

Supplemental Item for Council

Thursday 8 July 2021 at 7.00pm
in Council Chamber Council Offices
Market Street Newbury

Part I

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Sarah Clarke
Service Director (Strategy & Governance)

For further information about this item, or to inspect any background documents referred to in Part I reports, please contact Democratic Services Team on 01635 519462
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Fees and Charges for Fit and Proper Tests for Mobile Home Site Owners/Managers

Committee considering report:	Council
Date of Committee:	8 July 2021
Portfolio Member:	Councillor Hilary Cole
Date Portfolio Member agreed report:	28 June 2021
Report Author:	Moira Fraser
Forward Plan Ref:	N/a

1 Purpose of the Report

- 1.1 To consider and then agree to include the fees associated with The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 on the Public Protection Partnership’s (PPP) list of fees and charges.

2 Recommendation

- 2.1 To agree the fees which are based on the existing framework of Fees and Charges within the Public Protection Partnership.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>This is additional work to be carried out and the charging will be based on the full cost recovery model agreed by the Joint Public Protection Committee (JPPC) at the December 2017 meeting.</p> <p>The currently hourly rate of £59 p/h was agreed at the September 2021 JPPC meeting. This rate is essentially the total cost of the service divided by number of staff.</p> <p>In instances where the local authority is required to provide assistance with appointing a manager for the site and</p>

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	<p>agreement will be drawn up which will include provision for the local authority to recover costs related to the appointment.</p>
Human Resource:	<p>There could be approximately 50 applications received across the Public Protection Partnership to be reviewed to determine if exemptions apply; and those in scope examined. This work will be undertaken from within existing resources.</p>
Legal:	<p>The framework for this work is set out in the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.</p> <p>There is potential for Legal involvement should an application go to appeal where it is determined to reject or put conditions on an application, and also where no application has been received. This will have an implication on the Case Management Unit of PPP and on the legal teams within the authorities covered by the Partnership.</p>
Risk Management:	<p>Financial risk is managed elsewhere.</p> <p>The Public Protection Partnership’s Joint Management Board will be kept informed of any service changes and adjustments and any consequences arising from these will be notified. Where necessary these will be escalated within the relevant local authority</p> <p>Should there be nobody deemed as fit and proper to run a site the Local Authority needs to work with the Owner/Manager to ensure a suitable alternative is found. This will involve officer time.</p>
Property:	<p>There are no direct implications arising from these proposals.</p>
Policy:	<p>The fees and charges are based on the full cost recovery model adopted by the Joint Public Protection Committee.</p> <p>Charging mechanisms are set out in the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.</p> <p>The Council’s Constitution required decisions pertaining to fees and charges to be agreed by Full Council.</p> <p>This is in line with priorities in the PPP Private Sector Housing Policy</p>

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	Positive	Neutral	Negative	Commentary
Equalities Impact:	X			
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	X			The report set out the steps taken to protect the vulnerable and address community need with the new Legislation
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	X			Fit and Proper determination, by its nature, will have a positive effect on the vulnerable groups in society. By PPP targeting non-compliance in this sector we can improve living conditions and lives.
Environmental Impact:		X		None
Health Impact:	X			The proposals create no direct health impacts on staff. They do however set out community based health protection measures.
ICT Impact:		X		None
Digital Services Impact:		X		None
Council Strategy Priorities:	X			Developing local infrastructure, including housing, to support and grow the local economy
Core Business:	X			Protecting our children Ensuring the wellbeing of older people and vulnerable adults Planning and housing

Data Impact:		X		None
Consultation and Engagement:	Information will be circulated to affected businesses Report taken to the 14 June 2021 Joint Public Protection Committee			

4 Supporting Information

Introduction

- 4.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduce the concept of 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. There are currently ten park home sites within the district and the legislation covers all sites of this nature including Gypsy, Roma and Traveller sites. Under the legislation all site owners must have submitted an application to be assessed as a fit and proper person between 1 July 2021 and 1 October 2021.
- 4.2 The work associated with this legislation will be undertaken by the Public Protection Partnership (PPP). A report setting out the implications and procedures associated with it was considered by and agreed at the Joint Public Protection Committee on the 14 June 2021. More information can be found on the Council's website at <http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=449&MId=6407&Ver=4> (see Item 10).
- 4.3 The Committee agreed to the recommendations in the report subject to the amendment of recommendation 2.2. to state that 'The Committee APPROVES the fee setting methodology which is based on the existing framework of Fees and Charges within PPP (hourly rate) (see 3.7).' This was to take cognisance of the fact that each of the authorities would have their own constitutional requirements in respect of fee setting.
- 4.4 Advice was sought from the Monitoring Officer and the Section 151 Officer and they have confirmed that as fee setting is a function of Council the fee element of the policy must be agreed by Full Council.
- 4.5 While the legislation was enacted in September 2020 the guidance around fee setting as not issued until June 2021 and it was therefore not included in the annual fee setting process.

Proposals

- 4.6 The recently issued guidance states that the local authority will be able to charge two types of fees to cover their costs:
 - An application fee to cover the cost of assessing applications to be included on the fit and proper register. An application must be accompanied by the application fee that has been fixed by the local authority for that period. If the fee is not included

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with the application, the local authority does not have to assess the application and the site owner could be in breach of the requirements and prosecuted by the local authority.

- An annual fee to cover the cost of monitoring the scheme or conditions attached to entries. The authority can decide and set the frequency of payments to cover their administrative costs. Payment of the annual fee may also be required as a condition of inclusion in the register.

4.7 All fees must be published in an authority's Fees Policy document and must be transparent and reasonable.

4.8 When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee the local authority—

- must act in accordance with their published fees policy;
- may fix different fees for different cases or descriptions of case; and
- may determine that no fee is required to be paid in certain cases or descriptions of case.

4.9 A local authority can revise their fees policy at any time but where they do so they must publish the revised policy.

4.10 It is proposed that Application fee is set at a 2 hour set fee based on existing hourly rate (currently £59), plus hourly rate for each hour or part thereof should the application determination go over the 2 hours. The time taken to process these applications will be monitored and any amendments will be included in future iterations of the fees and charges schedule presented to Council at the annual Budget meeting.

4.11 It is proposed that the fee for annual checking is directly cost recovery and will therefore be based on the hourly rates and time taken.

4.12 It should be noted that in exceptional circumstances where the site licence holder has been unable to find a fit and proper site manager to put forward, they can approach the local authority to discuss if it can appoint a suitable alternative person. The local authority and site licence holder would agree the terms on which the local authority could assist in finding a suitable site manager and the scope of that person's authority. The agreement would include provision for the local authority to recover costs related to the appointment.

5 Other options considered

5.1 None

6 Conclusion

6.1 Members are asked to consider the fees being proposed and agree that they be included on the published fees and charges schedule in accordance with The Mobile

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Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

7 Appendices

None

Background Papers:

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

Fit and Proper Test for Mobile Home Sites Report and Minutes considered at the 14 June 2021 Joint Public Protection Committee.

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All Wards

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