany the F&P application.

Amending conditions attached to an entry on a register

The Council 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 to alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).

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.

Enforcement

Local authorities are responsible for enforcing the Regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

The Council will follow its enforcement policy and consult the guidance/legislation and the internal legal department prior to enacting any formal enforcement proceedings. Enforcement proceedings will be taken on a case-by-case basis.

Enforcement Expenses

The Council will recover expenses incurred in carrying out enforcement action involved in the service of a compliance notice. These expenses include costs incurred in deciding

whether to serve a notice, site inspections, preparing the notice and obtaining expert advice.

Where appropriate, we will also seek to recover expenses incurred:

- In taking action following conviction of the site owner for failure to carry out actions required by a compliance notice; or
- In taking emergency action where there is an imminent risk of serious harm to any person on the site as a result of the site owner's failure to comply with licence conditions.

Interest may be charged on any sums to be recovered because of enforcement action. The Council will also be able to register any of the debts to be recovered for enforcement actions as a local land charge against the site.

Schedule 1: New and Revised Fees Charged related to Caravan Sites

Table 1: Caravan Licensing Annual Fee

Caravan Licensing - Annual	Environmental Health Officer	Environmental Health Officer	Environmental Health Officer	Environmental Health Officer
Step	No of Pitches 1-5	No of Pitches 6-15	No of Pitches 16-45	No of Pitches 46+
History Check	0:30:00	0:35:00	0:45:00	0:45:00
Booking Inspection	0:05:00	0:05:00	0:05:00	0:05:00
Travel to and from (average)	0:40:00	0:40:00	0:40:00	0:40:00
Inspection / Site Visit	0:30:00	0:45:00	1:15:00	2:00:00
Completion of inspection scoring in Tascomi	0:05:00	0:05:00	0:05:00	0:05:00
Creation of post inspection letter (average)	1:30:00	1:30:00	1:30:00	1:30:00
Follow up correspondence to check compliance	0:15:00	0:15:00	0:30:00	0:30:00
Follow Up Inspection Inc travel time	0:45:00	1:00:00	1:30:00	1:30:00
Post Inspection correspondence & Update Tascomi	0:30:00	1:00:00	1:30:00	1:30:00
Creation of Debtors Form	2:00:00	2:00:00	2:00:00	2:00:00
Visit Frequency	5	4	3	2
Total time	1:22:00	1:58:45	3:16:40	5:17:30
Average Hourly rate	£62.88	£62.88	£62.88	£62.88
Fee	£85.94	£124.45	£206.11	£332.74
Grand Total:	£85.94	£124.45	£206.11	£332.74
Proposed Fee	£86.00	£124.00	£206.00	£333.00

Table 2: Caravan Licensing - Fit & Proper – Application & Inclusion on the F&P Register Fee

Note: Fees will be charged per relevant person for inclusion on the register. I.e: 5x applicants will be charged 5x the application fee for 1x named person.

Caravan Licensing - Fit & Proper	Environmental Health Officer
Step	1 named person
Receipt of fee and checking of applications.	01:00:00
Enter onto Tascomi	00:30:00
acknowledgement letter	00:15:00
Consulting with other LA's	00:30:00
Inclusion on register & issuing Decision Notices	01:00:00
Total time	03:15:00
Average Hourly rate	£62.88
Fee	£204.36
Grand Total:	£204.36
Proposed fee	£204.00

Table 3: Caravan Licensing - Fit & Proper - Annual Fee (Where Applicable)

Caravan Licensing - Fit & Proper	Environmental Health Officer 1x Condition	Environmental Health Officer 2x Conditions	Environmental Health Officer 3+ Conditions
Step			
Letter writing/ telephone calls etc to make appointments and requesting any documents	00:15:00	00:30:00	00:30:00
Updating files/ computer systems	00:15:00	00:30:00	00:30:00
Processing the annual fee	00:30:00	00:30:00	00:30:00
Reviewing necessary documents	00:30:00	00:45:00	01:00:00
Preparing reports on breaches or confirming compliance	00:30:00	00:45:00	01:00:00
Reviewing any representations	00:30:00	00:45:00	01:00:00
Time spent on consulting the site owner	00:30:00	00:45:00	00:45:00
Officer Site Visits	00:30:00	00:45:00	01:00:00
Total time	03:30:00	05:15:00	06:15:00
Average Hourly rate	£62.88	£62.88	£62.88
Fee	£220.08	£220.08	£220.08
Grand Total:	£220.88	£330.12	£393.00
Proposed fee	£221.00	£330.00	£393.00