



Agenda for a meeting of the Bradford District Appeals Panel to be held on Thursday, 7 October 2021 at 10.00 am in the Banqueting Hall - City Hall, Bradford

Members of the Committee – Councillors

LABOUR	CONSERVATIVE
Arshad Hussain (Ch) Salam (DCh)	Ali

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- On the day of the meeting you are encouraged to wear a suitable face covering (unless you are medically exempt) and adhere to social distancing. Staff will be at hand to advise accordingly.

From:

Parveen Akhtar
City Solicitor
Agenda Contact: Fatima Butt
Phone: 01274 432227
E-Mail: fatima.butt@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Fatima Butt – 01274 432227)

B. BUSINESS ITEMS

3. FIT AND PROPER PERSON TEST FOR MOBILE HOME SITE OWNERS/MANAGERS

The Interim Assistant Director, Waste, Fleet and Transport Services will submit **Document “A”** which reports on the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 and to approve the proposed fees.

Recommended –

- (1) That the new statutory powers local authorities have under the Regulations as detailed in Document “A” be noted.**
- (2) That the proposed Fit & Proper Person Fees Policy set out in Appendix 1 to Document “A” be approved.**

(Melanie McGurk – 01274 431873)

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Report of the Interim Assistant Director to the meeting of the Bradford District Appeals Panel to be held on 7 October 2021

A

Subject:

Fit and Proper Person Test for Mobile Home Site Owners/Managers

Summary statement:

The purpose of this report is to inform the Committee of the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 and to approve the proposed fees.

EQUALITY & DIVERSITY:

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

Susan Spink
Interim Assistant Director
Waste, Fleet & Transport Services

Report Contact: Melanie McGurk
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Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The purpose of this report is to inform the Committee of the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 and to approve the proposed fees.

2. BACKGROUND

- 2.1 Following a Government review of the Mobile Homes Act, 2013, the Government introduced new regulations; The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020.
- 2.2 The new Regulations require that all owners or managers of permanent residential caravan sites are fit to manage the sites, therefore the Council needs a procedure for ensuring this and for charging appropriate fees to cover our costs. The Mobile Homes Act 2013 requires that should a local authority intend to charge fees, it must prepare and publish a fee policy.
- 2.3 A “relevant protected site” is a permanent residential caravan (mobile home) site which requires a licence but which is not exempt on the basis of being solely for holiday purposes or incapable of being used all year round. The new regulations state that a relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person.
- 2.4 A site owner 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.
- 2.5 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.
- 2.6 The Regulations permit the local authority to determine the fee for an application or registration for someone to be added to the register.
- 2.7 The Local Authority will be able to charge two types of fees to cover their costs.

An application fee to cover the cost of assessing applications to be included on the fit and proper register. An application must be accompanied by the application fee that has been fixed by the local authority for that period. If the fee is not included with the application, the local authority does not have to assess the application and the site owner could be in breach of the requirements and prosecuted by the local authority.

An annual fee to cover the cost of monitoring the scheme or conditions attached to entries. The authority can decide and set the frequency of payments to cover administrative costs. Payment of an annual fee may also be required as a condition of inclusion in the register.

All fees must be published in an authority’s Fees Policy document and must be

transparent and reasonable.

When fixing the application fee and deciding the amount and frequency of additional payments by way of an annual fee the local authority—

must act in accordance with their published fees policy;
may fix different fees for different cases or descriptions of case; and
may determine that no fee is required to be paid in certain cases or descriptions of case.

A Local Authority can revise their fees policy at any time but where they do so they must publish the revised policy.

Site owners will be required to submit a completed application between 1 July and 30 September 2021 and pay the fee, outlined in the attached Fit & Proper Person Fees Policy (Appendix 1).

- 2.9 The proposed regulations and guidance were widely consulted upon prior to their conclusion and have not required further consultation.

3. OTHER CONSIDERATIONS

- 3.1 When considering whether a person is 'fit and proper' the local authority 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:

a) Whether the relevant person is able to secure the proper management of the site, including the history of management and financial arrangements;

b) criminal convictions relating to fraud, dishonesty, violence or contraventions of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;

c) has harassed any person in, or in connection with, the carrying on of any business, been insolvent or disqualified from being a director of a company; and

d) whether any other local authority has rejected an application for the responsible person to be included in a register;

e) the local authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be).

The authority can also consider any evidence as to any other relevant matters.

- 3.2 Once an application has been received the local authority may grant the application with or without conditions, or reject it.

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the local authority must make a decision on the application and either serve a Final Decision Notice without conditions and include the relevant person on the register for 5 years, or serve a Preliminary Decision Notice on the applicant and accept written representations from the applicant within 28 days. Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

- 3.3 Where the authority 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.

A person on whom a final decision notice or a notice of action is served may appeal against the decisions made to the First Tier Tribunal..

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).

- 3.4 The Regulations require a local authority 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.

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

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

- 3.5 The Regulations state that the same fee must be charged for all FPP tests, regardless of the size of site or reputation of the owner or manager.
- 3.6 An owner (occupier) of land commits an offence if he causes or permits any part of the land to be used as a "relevant protected site" without the manager of the site being registered with the local authority as a fit and proper person.

An applicant also commits an offence if he withholds information from a registration application or includes false or misleading information in a registration application or fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1)

An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited).

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 Adopting the fees policy will enable the Council to recover the costs associated with delivering this process. If the fees policy is not adopted, the Council will not be able to recover the costs associated with this new statutory function.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management and governance implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.3 COMMUNITY SAFETY IMPLICATIONS

When determining the application, the Local Authority is required to pay due regard to Schedule 3 paragraphs 2 to 4 of the Regulations.

