

Mobile Homes Fee and Assessment Policy

June 2021

www.northnorthants.gov.uk

Document Version Control

****Complete this section, making sure to include the following information**:**

- Author:
- Type of document:
- Version Number:
- Document File Name:
- Issue date:
- Approval date and by who (CMT / committee):
- Document held by (name/section):
- For internal publication only or external also?:
- Document stored on Council website or Intranet?:
- Next review date:

Change History

Issue	Date	Comments

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
e.g., Individual(s) / Group / Section	e.g., Stakeholders / Partners /Organisation(s)

Distribution List

Internal	External
e.g., Individual(s) / Group / Section	e.g., Stakeholders / Partners /Organisation(s)

Links to other documents

Document	Link

Contents

Section	Page
1.0 Introduction	**Insert page numbers in this column**
2.0 Scope	
3.0 Policy outcomes	
4.0 Mobile Homes Licensing Fees	
5.0 Fit and Proper Person Assessment	
6.0 Matter to be consider in the FPPA	
7.0	
6.0 Glossary of terms	
Appendix A	
Appendix B	

1.0 Introduction

- 1.1 This policy has been produced in accordance with the requirements of the Caravan Sites and Control of Development Act 1960 (the amended Act) as further amended by the Mobile Homes Act 2013. The amended Act requires that where a local authority proposes to charge a fee for a caravan/mobile home site licence, covered by the amended Act it shall prepare and publish a fee policy.
- 1.2 When producing the policy, the authority:
- may fix different fees in different cases
 - may determine that no fee is required in some cases
 - must act in accordance with the policy
- 1.3 Any fees charged must fairly cover the costs (or part of the costs) incurred by a local authority under its functions in Part 1 of the amended Act other than the costs of enforcement action. The fees must be reasonable and transparent and whilst different fees can apply to different cases there must be consistency in the fee structure and its application. Fees can only be charged for cost recovery and not for profit.

2.0 Scope

- 2.1 This policy sets out the considerations in relation to the setting of fees and the processing of applications for the Fit and Proper Person Assessment, for the owners and managers of residential mobile home sites, in North Northants.
- 2.2 The ability to charge fees does not apply to all sites licensable under the Act but only to those that are “relevant protected sites” (RPS). An RPS is one covered by the provisions of the amended Act other than where the licence:
- is granted for holiday use only
 - is subject to conditions that prohibit the use of caravans for human habitation during certain times of the year
- 2.3 In addition, a RPS where occupation is permitted all year round will not be covered by the provisions when the caravan is authorised to be occupied by:
- the occupier of the site
 - persons employed by the occupier who do not occupy the caravan under an agreement made under section 1 (1) of the Mobile Homes Act 1983.
- 2.4 Local authority owned sites are also not covered by these provisions.

3.0 Policy outcomes

- 3.1 The policy aims to clearly set out licensing fees and associated fees for the application for a caravan/mobile home site licence, to ensure transparency for both site owners and occupiers.

4.0 Mobile Homes Licensing Fees

4.1 Fee Structure

- 4.1.1 The government has published a guide⁽¹⁾ on the setting of fees but has made it clear that the setting of fees is a decision for local authorities.
- 4.1.2 Fees can include the costs of all administrative tasks, report writing, meetings, inspections, consultations and advice given. The Licensing Team has determined a standard rate for administering licence processes. Where the fee includes a technical officer visit or input this is also charged at a standard rate per hour.
- 4.1.3 The sites covered by the fee policy vary considerably in size from very small, with less than 10 pitches to others with over 100 pitches. Where the fee is for a licence application or annual inspection visit, the amount of work required will be proportionate to the number of units on the site and the fees have been banded accordingly. For licence transfers, amendments, or the deposit of site rules the work will be similar regardless of the site size and a single fee will be set.

4.2 Review of Fee Structure

- 4.2.1 Administration and officer costs are reviewed annually and any surpluses or deficits used in setting subsequent years fees.

