

LOCAL GOVERNMENT ACT 2000

REGISTER OF URGENT
DECISIONS TAKEN BY THE
CHIEF EXECUTIVE

NORTH DEVON COUNCIL CONSTITUTION
– Part 3 Annexe 2: Officer Delegations –
Chief Executive



Reference No: L/12

1) SUBJECT: New fitness and propriety requirements now exist for residential park home sites

Approval is sought for the adoption of a Fees Policy for the Licensing of Residential Park Home Sites, which is limited solely to a fee pertaining to the registration for the fit and proper person test.

Applications are required to be submitted by residential caravan site owners between the 1 July and the 30 September 2021.

2) REQUESTED DECISION:

Adopt the proposed North Devon Council Draft Fees Policy for the Licensing of Residential Park Home Sites found at **Appendix A**, which solely contains a fee chargeable for the application for fit and proper person registration at £165.10.

Please Note:

The policy will go back before Strategy and Resources Committee for the insertion of fees in addition to the fit and proper person registration after consultation has been undertaken on those further fees proposed in respect of the determination to grant and transfer licences etc.

3) STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT:

Introduction

The Mobile Homes (Requirement for Manger of Site to be a Fit and Proper Person) (England) Regulations 2020 (Fit and Proper Person Regulations) bring into effect on the 1 July 2021 a new fitness and propriety regime for operators of residential caravan sites (defined as relevant protected sites).

Whilst the Regulations were made on the 23 September 2020, guidance pertaining to it was only released on the 4 June 2021. Guidance is found at **Appendix B**.

Moreover, the Council has only recently been privy to guidance released by the Local Authority Officers Caravan Site Licensing Forum and its template materials, for which

officers wished to gain sight of prior to bringing a report.

In light of the commencement date of the 1 July there is insufficient time to take a report to Strategy and Resources Committee to consider the adoption of a fee for application for registration and the introduction of an associated fees policy.

Relevant Protected Sites

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.

The Fit and Proper Person Regulations, require the manager of a relevant protected site to be a Fit and Proper Person from the 30 September 2021. Thus, local authorities are required to introduce a test for residential park home site owners, or the person appointed to manage the site. Site owners must apply to the Council to be added to the register.

The requirement of the test ensures that all site owners or their managers follow the best practice, and do not pose a risk to the occupiers of park homes.

Site owners will be required to submit an application between 1 July until 30 September 2021, and pay a fee adopted by the Council (proposed at £165.10).

It is further suggested that the Fees Policy for the Licensing of Residential Park Home Sites attached at **Appendix A** is adopted. Calculations in support of the fee proposed are contained at Appendix A of this policy.

There is the ability to create further fees for application, annual inspection etc., for residential park home sites. A report was taken before Licensing and Community Safety Committee on the 14 January 2020 with this regard and therefore it is not the first time in which this policy (now amended) has been circulated.

Members approved the launch of consultation pertaining to a selection of new fees proposed to be imposed, alongside the draft Fees Policy. Albeit, due to the pandemic, it was not believed appropriate to launch the consultation at that time.

In terms of an appropriate way forward the proposal is for the consultation on the additional fees to be now done separately to this particular report, given there is no urgency in respect of the implementation date on the other fees proposed. It will also be more prudent to gain consultation feedback from the residential caravan sites in question over the grant, transfer and annual fees which are to be proposed due to their elevated costs compared to this particular proposal or their ongoing nature. The fee for application for the fit and proper persons register lasts for a period of five years.

The Council currently has licensed 10 residential sites in the district for which fees may be payable pertaining to the fit and proper testing regime, and wider fees in respect of applications and inspections etc.

In terms of the fee to register for fit and proper person testing, it is imperative that the fee is included with the application for registration and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.

Charges for registration must be limited to recovering the costs of exercising the fit and proper person test function only, this will include a number of checks, for example that the individual has right to work in the UK, and is clear of those relevant offences prescribed. A Basic Disclosure and Barring Service Check (DBS) check will be required by way of the application.