7.4 HUMAN RIGHTS ACT

The proposal has no specific implications for human rights.

7.5 TRADE UNION

Not applicable.

7.6 WARD IMPLICATIONS

None.

7.7 IMPLICATIONS FOR CORPORATE PARENTING

There are no apparent implications.

7.8 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

There are no apparent data protection or information security implications

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

The Committee may:

- (a) Adopt the fees policy.
- (b) Not adopt the fees policy which would result in applications being received without any charging policy in place and no means of assessment.

10. RECOMMENDATIONS

10.1 The Committee is recommended:

- i) To note the new statutory powers local authorities have under the Regulations.
- ii) To approve the proposed Fit & Proper Person Fees Policy set out in Appendix 1 to this report

11. APPENDICES

1. Fit & Proper Person Fees Policy

12. BACKGROUND DOCUMENTS

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020: A guide to local authorities on setting licensing fees

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Appendix 1 - The Mobile Homes (Requirement for Managers of Site to be Fit and Proper Person) (England) Regulations 2020

Council Officer Role	Per Hour
Licensing Officer (including employer contributions)	£14.06
Senior Licensing Officer (including employer contributions)	£21.17
Licensing Enforcement Officer (including employer contributions)	£17.65
Committee Services Officer (internal charge rate)	£21.17
Litigation Officer (internal charge rate)	£75.00
Senior Solicitor (internal charge rate)	£75.00
Councillors SRA	
Paper & Photocopying costs	
Postage	
Mileage per mile (casual mileage allowance)	£ 0.45
Standard letter	£0.85
Large letter 0-100g	£1.29
Large letter 100-250g	£1.83
Phone calls	£0.60
Mileage @45p	£4.50

1. New Application – Assistance to Applicants

Initial advice via face to face via email, post or telephone call, including supplying advice about how to provide a DBS check. Assistance may be given by a number of officers on differing levels

30 minutes of Senior Licensing Officers time	£10.59
Application form, including postage if required	£1.29
Telephone calls 10 minutes	£0.06
	£11.94

2. Checking & processing Application documentation

Check application and supporting documentation, arrange for any amendments and return where necessary, create/amend record and generate acknowledgement

30 minutes Licensing Officer time	£7.03
1 hr. Senior Licensing Officer time	£10.59
Stationery printing and postage	£1.29
Total	£18.91

3. Review Application

Make enquiries regarding 'Fit & Proper Person document & declarations' (DBS check etc.)

30 minutes Senior Licensing Officer time	£10.59
1 hrs. Licensing Officer time	£14.06
Telephone	£0.12
Total	£24.77

4. Grant of Application (final notice) or serve preliminary notice

Establish any conditions applicable, Licensing Officer to discuss conditions with Senior Licensing Officer

30 minutes Senior Licensing Officer time	£10.59
30 minutes Licensing Officer time	£7.03
Stationery, printing and postage	£1.29
Total	£18.91

Totals for calculation of Annual Notice Fee

1) New Application – Assistance to Applicants	£11.94
2) Checking & processing Application documentation	£18.91
3) Review Application	£24.77
4) Grant of Application (final notice) or serve preliminary notice	£18.91
Total	£74.53

5. Review Appeal documentation

Produce appeal response, report and relevant notice

2 Hrs. Solicitor	£150.00
1 hr. Senior Licensing Officer time	£21.17
Stationery, printing and postage (x4 large letter over 100g)	£7.32
Total	£178.49

6. Final decision notice following appeal

Issue final decision notice, add relevant person to register, update Licensing register

1 hr. Senior Licensing Officer time	£21.17
30 minutes Licensing Officer time	£7.03
Stationery, printing and postage (x1 large letter over 100g)	£1.83
Telephone 30 minutes	£0.30
Total	£30.33

7. Tribunal Costs

Costs of officers to attend any tribunal

3 Hrs. Solicitor time	£225.00
3 Hrs. Senior Licensing Officer time	£63.52
Mileage round trip to Manchester@ £0.45 x 80 mile, 2 officers	£72.00
Total	£360.52

8. Inspection/Compliance/Enforcement

Annual cost of reviewing and maintaining the public 'Fit & Proper Person' register

2 Hrs Enforcement Officer time	£35.30
Stationery, printing & Postage	£1.29
Telephone	£0.12
Mileage@ 45p per mile (average 10 miles per visit)	£4.50
Total	£41.21

Totals for calculation for the initial notice introduction fee

9. Review Appeal documentation	£178.49
10. Final decision notice following appeal	£30.33
11. Tribunal Costs	£360.52
12. Inspection/Compliance/Enforcement	£41.21
Total	£610.55

Costs 1 to 4 - £74.53

This is the calculation for the Annual fee for Mobile Homes Application for inclusion on the 'Fit and Proper Person Register' and the related administration costs. The annual fee includes inclusion in the register will be displayed on Bradford Councils Licensing page for public access

Costs 5 to 8 - £610.55

This initial fee includes the annual fee and the set up costs. The total calculation of the council's potential cost is £610.55

There are currently only 12 Mobile Homes sites in the Bradford Council area, but with we expect this to increase, due to retirement and similar national trends. The Licensing team have made an assumption that over the next 5 years a quarter of the Mobile home sites may appeal against a licensing decision and this could then go to a tribunal, taking this into consideration we have divided the £610.55 by 25% = £152.64 and added the annual fee of £74.53. This initial notice fee will be £227.17 followed by an annual fee of £74.53

Initial Notice Fee	
Appeal/Decision/Tribunal/ Inspection/Compliance/Enforcement	£610.55
25% of the total costs	£152.64
Annual Notice Fee	£74.53
Total	£227.17

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