



**PRIVATE SECTOR HOUSING  
MOBILE HOMES FIT & PROPER PERSON POLICY  
2021**

## **1.0 INTRODUCTION**

- 1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the Regulations) prohibit the use of land as a residential mobile home site unless the Council is satisfied that the owner or manager of the site is a fit and proper person to manage the site.
- 1.2 The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.
- 1.3 The Regulations came into effect on the 23 September 2020 with the application process being between 1 July 2021 and 1 October 2021. By 1 October 2021, all current site owners must have submitted an application for a relevant person to be assessed as a fit and proper person.
- 1.4 The Regulations apply in relation 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.

## **2.0 THE FIT & PROPER PERSON ASSESSMENT**

- 2.1 The site owner must apply to the Council for the relevant person (either themselves or the site manager), to be included on a register of fit and proper persons. A site owner may only apply if they hold or have applied for a site licence for that site. The same requirements apply where the owner or the site manager is not an individual, such as a park owned or managed by a company.
- 2.2 The Council will consider the application in order to satisfy itself that the relevant person is a fit and proper person to manage the site. A decision whether to place the relevant person on the register with or without conditions, or not to place them on the register, will then be made.
- 2.3 It is an offence for a site owner to:
  - a) cause or permit land to be operated as a relevant protected 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; or
  - c) fail to comply with a requirement set as a condition of the Council's decision to include a person on the register
- 2.4 Where a relevant person fails an assessment and the site owner is unable to identify and appoint a suitable alternative manager who must also undergo the fit and proper assessment, the Council may appoint a person to manage the site, with the consent of the site owner.
- 2.5 A site owner will have a right of appeal against a decision or condition.

### **3.0 APPLICATION OF THE FIT & PROPER PERSON ASSESSMENT**

3.1 In order to operate a site in compliance with the Regulations, the site owner or the person appointed to manage the site must be a fit and proper person to manage the site. The person subject to the assessment is the 'relevant person'.

3.2 **Site owner:** where the site owner is the subject of the assessment, the application must be made on behalf of the existing site owner or any person who has applied to the local authority for a new licence or for the transfer of an existing licence.

Where a person becomes the site owner because of inheriting the estate of a previous site owner and there is no fit and proper site manager in place, they will either have to apply for themselves or for the person appointed or to be appointed to manage the site, to be placed on the fit and proper register.

3.3 **Person appointed to manage a site:** if a site owner has appointed a person to manage the site (site manager), the site owner can apply for the site manager to be placed on the fit and proper register.

### **4.0 SITES AFFECTED BY THE REGULATIONS**

4.1 Unless the site is exempt under the Regulations, the requirements will apply to the relevant persons of all relevant protected sites. These include both residential and mixed use (holiday and residential) parks.

4.2 Sites that are exempt are those that are only occupied by members of the same family and are not being run as commercial residential sites.

4.3 In determining whether a site is a non-commercial family-occupied site, the Council must consider two factors.

a.4 The first is whether each caravan stationed on a permanent pitch and used as a permanent residence is so used only by the site owner or the site owner and one or more members of the site owner's family.

4.5 The second consideration is whether the site is operated on a commercial basis. A site is operated on a commercial basis if the amount which any person is required to pay the site owner in respect of the right to station or reside in a caravan on the site and the use of the common areas of the site, exceeds a fair contribution towards the relevant costs or the total amount payable to the site owner exceeds the relevant costs. Relevant costs means the total of:

- a) any amount which the occupier is liable to pay as regards the site by way of a non-domestic rate under Part 3 of the Local Government Finance Act 1988;
- b) any council tax for which the site owner is liable in respect of any caravan situated on the site (other than a caravan in which the site

owner resides) or any dwelling situated on the site that is not a caravan (other than a dwelling in which the site owner resides); and

- c) the site owner's reasonable costs of repairs, maintenance and insurance in respect of the site

## **5.0 APPLICATION PROCESS**

5.1 Applications must be made to the Council by the site owner. Where the site owner is not an individual, the application must be made on their behalf by a relevant officer. A relevant officer means where the site owner is a:

- company: a director or other officer of the company
- partnership: a partner
- body corporate: a member where the conduct of the management of the body is vested in its members
- body not falling within any of the above categories: a member of the management committee

5.2 Where there are joint site owners, it is acceptable for only one of the owners to make the application on behalf of all, as details of the other owner must be provided on the application form.

