



**Vale
of White Horse**
District Council



**South Oxfordshire
District Council**

Listening Learning Leading

Mobile Home Sites
Fit and Proper Person Assessment
Fee Policy (01 Sept 2021)

Contents

1. Scope of Policy	3
2. Background.....	3
3. Fee Structure	4
4. Costs that can be included in application fees.....	4
5. Payment and Processing	5
6. Matters to be Considered in the Fit and Proper Person Assessment.....	6
7. Decision	7
8. Appeals.....	7
9. Register	8
10. Appointment of a Person to Manage the Site	8
11. Review of the Fee Policy.....	8

1. Scope of Policy

1.1 This policy sets out the fee structure for the processing of applications for the Fit and Proper Person Assessment (FPPA), for the owners and managers of relevant protected sites.

1.2 There are exemptions from the requirement for the owner of a site to apply for a FPPA, some of these include:

- A site that is only occupied by members of the same family
- A site not run as a commercial, residential site
- A site occupied by and managed by the council

2. Background

2.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the regulations') introduce a fit and proper person assessment for mobile home site owners or managers.

2.2 From 01 July 2021 and by 01 October 2021, all site owners must have applied to the local authority to be assessed as fit and proper persons and to be included on the register.

2.3 Fees may be charged for assessing applications to enable local authorities to recover the costs of this activity. Local authorities may also cover the cost of monitoring the scheme or conditions attached to entries in the register through an annual fee.

2.4 South Oxfordshire and Vale of White Horse District Councils, 'the Council', are the local authorities for the purposes of the Regulations and have agreed to charge a fee for applications for the FPPA.

2.5 Before a local authority can charge a fee, it must prepare and publish a fees policy.

2.6 Any charges relating to the Fit and Proper Person function will be limited to recovering the costs of exercising that function. The fees and how they are charged are at the discretion of the local authority (subject to legal restrictions).

3. Fee Structure

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

3.2 In determining those fees, the Council has considered all administrative costs incurred in the FPPA process.

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

- Fit and Proper Person application fee. This is to cover the cost of assessing applications to be included on the fit and proper register. Registration lasts for up to five years. At which point re-application and assessment will be necessary.
- Fit and Proper Person annual fee. This is to cover the cost of monitoring the scheme and any conditions attached. Payment of the annual fee may also be required as a condition of inclusion in the register.

3.4 Fit and Proper Person application fee and annual fee will be reviewed every year and will be published on the councils' websites.

4. Costs that can be included in application fees

4.1 Some applications may be straightforward whilst others may involve complicated issues which require extensive resources to investigate. The council will charge a flat rate fee for all applications per relevant protected site, which takes into account the legitimate and reasonable costs.

4.2 To determine the fees policy for the consideration of applicants to the fit and proper person register, the council has considered the following processes that are likely to incur cost:

- Processing initial enquiries;
- Making appointments and requesting documents or other relevant information, through letter writing and telephone calls;
- Sending out forms;
- Updating files/ computer systems and websites;
- Processing relevant fees;
- Land registry searches;
- Reviewing necessary documents and certificates;
- Preparing preliminary and final decision notices;
- Review by manager or lawyers;
- Review of any representations made by applicants or responses from third parties;
- Updating the public register;
- Carrying out any risk assessment process considered necessary;

- Reviews of decisions or in defending appeals.

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

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

4.5 Where an applicant contacts the Council before making an application, the local authority will give informal advice. This may include likely conditions that may be attached to an entry, allowing for an informed judgement on how to proceed with the application.

5. Payment and Processing

5.1 The Council requires payment of fees for applications for a FPPA and subsequent inclusion on the Fit and Proper Person register. The Council will not start processing any applications until such time as the correct fee is received. Application fees may be paid by credit or debit card or upon request, by invoice.

5.2 The application will be processed as soon as is reasonably practicable after receiving the full and complete application (including the relevant fee) and all supplementary documentation. Fees are not refundable if the application is not granted.

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

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

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

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

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

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

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

7. Decision

7.1 Once an application has been received the local authority may:

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

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

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

8. Appeals

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

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

8.3 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. Any relevant person may make written representations within 28 days of such a notice being issued.

8.4 The local authority may withdraw or amend:

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

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

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

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

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

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

9. Register

9.1 The Regulations require 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. The register should be open to inspection by members of the public at the offices of the local authority during normal office hours.

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

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

9.4 The Council may attach conditions to any entry on the register. These may include, but are not limited to, the requirement to pay an annual FPP fee, or the requirement for the relevant person to inform the council of any changes in circumstances in relation to the FPP assessment.

10. Appointment of a Person to Manage the Site

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

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

11. Review of the Fee Policy

11.1 The policy for Fit and Proper Person Fees will be reviewed annually. The review will assess and incorporate any changes that need to be made. This will include a full review of the fee levels, to take into account the effect of inflation and any surpluses or deficits incurred on the predicted level of expenditure in the first year.

11.2 Any adjustments will consider variations in officer and administration time to those used in calculating the fees set out in this policy document, along with any changes to other costs incurred in providing the FPPA function.

11.3 Changes will also be introduced into this document where necessary to accommodate new legislation, guidance and local needs.

11.4 The fees policy will be published on the Council's website, <https://www.southoxon.gov.uk/> and <https://www.whitehorsedc.gov.uk/> and if the

Council revises the fee policy, it will replace the published policy with the revised policy.