

Report to: Cabinet



Date of Meeting 14 July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Mobile Homes Fit and Proper Person fee charge and policies

### Report summary:

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a Fit and Proper Person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations. The Regulations apply to all relevant protected sites other than non-commercial family-occupied sites. These include both “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday purposes.

From 1 July 2021 until 1 October 2021 protected sites, operated on a commercial basis, must be shown to be being managed by a fit and proper person.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

In order to meet The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) Cabinet recommend that Council:

### Adopt:

- The Fit and Proper Person Test and Fee Policy
- The Fit and Proper Person Determination Policy

### Agree:

- The Fit and Proper Person Test Fee

### Reason for recommendation:

The fee for the Fit and Proper Person test has been calculated in consideration of the Regulations and to the best knowledge of the officers to ensure that the fee is transparent and reasonable to only cover the cost of the application and determination for the Fit and Proper Person test. The fee is cost neutral for the Council and will be reviewed as necessary.

The fee policy documents ensure that the fee is transparent and reasonable for the site owners. The fee policy outlines the initial fee and the basis on which an annual fee can be calculated.

The Fit and Proper Person Test Policy is consistent with other Council’s in England and ensure that the determination and enforcement is transparent and reasonable for the site owner.

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Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Medium Risk; Due to Government guidance being published in June 2021 the legislation requires applications to be submitted between 1 July and 31 September 2021 for existing sites.

### Links to background information

- [The Mobile Homes \(Requirement for Manager of Site to be Fit and Proper Person\) \(England\) Regulations 2020](#)
- [The Mobile Homes Fit and Proper Person Test and Fee Policy](#)
- [The Mobile Homes Fit and Proper Person Determination Policy](#)
- [The Mobile Homes Fit and Proper Person test fee calculations](#)
- [Site owner guidance - Determining the Fit and Proper Person test](#)

### Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

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### Report in full

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a fit and proper person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations. The Regulations apply to all relevant protected sites. These include both “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday purposes. Non-commercial family-occupied sites are exempt from the regulations requiring a fit and proper person test.

It is important to highlight that from 1 July 2021 until 1 October 2021 protected sites, operated on a commercial basis, must be shown to be being managed by a fit and proper person.

The attached policies and fee will enable East Devon District Council Environmental Health Private housing team to implement the new regulations to enable site owners, or the person appointed to manage the site, to make their applications to be included on the register of fit and proper persons.

The purpose of the fit and proper test is to protect residents living in protected sites park homes from rogue landlords; poor maintenance and mismanagement of sites. We undertake fit and proper tests on landlords and managers of houses in multiple occupation (HMOs).

### **What is a fit and proper person?**

The applicant (owner or manager) wishing to be included on the register will have to show that there are suitable financial and management arrangements in place for the site. They must provide information relating to their conduct in relation to any of the following:

- Offences relating to fraud, dishonesty, violence, arson or drugs or listed in schedule 3 of the Sexual Offences Act 2003.
- Contraventions of law in relation to: housing, caravan sites, mobile homes, public health, planning or environmental health or landlord and tenant law.
- Contraventions of law in relation to the Equality Act 2010, or in connection with the carrying out of any business.
- Harassment of any person in connection with the carrying out of any business.
- Insolvency within the last 10 years.
- Disqualification from acting as a company director within the last 10 years.
- Has the right to work in the UK.

### **Does it apply to all protected sites?**

This law only applies to park home sites, which operate on a commercial basis, where units are sold or rented to residents. These are “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday purposes. Units which are only occupied by the site owner or members of the site owner’s family do not need to apply. If park homes are rented out to non-family members, then the owner or site manager will need to apply to be included on the register. The law does not cover touring or holiday caravan sites.

### **Who will need to apply?**

Under the legislation the fit and proper person must be the person with day-to-day responsibility for managing a site. That is the site owner or a person appointed to undertake managing the site on the owner’s behalf.

Anyone applying for a new site licence, or the transfer of a site licence to a new owner, will need to apply to have themselves or the site manager included on the register and pay a fee.

### **How will applicants apply to be put on the register of fit and proper persons?**

Applications must be received between the 1<sup>st</sup> July 2021 and by midnight of 30 September 2021 (inclusive) to be assessed as a Fit and Proper Person. It is a criminal offence if the owner or manager operating a site fail to comply with the Fit and Proper Person test. If found guilty at a Magistrates’ Court they would be liable, on summary conviction, of an unlimited fine (level 5).

The applicant seeking entry on the register will need a basic DBS certificate (dated no more than 6 months before the date of the application). This must be included with the application. The DBS certificate must be from an approved supplier. Information about how to arrange a DBS check can be found on the Government’s [website](#). The applicant will carry the cost of the application and pay the Council the published fee.

An application and guidance will be sent to the applicant.

## **What is the cost of the fit and proper person test?**

The cost of the Fit and Proper Person test must be cost neutral for the Council.

Applying for inclusion on the register carries an application fee of £345.60 for the 2021/22 period. A further annual fee may also be applicable to the site. The site licence fee policy will be found on the Council's website.

## **How is the fit and proper person determined?**

The Environmental Health private housing team will determine the application within a reasonable time and notify the applicant in writing. We must approve the application unconditional; approve with conditions; appoint a manager; serve a notice of action or revoke a licence. We will follow the Environmental Health Enforcement policy.

## **How will the register be published?**

The register must be published on the East Devon Council's website. The register must be set out in a standard format as required under the regulations. A copy must be available to any person on request. This will be emailed or posted as an Excel spreadsheet. The register will be published from 1 October 2021.

The following documents are available

- Fee policy for fit and proper person test
- Determining the fee for the fit and person test
- The fit and proper person test for protected sites determination policy
- Guidance for site owners - Determining the fit and proper person test

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## **Financial implications:**

Financial details are contained within the report.

## **Legal implications:**

The main legal implications are set out within the body of the report.

There are Criminal offences set out for contravening Regulations 6 (2) (b); 8 (1); 12 (a) & (b), any relevant person in contravention of these regulations may be liable to a summary prosecution and a consequent unlimited fine.

It should be noted that any relevant person on whom a Final Decision Notice is served by the Local Authority under Regulations 6 (1) and 8 (1) and (2) can be appealed to the First Tier Lands Tribunal as set out in Paragraph 9 of Schedule 4 of the regulations . There is no compensation payable by a Local Authority.

Members are pointed to the Explanatory Note at the end of the Regulations for a summary of each of the Regulations.