

Maidstone Borough Council

FIT AND PROPER PERSON FEE POLICY (MOBILE HOMES)

2021

November 2021

Introduction

1. 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 site 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).
2. 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”).
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.
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 the recovery of 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. This will be calculated separately to the application fee.
6. Site owners will be required to submit a completed application from 1 July until 31 December 2021 (6 months) and pay the fee, outlined below, to Maidstone Borough Council.

Fees for Fit and Proper Persons Register Applications

Application fee

7. Maidstone Borough Council has provided a breakdown of tasks associated with the fit and proper person assessment and/or checks to be included on the fit and proper register in paragraph 9.
8. A calculation based on officer time to process the assessment, on average, has been used to calculate a fee of £290 for the fit and proper person application process.

9. Maidstone Borough Council has taken 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/emails/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/processing online application forms;
 - d) updating files/ computer systems and website;
 - 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.
10. The charges are limited to recovering the costs of exercising the fit and proper person assessment function only and do not include other costs that have already been charged for by other service areas. An assumption has been made that no cases will result in an appeal to First-tier Tribunal.
11. In light of the small number of sites that this applies to no annual fee will be charged in addition to the application fee for ongoing enforcement.

Additional considerations taken into account for the application fee:

12. Maidstone Borough Council 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 has been accounted for in the fee, irrespective of whether or not the entry on the register is granted.
13. Where an applicant contacts the Licensing team 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, 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.
14. Any preliminary advice the local authority provides is accounted for in the fee and will not be charged separately.

Revising Fees

15. Maidstone Borough Council will review this fee policy after 6 months in the first month and annually thereafter and will publish the revised policy as necessary. Any changes will be justifiable and reasonable, ensuring full transparency for the site owners.
16. 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 the register

17. Maidstone Borough Council may alter the conditions attached to an entry on the register (by adding new conditions or changing or deleting existing ones), following a review. Officers 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).
18. 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, are factored into the application cost.

Payment of fees

19. As outlined above in paragraph 4, Maidstone Borough Council 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.
20. If Maidstone Borough Council decides not to approve an application the applicant is not entitled to a refund of the fee paid.

An appointed manager fee

21. 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. These fall outside the application process.
22. Costs that can be recovered will depend on the agreement made between Maidstone Borough Council and the site owner. Before entering into any discussions or agreements relating to the appointment of the manager, advice will be sought from the legal team.