

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