

Chief Executive Decision Record

Decision Title
<p>Delegation of the function to approve and publish a fees policy for the consideration and determination of Fit & Proper Person Checks under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 to the Head of Community Services.</p>
Decision Details
<p>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. Local Authorities are able to charge a fee for determining applications. Provisions in the Regulations relating to fees come into force on 1 July 2021. In order to be able to charge a fee to recover our costs in determining these applications, we need to have adopted and published a fees policy before 1 July 2021.</p> <p>It would have been possible to prepare a report to go to Community Scrutiny Committee on 19 May 2021 and Cabinet on 8 June 2021, however, final Government guidance on the Regulations has not been published yet.</p> <p>Therefore, as it is preferable to await this guidance, it will consequently not be possible to take a report to Community Scrutiny Committee and Cabinet in time for the fees policy to be approved and published before 1 July 2021.</p> <p>If a fees policy is not published, the Council will not be able to charge a fee for the consideration and determination of fit & proper person checks. If a fees policy is later published and fees are introduced, this could lead to complaints and/or challenges relating to the fairness of the fees, as persons that apply late (after the fees policy is introduced) will need to pay the fee, whereas persons that apply early (when the fees policy has not yet been adopted) will not have to pay the fee (and therefore go through the same process but for free).</p> <p>It is therefore proposed that the Chief Executive rely on her powers under Part 3, Section 7 paragraph 4.1.4 of the Constitution to allow the Head of Community Services to approve a fees policy to be published on or before 1 July 2021 to allow the Council to recover its costs associated with determining applications under the Regulations from 1 July 2021.</p> <p>Applications will then be determined by Environmental Protection Team Manager by applying the relevant test within the Regulations and by applying the published Fees Policy. The Environmental Protection Team Manager will determine applications relying on the power under Part 3, Section 7 paragraph 5.4.9 of the Constitution which has been delegated to her.</p> <p>A report will then be taken to Cabinet on 21 September 2021 to approve the proposed fees policy.</p> <p>It is recommended that the Chief Executive, until a report can be taken to the above meetings, allows the Head of Community Services to approve and publish a fees policy for the consideration and determination of Fit & Proper Person applications to enable fees for Fit & Proper Person Applications to be charged from 1 July 2021.</p>
Reason for Decision
<p>To allow the Head of Community Services to approve and publish a fees policy under the Regulations to enable the Council to recover its costs for the consideration and determination of applications for Fit & Proper Person checks under the Regulations.</p>
Source of Delegation

Enter the relevant paragraph in the Constitution or details of the Committee that delegated authority for this decision.

Council's constitution – Part 3, Section 7 paragraph 4.1.4

Type of Decision

Key Decision

Non-Key Decision

List of Background Papers

If the background papers are likely to contain exempt or confidential information, please indicate which paragraph(s). Paragraphs detailed below. Documents should be included with the form or made clear where the documents can be viewed.

None

What alternative options were considered when making the decision?

Obtaining Cabinet authority to delegate the function of approving and publishing a fees policy for the consideration and determination of Fit & Proper Person Checks to the Head of Community Services. However, this would have required taking a report to Community Scrutiny Committee on 19 May 2021 and Cabinet on 8 June 2021 without the benefit of final Government guidance was published which to date has not been published.

Alternatively, the Council could wait until Government Guidance is published before introducing a fees policy. However, this would mean that, from 1 July 2021 to the date the fees policy is published, the Council would not be able to charge a fee and recover costs associated with the applications and determinations and it could leave the Council open to challenge if it initially did not charge a fee (as it had not published a fees policy) then later introduced a fee, after reports were taken to Cabinet.

What conflicts of interest were declared by any executive members consulted which relates to the decision?

N/A

Decision Made By

Name ... Bev Smith ... Signature...



Date Decision Made

25.07.2021

Date Decision Published

25.07.2021

NOTE:-

Confidential Information Exemption Paragraphs

Paragraph 1 – Information relating to any individual

Paragraph 2 – Information which is likely to reveal the identity of an individual

Paragraph 3 – Information relating the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 4 – Information relating to any consultations or negotiations, in connection with any labour relations matter arising between the authority of the Minister of the crown and employees of, or office holders under the authority

Paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Paragraph 6a – Information which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person.

Paragraph 6b – Information which reveals that the authority proposes to make an order or direction under an enactment

Paragraph 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.