

Report No.

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: Tuesday 30 November 2021

Decision Type: Non-Urgent Non-Executive Non-Key

Title: MOBILE HOMES FIT AND PROPER PERSON REGISTRATION – FEES POLICY

Contact Officer: Joanne Stowell, Assistant Director of Public Protection
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Chief Officer: Director of Environment and Public Protection

Ward: (All Wards);

1. Reason for report

- 1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ('the Regulations') introduced the requirement for mobile home site owners to register their site managers as fit and proper persons to manage their sites with the Local Authority.
- 1.2 Should a local authority intend to charge a fee for operating the fit and proper person registration scheme, it must establish the processes for making and issuing decisions; establish a fit and proper person register and publish a fees policy.
- 1.3 The purpose of the report is to approve the fees policy attached at Appendix A.

2. RECOMMENDATIONS

- 2.1 The General Purposes and Licensing Committee approve the proposed fees policy presented in Appendix 1 with immediate effect.
- 2.2 That delegated authority be given to the Director of Environment and Public Protection, in agreement with the Portfolio Holder for Public Protection and Enforcement, to make minor amendments to the policy as may be found necessary, based on the same principles of fee setting as applied within this report, to ensure the fee remains appropriate.

Impact on Vulnerable Adults and Children

1. Summary of Impact: There has been much publicity regarding inappropriate, inadequate, and unscrupulous management practices on some commercially run residential mobile home sites, which have proved costly to residents in relation to their financial circumstances, safety, health, and wellbeing. The registration scheme seeks to protect tenants and raise standards. However, this is a new mandatory duty placed on local authorities and the cost of administering this regime should be passed to the commercial operator via an administration fee.
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Corporate Policy

1. Policy Status: New Policy
 2. BBB Priority: Quality Environment Safe Bromley Healthy Bromley
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Financial

1. Cost of proposal: No Cost (existing officer time only)
 2. Ongoing costs: Not Applicable: New small revenue income stream over 5 years
 3. Budget head/performance centre: Housing Enforcement
 4. Total current budget for this head: £104k
 5. Source of funding: Existing revenue budget 2021/22
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Personnel

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement :
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: [Not Applicable](#)
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

BACKGROUND AND ISSUES

- 3.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the Regulations), prohibit the use of land as a commercial residential mobile home site unless the local authority is satisfied that the owner/manager of the site is a fit and proper person to manage the site.
- 3.2 The Regulations became operative on 1st July 2021 and 1st October 2021, depending on the provisions, and require site owners of commercially run residential mobile home sites to apply to the local authority to register the “relevant persons” who manage their sites on the local authority’s public register of fit and proper persons who manage mobile home sites.
- 3.3 The purpose of the registration scheme is to protect residents from poor site management which often results in poor site maintenance, unnecessary costs passed onto residents, poor living conditions and mental stress among the residents of a site. The registration scheme is intended to ensure only owners/managers with appropriate experience, skills, and qualifications and without a history of criminal and/or civil wrong doings are permitted to manage sites.
- 3.4 The Regulations apply in relation to all relevant protected mobile home sites. This does not include non-commercial family-occupied sites but does include both “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday lets.
- 3.5 In order to lawfully operate a site, the site owner or the person appointed to manage the site must be a “fit and proper person” and the person subject to the assessment is the “relevant person”.
- 3.6 The site owner/manager must apply to the local authority for the relevant person/s (either themselves or the site manager), to be included on a register of fit and proper persons. A site owner may only apply if they hold or have applied to obtain a “Site Licence” for that site under the Caravan Sites and Control of Development Act 1960. The same requirements apply where the owner or the site manager is not an individual, such as a park owned or managed by a company.
- 3.7 Sites that are exempted from The Regulations (Section 3) are those that are only occupied by members of the same family and are not being run as commercial residential sites, as such, the policy only applies to commercially run sites.
- 3.8 The site owner must provide sufficient information for the local authority to make an assessment whether the relevant person is a fit and proper person. This includes the disclosure of specified criminal convictions.
- 3.9 The Regulations (Section 10) permit Councils to charge a fee to cover the costs incurred in carrying out the function of registering fit and proper persons to manage mobile home sites, including the costs of establishing, promoting, and managing the registration scheme. An application must be accompanied by the relevant application fee to be considered valid for processing.
- 3.10 It is for the local authority to set the fee and decide the amount and frequency of additional payments that may be required e.g., an annual fee.
- 3.11 Local authorities must prepare and publish a fees policy before they can charge a fee (see Appendix A). They may revise the fees policy and, where they do so, must publish the revised fee policy. Fees should be fair and transparent so that anyone required to pay a fee will know what they will be charged and what they are being charged for. Fees should only cover the costs incurred by a local authority in carrying out their functions.
- 3.12 Bromley currently has 8 licensed sites likely to require one or more relevant persons to be registered. It is also likely one or more of the registered persons will come off the register during the 5-year registration period, which will result in additional applications as owners/managers change.

