

Bedford Borough Council

Fit and Proper Person Fee Policy – September 2021

Introduction

1. A site owner, of a relevant protected site, 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”).
2. A relevant protected site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013 (subject to paragraph 10 below).
3. 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. They may make an application for a relevant person to be assessed for the fit and proper person register.
4. 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.
5. It is important to highlight that this fee policy will refer to any annual fee to recover costs which the local authority may have incurred, or which will be incurred, in appointing a person to manage a site with the site owner’s consent.
6. Site owners will be required to submit a completed application from 1 July until 30 September (3 months) and pay the fee, outlined below, to their local authority, which will also include any additional fees such as an annual site fee.
7. A person will be registered on The Fit and Proper Persons register on 1 October 2021. This registration may last for a maximum of 5 years, or as the Local Authority determines otherwise.

Fees for Fit and Proper Persons Register Applications

Initial application fee

Option 1 – A fixed initial application fee:

8. Bedford Borough Council has assessed that the fit and proper person assessment process required for the inclusion onto the fit and proper register will take a total of 435 minutes per application.
9. The application process will be carried out by an Environmental Health Officer (EHO) but some functions will be carried out by the Housing and Pollution Team Leader (TL) and administration team (AT). The hourly rate for a TL has been applied as £40.30; an EHO as £38.65 and AT as £25.06. Therefore, the fee is set at £274.23 for the fit and proper person application. This is current as of 2021/ 2022 and may increase annually. Please refer to the fees section on the web site for the current charge.
10. Bedford Borough Council has taken into account the following matters on which costs are incurred, or likely to be incurred (by various departments, including costs incurred by outsourcing contracts), in 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.
11. It is important that charges must be limited to recovering the costs of exercising the fit and proper person test function only and not other costs that have already been charges for by other service areas.
12. Please see the table enclosed which outlines the above and provides transparent justification for the fee to be imposed upon receipt of the initial application.

Option 2 – Risk based fee assessment:

13. The fit and proper person application fee is based on the site's risk rating, the size of the site, and the level of compliance of the site, with particular regard to Local Authority have in the confidence in management. For example has there been compliance with the site licence and long term maintenance of the site. There is further guidance on this in the fit and proper determination policy.
14. In terms of measuring this confidence that the Local Authority have, regard to: resolving complaints with park home owners, site licence compliance are to be taken account. To be able to secure the proper management of the site, the local authority must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.
15. The Regulations permit different fees for different cases that have issues for maintenance for example or compliance of the site licence. This would mean that there may be different descriptions off case according to the applicant. Again there is further guidance on this in the fit and proper person determination policy.
16. This option was rejected as this would mean the introduction of a risk based approach to mobile home sites which would require in depth consultation.

Additional considerations for an application fee:

17. The local authority will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow the local authority to decide on whether or not to accept the application. The time taken for these checks should be accounted for in the fee, irrespective whether or not the entry on the register is granted.
18. Where an applicant contacts the local authority before making an application, to ascertain the likelihood of the success of that application, the authority is expected to provide informal advice, for example, the conditions surrounding an application, for example the information required to be submitted and general guidance on making the application. There is further guidance relating to this in the fit and proper person determination policy.
19. Any preliminary advice the local authority provides, prior to receiving an application, must be accounted for in the fee and cannot be charged separately.

Annual fee for an existing entry on the register:

20. Where the application by a site owner is more complex the local authority is able to increase the fee, referred to at paragraphs 7 and 8 above. This additional payment may be required by way of an annual fee, and will need to be explained in the site's fee policy, outlining why the additional charge is to be incurred. Please refer to the items outlined in paragraph 9 above for the list of matters which may be included in calculating the annual fee.
21. In other words, in order to justify additional fee recovery, the local authority will be required to evidence any further work and time spent on a complex site's fee. These points can be added to paragraph 9 of the policy.
22. The annual fee may also include the cost of monitoring the fit and proper person scheme or conditions attached to entries to the register. The local authority can conduct this annually and can also decide on frequency of payments, this to cover the local authority's annual costs.
23. Bedford Borough Council is not proposing, at this time, to introduce an annual fee for the above.

Such other matters as the local authority considers to be relevant

Where no fee is applied

24. In certain circumstances, the local authority may determine that no fee is required to be paid. 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.

An appointed manager fee

25. This is where the local authority is provided with the site owner's consent to appoint an individual to manage a site. The costs associated with this should be reasonable and are recoverable from the site owner.

Revising Fees

26. The local authority may revise its fees policy and will be required to publish the revised policy. Any changes will need to be justifiable and reasonable, ensuring full transparency for the site owner.
27. The items that can be included in calculating the application fee and annual fee are set out in the published fee policy.
28. The purpose of publishing the fee policy is to show that the fees imposed by the local authority are fair and transparent so that anyone required to pay a fee can understand the charges.

Amending conditions attached to an entry on a register

29. A local authority 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 alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).
30. 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.

Site visits – Officer and travel time

31. Officer time can be considered as part of the fee, where site visits are required to ascertain whether or not site condition(s) are met. Travel time to and from the site, including fuel costs, can also be taken into account and could be calculated using a single value for travel costs which could be applied to all sites.

Payment of fees

32. As outlined above in paragraph 4, 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.
33. If a local authority decides not to approve an application the applicant is not entitled to a refund of the fee paid.
34. The annual fee, if set, 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.

Appendix 1

Bedford Borough Council Fit and Proper Person Fee

The table below demonstrates how the fee for the application was determined.

Matrix for determining Fit & Proper Person Fee 2021- 2022 - Option 1		
	Time in mins	cost
Pre application:		
pre-application advice given to assist site owners regardless of application	20	12.88
sending out letters / application form	15	9.66
communication to chase an application	15	9.66
land registry searches / ownership checks	10	6.44
Application Received:		
processing the application fee	15	6.27
recording of application	15	6.27
application assessment	60	38.65
determination process for consideration of relevant person	60	38.65
communication for further information from applicant	30	19.32
preparing preliminary decision notices and final decision notices	60	38.65
review by manager	30	20.15
process application after review & issue notice	30	19.32
reviews of decisions or in defending appeals	60	38.65
updating the public register on web site	15	9.66
TOTAL	435	274.23