4.3 Payment of Fees

- 4.3.1 An application for a new site licence, licence amendments, transfer or submission of site rules must be accompanied by the relevant licence fee. Where the application is not approved there will be no refund of the fee.
- 4.3.2 Where an annual inspection fee is payable, an invoice will be sent to the licence holder in April of each year and payments are due within 28 days.
- 4.3.3 Where payment is overdue, an application may be made to the First Tier Tribunal, Residential Property, (RPT) for an order for the payment of the fees. If this is not complied with within 3 months, an order to revoke the site licence may be applied for.
- 4.3.4 An operator has the right to apply to the RPT if they disagree with the licence fee being charged.
- 4.3.5 Where a licence is granted during the year the annual fee payable for that year will be calculated pro rata on the number of whole months remaining in the year from the date of issue.
- 4.3.6 In the first year the annual fee will be due within 28 days of the receipt of the invoice by the licence holder.

4.3 Fees Schedule

All fees are reviewed annually and set with effect from 1 April each year. Current fees may be found in the authority's fees and charges as published on the North Northamptonshire website.

Fees for applications and licences are administered by the Licensing Team.

4.4 Licence application fees - a one off payment determined by the number of licensed pitches on the site.

4.5 Transfer/ amendment fees - payable to administer a change in the site ownership or site licence conditions as requested by the licence holder.

4.6 Annual site licence fee - payable to cover the costs of annual inspection, determined by number of licensed pitches on the site.

* Sites with 1-5 pitches have been exempted from annual charges as they are low risk and tend to be family run sites which are not run as a business and would not normally be visited annually. They would still be inspected in the case of a complaint and the policy will be reviewed in the future if there is evidence of problems at such sites.

4.7 Fees for depositing site rules

While site licence conditions are imposed by the licensing authority, site rules are made by the site operator. Their purpose is to ensure acceptable estate management standards are maintained and to promote community cohesion among residents. The 2013 Act requires that any site rules now have to be deposited with the local authority which must keep an up to date register and publish this online. A fee can be levied for depositing the site rules for the first time, to vary or delete them and is the same in each case.

5.0 Fit and Proper Person Assessment (FPPA)

5.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the regulations) introduce a fit and proper person test for mobile home site owners or the person appointed to manage the site. The purpose of the fit and proper person test is to improve the standards of park home site management.

5.2 The Regulations were made on 23 September 2020 and allow local authorities to prepare to receive applications from site owners by 1 July 2021. From that date and by 1 October 2021, all site owners must have submitted an application. to be assessed as fit and proper persons.

5.3 The Licensing Team on behalf of North Northamptonshire will charge a fee for the FPPA and also an annual fee to cover the cost of monitoring the scheme or conditions attached to the register.

5.4 There are exemptions from the requirement for the owner of a site to apply for a FPPA:

- A site that is only occupied by members of the same family
- A site that is not being run as a commercial residential site

- A site occupied by and managed by the council
- 5.5 In setting its fees policy and the fees to be charged, the Council has had regard to the Regulations, and the relevant guidance, the 'Fit and Proper Person Test Guide for Local Authorities on Setting Fees' issued by the Department for Communities and Local Government (2021).
- 5.6 In determining those fees, the Council has considered all administrative costs incurred in the FPPA process, including consultations, meetings, scrutiny of the information provided on application for the assessment and providing informal, pre-application advice.
- 5.7 The regulations permit the Council to charge the following fee to cover its costs:
- Fit and Proper Person application fee - to cover the cost of assessing applications to be included on the fit and proper register.
- 5.8 Many applications will be straightforward and will be able to be processed quickly with straightforward enquiries. Others may involve complicated issues which require extensive resources to investigate. The Council will charge a flat rate fee for consideration of all applications, based on the average complexity of a case.