The Proposed Fee

- 3.13 There is no requirement under the Regulations to consult with site owners or homeowners on setting fees.
- 3.14 The fee will cover the registration of a relevant persons for up to 5 years and a “relevant person” may be registered for a period of up to 5 years, as determined by the Registration team. Where there are any concerns about a ‘fit and proper person’ this period is likely to be less, with the time period being dependent on the significance of the concerns.
- 3.15 When determining a fee structure, local authorities must consider several factors for a person to be entered on the fit and proper register (set out in Appendix A). As these are new regulations it is currently difficult to determine what issues may arise during this process. Notwithstanding this, a benchmarking exercise was carried out comparing the fees charged by other local authorities who have published a fees policy for this purpose.

Current comparable fees charged by other boroughs

Ashford	£160
Sevenoaks	£88.45
Tunbridge Wells	£132
Tonbridge and Malling	£235
Tandridge	£386
Horsham	£230

- 3.16 In addition to the above, a desktop exercise was carried out to determine the amount of officer time that will dedicated to administering the registration scheme on average.
- 3.17 The fee income is intended to cover the full cost of managing and operating the registration scheme. The recommendation seeks to avoid any subsidy but remain value for money within the constraints of reduced resources. As such, the recommended fee is £270 in the first instance. Analysis of applications received and the cost of administering the scheme will be ongoing and a review will be undertaken in October 2022 to ensure that the level of fee remains appropriate and reflects the actual cost of administration to the authority.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 There has been much publicity regarding inappropriate, inadequate, and unscrupulous management practices on some commercially run residential mobile home sites, which have proved costly to residents in relation to their financial circumstances, safety, health, and wellbeing. The registration scheme seeks to protect tenants and raise standards. However, this is a new duty placed on local authorities and the cost of administering this regime should be passed to the commercial operator via an appropriate administration fee.

5. FINANCIAL IMPLICATIONS

- 5.1 The proposed fee has been set at a level that fully recovers the current costs incurred in providing the registration scheme. The charges shall be reviewed annually to ensure that costs continue to be recovered and to reflect further legislative change.
- 5.2 The proposed fees will result in estimated income of approximately £2 – 3k over a 5-year period, based on 8 sites being required to register and some which may make multiple registrations over this period. This is not currently reflected in the revenue budget but represents additional revenue income to cover the costs of undertaking these valuable, in terms of public safety, proposed checks.

6. LEGAL IMPLICATIONS

- 6.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduce the overdue “fit and proper” test of “occupiers” (managers) of commercial caravan sites, which can attract a fee if the Local Authority wishes it. This report only deals with the fee side of the Regulations, not the conditions to fulfil the “fit and proper” test or when to enforce.
- 6.2 Regulation 10 came into force on 1st July 2021 and deals with the fee itself. In the whole, it leaves it to the Local Authority to decide on the level of the fee (which could be different for different case scenarios) and its frequency. It also requires the publication of a fee policy, which is attached to this report.
- 6.3 Publishing the attached report and agreeing the level of fees, enables the Council to fulfil its duties in relation to the fee side of the Regulations.
- 6.4 Adopting fees for the “fit and proper” test enables the Council to fulfil further its Public Sector Equality Duty duties under the Equality Act 2010 by charging the owners / managers of sites for checks in order to protect vulnerable members of the Borough.

Non-Applicable Sections:	Policy implications, Personnel Implications, Procurement Implications
Background Documents: (Access via Contact Officer)	