5.3 The site owner must provide the following information in their application:

- the name and business contact details of the site owner
- where the site owner is an organisation, the individual completing the form must provide for themselves and each relevant officer of the organisation, their name and details of their role (if any) in relation to the management of the site
- the name and address of the site
- evidence of the site owner's legal estate or equitable interest in the site
- confirmation that the site owner is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960
- the name and business contact details of any other person that has a legal estate or equitable interest in the site
- the name and address of each other relevant protected site(s) for which the site owner holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960; in which the site owner has a legal estate or equitable interest; or that the site owner manages
- whether the application for inclusion on the register is made in respect of the site owner or a person that the site owner has appointed to manage the site and the status of that relevant person in relation to the relevant protected site

5.4 The relevant person is the person subject to the assessment and their status means whether they are the site owner, or the person appointed to manage the site. This will determine the additional information that must be provided on the application form.

- 5.5 In some cases, the site owner will also be required to provide information about other persons who are involved or are proposed to be involved in the management of the site. Those other person(s) are referred to as responsible persons. This requirement is necessary to ensure consistent standards are applied to companies and other organisations that are not individuals.
- 5.6 In addition to the above information, a site owner will be required to provide other information relating to the conduct of the relevant and/or the responsible person(s) and their ability to secure the proper management of the site.
- 5.7 In relation to the conduct of the relevant person, the information that must be provided is whether the relevant person:
- a) has 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)
  - b) 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
  - c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
  - d) has harassed any person in, or in connection with, the carrying on of any business
  - e) is, or has been within the past 10 years, personally insolvent
  - f) is, or has been within the past 10 years, disqualified from acting as a company director
  - g) has the right to work in the United Kingdom;
  - h) is a member of any redress scheme for dealing with complaints in connection with the management of the site; and
  - i) where any other Council has rejected an application for the relevant person to be included in a register, that Council's reasons must be included

## **6.0 REDRESS SCHEME**

- 6.1 There is no current requirement for site owners or their managers to belong to a government-approved redress scheme. However, if the relevant person is a member of a trade body's redress scheme it is sufficient to provide that information in the application.

## **7.0 APPLICATIONS REJECTED BY OTHER COUNCILS**

- 7.1 Some site owners or managers may own or manage other sites in the same local authority or other authority areas. The ownership or management of those sites may be relevant to the application in terms of their suitability to manage a site. Information must therefore be provided in the application on whether the relevant person or a responsible person has had an application rejected by another local authority and if so, the reasons why. With this information, the Council will be able to direct its enquiries to those particular

authorities, to confirm the details provided and whether there are any matters that may be relevant to the application.

- 7.2 If a site owner provides false or misleading information or withholds information from a registration application this is an offence under the Regulations.
- 7.3 In relation to responsible persons, the site owner will have to provide the following required information:
- a) the person's name and business contact details
  - b) details of the person's role or proposed role in relation to the management of the site
  - c) where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application
  - d) details of each relevant protected site (other than that to which the registration application relates):
    - (i) for which the person holds a licence issued under s.3 of the Caravan Sites and Control of Development Act 1960;
    - (ii) in which the person has a legal estate or equitable interest; or
    - (iii) that the person manages.
- 7.4 In addition to the required information above, the site owner must provide the following information about the responsible person's conduct. That is, whether the responsible person:
- a) has 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)
  - b) 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
  - c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
  - d) has harassed any person in, or in connection with, the carrying on of any business
  - e) is, or has been within the past 10 years, personally insolvent
  - f) is, or has been within the past 10 years, disqualified from acting as a company director; and
  - g) has the right to work in the United Kingdom
- 7.5 Where any other local authority has rejected an application for the responsible person to be included in a register, the local authority's reasons for rejection must also be included.