6.0 Matters to be Considered in the Fit and Proper Person Assessment

- 6.1 When considering whether a person is 'fit and proper' the Council must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These relate to whether the relevant person is able to secure the proper management of the site and includes, but is not limited to:
- a) compliance with the site licence;
 - b) the long-term maintenance of the site;
 - c) whether the relevant person has sufficient level of competence to manage the site;
 - d) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- e) committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);

- f) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- g) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- h) has harassed any person in, or in connection with, the carrying on of any business;
- i) is, or has been within the past 10 years, personally insolvent;
- j) is, or has been within the last 10 years, disqualified from acting as a company director;
- k) whether the relevant person has the right to work within the United Kingdom;
- l) whether any other local authority has rejected an application for the responsible person to be included in a register;

6.2 The Council may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the site.

7.0 Application for FPPA

7.1 Once an application has been received the local authority may:

- a) grant the application unconditionally;
- b) grant the application subject to conditions;
- c) reject the application.

Decision

7.2 As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the Council must make a decision on the application and either.

- a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or.
- b) otherwise serve a preliminary decision notice on the applicant.

7.3 Appeals

Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority.

Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

Where the authority may seek to remove a relevant person from the register or to impose further conditions a notice of proposed action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.

The local authority may withdraw or amend:

- a) a preliminary decision notice before service of the final decision notice.
- b) a final decision notice before the decision to which it relates takes effect or;
- c) a notice of proposed action before the proposed action is taken

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- a) any decision to include the relevant person on the register for an effective period of less than 5 years;
- b) any decision to include the relevant person on the register subject to conditions and;
- c) any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- a) any decision to remove the relevant person from the register;
- b) any decision to impose a condition on the inclusion of the relevant person in the register and;
- c) any decision to vary a condition.

No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

8. Offences

- 8.1 Where a site owner is in breach of a condition of a site licence North Northants Council can serve a compliance notice, which sets out the steps required in order for the breach to be remedied under our Enforcement Policy. In the case of an emergency, or where a site

owner has been convicted for failing to take the steps required by the compliance notice, the authority has powers to enter the site and do the works.

- 8.2. Authorities can recover their costs (separately from licence fees) for taking enforcement action, including the preparation of notices and charge for works they carry out in default or in an emergency. These powers include a power to force a sale, to recover their costs and charges if the site owner fails to pay when required to do so.
- 8.3. Failure to take the action required under a compliance notice, within the timescale required, is a criminal offence and on conviction a site owner will face a fine which will not be limited to a maximum amount.
- 8.4. Fines for operating a site without a licence will also not be limited to a maximum amount. Where a licensing offence is committed by a company, its directors, secretary, or other officers, they are liable to be fined as well as the company, if it is held that the offence was committed with their consent or connivance, or it occurred because of their negligence.
- 8.5. Site owners are able to appeal to the First Tier Tribunal (Property Chamber) against licensing decisions, including compliance notices and certain charges relating to enforcement action. It is an offence under section 1 of the 1960 Act for anyone to own and run a park home site on their land without holding a licence. Thus, if a person purchased a site and a licence was subsequently refused that person could be prosecuted and face an unlimited fine 4 on conviction. In the meantime, the licence granted to the previous owner would continue in force. This is because (subject only to such restrictions relating to planning permission) a licence continues in perpetuity until it is transferred or revoked by a court or tribunal (in certain circumstances only). The licence holder remains liable for any obligations and liabilities arising out of the licence or any enforcement action.
- 8.6. It is an offence for a site owner to (a) cause or permit land to be operated as a park home site unless they or the person appointed to manage the site is a fit and proper person to manage the site; (b) provide false or misleading information or fail to provide information in an application; (c) fail to comply with a requirement set as a condition of the local authority's decision to include a person on the register. If convicted for a breach of the fit and proper person requirement, the site owner will face a level 5 fine (unlimited).

References

1. The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licensing fees. Department for Communities and Local Government.

Glossary of terms

Item 21- Appendix A

Use this section to give definitions to any words that require explanation – especially if this is a public document. If you can't avoid jargon or technical terms, this is the place to explain them.

Term	Definition