Calculations contained within **Appendix A** detail the officer rate and times associated with a breakdown of tasks involved in the application process.

Work has already been undertaken to draft material for the Council's website, to create letters to site owners and to produce an electronic application form, therefore there are no additional resource requirements associated with this piece of work, other than to determine any applications received.

4) FINANCIAL IMPLICATIONS: (NOTE: Please state if there are any financial implications. If so, state whether there are sufficient funds within the agreed budget. If there are insufficient funds please state how the decision will be financed).

If the Council do not determine a fee prior to the 1 July 2021, it may be unable to seek registration of site occupiers/managers in compliance with the new regulations. Failure to adopt a fee, would lead to a failure to recover £1,651 from the regime, based upon the fee proposed and the number of sites in question.

If a fee is incorrectly determined, the Council will be unable to recover appropriate monies to support the regime (in a cost neutral manner), or conversely if the fee seeks to income generate there is a risk associated through legal challenge by site operators.

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

- Do nothing – this will not enable to the Council to gain site owners compliance with the new regime.
- Adopt the fees policy previously submitted to Licensing and Community Safety Committee on the 14 January 2020 - rejected due to the desire to consult more extensively with site operators on the additional fees proposed.
- Adopt an alternative fee – rejected – the fee generated has been suggested due to the calculations put forward as part of **Appendix B**.

6) A RECORD OF ANY CONFLICT OF INTEREST DECLARED:

None.

7) A NOTE OF ANY DISPENSATION IF GRANTED:

Not applicable.

8) LIST OF BACKGROUND PAPERS (but not including published works or those which disclose exempt or confidential information (as defined in paragraph 10.4 and 10.5 of the Access to Information Procedural Rules Part 4 of the Constitution):

- The Mobile Homes Act 2013.
- The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.
- Mobile Homes: A Guide for Local Authorities on the Fit and Proper Person Test. Ministry of Housing, Communities and Local Government.
- Mobile Homes Act 2013 - Guide for Local Authorities on setting site licensing fees. February 2014.
- Mobile Homes Act 2013 - Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime. March 2015.

10) CONSULTATION UNDERTAKEN:

The following have been consulted on this urgent decision:

Consultee	Consulted Yes/No	Date
Leader of Council (<i>or Deputy Leader</i>)	Yes	23.06.21
Chair of Committee (with the Authority to take the decision) (<i>or Vice-Chair</i>)	Yes	23.06.21
Lead Member	No	
Ward Member(s)	No	
Head of Service (Jeremy Mann)	Yes	23.06.21
Finance	Yes	23.06.21
Legal	Yes	23.06.21

11) OFFICER REQUESTING URGENT DECISION TO BE TAKEN BY THE CHIEF EXECUTIVE:

Public Protection Manager

12) APPROVED BY CHIEF EXECUTIVE:

13) DATE OF DECISION: - 28th June 2021

14) CHIEF EXECUTIVE'S COMMENTS: Agree to decision

15) DATE TO BE PRESENTED TO STRATEGY AND RESOURCES COMMITTEE:

2 August 2021

GUIDANCE NOTES

NOTE:

PROCEDURE FOR URGENT DECISIONS:

1. Completed form to be passed to the Chief Executive following consultation with the interested parties.
2. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).
3. The Chief Executive will make his decision.

PROCEDURE FOR URGENT DECISION MAKING AS PER THE CONSTITUTION

Officer Delegations: the Chief Executive:

Urgent Decision Making

- 3.48 To take a decision on any matter falling within the remit of any Committee in cases of urgency where it is not reasonably practicable to obtain prior approval of a Committee SUBJECT TO:
- 3.48.1 the prior consultation, where practicable, with the Leader or Deputy Leader and the Chair or Vice Chair of the relevant Committee, and
 - 3.48.2 the proviso that this power will not extend to the determination of any application submitted pursuant to the Planning Acts or under the Licensing Act 2003 or the Gambling Act 2005, and
 - 3.48.3 the decision being reported to the next meeting of the relevant Committee and the next meeting of Strategy and Resources Committee.