

**Caravan Sites Fit & Proper Person**

<b>Final Decision-Maker</b>	Communities Housing and Environment
<b>Lead Head of Service</b>	John Littlemore, Head of Housing and Community Services
<b>Lead Officer and Report Author</b>	Martyn Jeynes, Community Protection Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

Approval is sought to adopt a Fit and Proper Person Fees and Determination Policy to support the introduction of the Fit and Proper Person test (F&PP) in relation to caravan site licensing (residential sites).

**Purpose of Report**

Decision

**This report makes the following recommendations to this Committee:**

1. That the proposed Fit & Proper Person Fees Policy and the Fit & Proper Person Determination Policy attached as Appendix 1 and Appendix 2 of this report are adopted for use
2. That the Fees Policy is reviewed after 6 months to ensure fees are appropriate and brought back to Committee if an amendment is required.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Communities, Housing and Environment Committee	05/10/2021

# Caravan Sites Fit & Proper Person

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Accepting the recommendations will materially improve the Council's ability to achieve the Safe, Clean and Green, Homes and Communities and A Thriving Place priority. We set out the reasons other choices will be less effective in section 2.</p>	Head of Housing and Community Services
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendations supports the achievements of cross cutting objectives.</p>	Head of Housing and Community Services
<b>Risk Management</b>	<p>Approving the recommendations in the report minimises the risk of the Council not having appropriate operational policies in place to undertake this work. .</p>	Head of Housing and Community Services
<b>Financial</b>	<p>Adopting the fees policy will enable Maidstone Borough 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. There is a risk that fees are challenged but, in setting fees in compliance with the Hemmings v Westminster approach, the risk is reduced to a minimum</p>	Section 151 Officer & Finance Team

<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Head of Housing and Community Services
<b>Legal</b>	Adopting the determination policy will enable Maidstone Borough Council to make decisions and uphold these decisions if challenged. Not adopting the determination policy increases the risk of challenges to decisions made in relation to the F&PP test. Through the Local Authority Caravan Site Licensing Officers' Forum, which has over 200 local authority members, barrister advice provided to this group has been used in the preparation of both policies.	Senior Lawyer (Contentious)
<b>Privacy and Data Protection</b>	We recognise the recommendations will impact what personal information the Council processes in line with other work already undertaken by the service.	Policy and Information Team
<b>Equalities</b>	We recognise the recommendations may have varying impacts on different communities within Maidstone. Therefore, we have completed a separate equalities impact assessment.	Equalities and Communities Officer
<b>Public Health</b>	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
<b>Crime and Disorder</b>	The recommendation will have a positive impact on Crime and Disorder by regulating a business area that has been exploited previously at a national level.	Head of Housing & Community Services
<b>Procurement</b>	Not applicable	Head of Housing and Community Services
<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered and are; <ul style="list-style-type: none"> <li>• There are no implications on biodiversity and climate change.</li> </ul>	Biodiversity and Climate Change Officer

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 Following a Government review of the Mobile Homes Act, 2013, the Government introduced a new regime under the Caravan Sites and Control of Development Act 1960 called the Fit and Proper Person test. The new regime was introduced by regulations in 2020 and it is to be implemented by local authorities from 1 July 2021. The regime has brought into force by The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020.
- 2.2 All protected residential sites which are operated on a commercial basis must have demonstrated that they are operated/managed by a fit and proper person. Any licensable caravan site is a 'relevant protected site' unless it is specifically exempted from being so.
- 2.3 A site is exempted if:
  - it has planning permission or a site licence for exclusive holiday use
  - there is a restriction on use as permanent residential
- 2.4 The legislation states that applications from existing owners/occupiers can be received by local authorities from 1 July 2021 until midnight on 30 September 2021. Owing to factors outside of the team's control as a result of the pandemic and unexpected sickness impacting the team, we have obtained agreement from the Department of Levelling Up, Housing & Communities to extend that period to 31st December 2021 on condition that this has been communicated to the relevant protected sites in our borough. We will not act against Site Owners until that date has passed and where dialogue indicates that an application will be submitted by the site owner.
- 2.5 A determination Policy has been drafted for consideration and adoption in order to support the assessment of F&PP test applications which are received and is attached in Appendix 1.
- 2.6 The local authority has the ability to recover costs for this process and an appropriate fees policy has been developed to allow us to recover the costs associated with the assessment of applications and is attached in Appendix 2.
- 2.7 For information, we have 9 relevant protected sites within the district and would therefore anticipate this number of applications

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## **3. AVAILABLE OPTIONS**

- 3.1 The committee could choose adoption of the proposed Fit & Proper Person Fees Policy and the Fit & Proper Person Determination Policy to enable the Community Protection Team to invite applications and ensure site managers are appointed appropriately and that residents are protected.
- 3.2 The committee could choose to make changes and variations to the proposed policies however this lead to further delays. The policies have been developed in line with national guidance and with input from a working

group of local authority regulators for Caravan sites, with input from barristers. The determination policy reflects the requirements of the legislation. The Fees policy reflects the anticipated costs associated, as provided in paragraph 21 of appendix 2.

- 3.3 The committee could choose not to implement the Regulations, however to do so would likely result in challenges when exercising its functions under the Regulations and the Mobile Homes Act 2013 and lead to service complaints to the Local Government and Social Care Ombudsman and even judicial review.

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The preferred option is outlined in 3.1.
- 4.2 Adopting the proposed Fit & Proper Person Determination Policy will put in place the necessary framework to support officer decisions in a fair and consistent way.
- 4.3 Applying the Fit & Proper Person Fees Policy will also ensure the officers are able to fund the works necessary to adopt this new regime and will ensure value for money for site owners through a transparent cost framework.
- 4.4 Recommendation 2 will allow officers to ensure the fees that have been proposed, which are as yet untested, are accurate. This will allow adjustments to be made to reflect the actual cost of processing applications.

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## **5. RISK**

- 5.1 The recommendations if adopted will reduce the risk of the Council not being compliant with its statutory duties.

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## **6. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Fit & Proper Person Determination Policy
- Appendix 2: Fit & Proper Person Fees Policy

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## **7. BACKGROUND PAPERS**

[Background Papers – Mobile homes fit and proper person test: guidance for local authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk) [Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)