## **8.0 CRIMINAL RECORDS CERTIFICATE**

- 8.1 A criminal records certificate will be required:

- a) where the relevant person is an individual; and
  - b) for each individual in relation to whom the site owner is required to provide information
- 8.2 The certificate must have been issued no more than 6 months before the date of the application. It is for the site owner to ensure that any certificate they provide with an application meets this requirement.
- 8.3 If the site owner is an individual and will manage the site themselves then they are the subject of the assessment. They have to provide:
- a criminal records certificate; and
  - the information in 7.4 & 7.5 above
- 8.4 If the site owner has appointed or is to appoint an individual to manage the site (site manager) and who will be subject to the assessment, the site owner must provide for the site manager:
- the information in paragraphs 7.3, 7.4 & 7.5 above; and
  - a criminal records certificate
- 8.5 If the site owner has appointed or is to appoint a company to manage the site (site manager), and the site manager will be subject to the assessment, the site owner must provide for each relevant officer of the site manager:
- their name; and
  - details of their role (if any) in relation to the management of the site

For the individual that the company has appointed or intends to appoint to be responsible for the day-to-day management of the site:

- the information in paragraphs 7.3, 7.4 & 7.5 above; and
- a criminal records certificate

If the individual appointed by the company above is not a relevant officer of the company, then the site owner must also provide the information in paragraphs 7.3, 7.4 & 7.5 above and a criminal records certificate for the relevant officer to whom the individual will be accountable for the day-to-day management of the site.

- 8.8 If the site owner is an individual and will also be the site manager, but has also appointed or intends to appoint someone else responsible for the day to day management of the site they must provide:
- the information in paragraphs 7.3 above, for themselves; and
  - the additional information in paragraphs 7.4 & 7.5 for the person they have appointed or intend to appoint to be responsible for the day-to-day management of the site
  - a criminal records certificate for themselves and the person appointed or to be appointed to be responsible for the day to day management of the site

8.9 Where the site owner is not an individual and will be subject to the assessment, they must provide for each relevant officer of the site owner:

- their name; and
- details of their role (if any) in relation to the management of the site the information in paragraphs 7.3, 7.4 & 7.5 above and a criminal records certificate for the person that the site owner has appointed or intends to appoint to be responsible for the day-to-day management of the site
- where the person appointed to manage the site is not a relevant officer of the site owner, the information in paragraphs 7.3, 7.4 & 7.5 above and a criminal records certificate must be provided for the relevant officer to whom the person managing the site is/will be accountable for the day-to-day management of the site
- where the person responsible for the day-to-day management of the site is not an individual, the information in paragraphs 7.3, 7.4 & 7.5 above and a criminal records certificate must be provided for the individual that has been appointed or will be appointed to be responsible for the day-to-day management of the site
- where the person responsible for the day-to-day management of the site is not a relevant officer of the organisation, the information in paragraphs 7.3, 7.4 & 7.5 above and a criminal records certificate must be provided for the relevant officer to whom that person is/ will be accountable to for the day-to-day management of the site.

## **9.0 MANAGEMENT AND FINANCIAL ARRANGEMENTS**

9.1 As part of the assessment, the Council will have regard to whether the relevant person is able to secure the proper management of the site.

9.2 The site owner will be required to provide some information on the application form, with supporting documents. If after considering the information the Council requires clarification or further information, this will be requested from the site owner.

9.3 Any request for further information will be in writing and state clearly the specific information that is required and the reason it is considered relevant to enable the site owner to meet the request and avoid any delays to the application process.

## **10.0 PERSONS ASSOCIATED WITH THE SITE OWNER OR MANAGER**

10.1 The Council may also consider 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 the person's conduct is relevant



to the question of whether the person undergoing the assessment is a fit and proper person to manage the site or a proposed site.

## **11.0 OTHER PERSONS INVOLVED IN THE MANAGEMENT OF THE SITE**

- 11.1 There may be instances where a person or organisation associated with the relevant person may be involved in the management of the park but without a clearly prescribed role.
- 11.2 What is considered as involvement in the management of the park in such cases will differ from site to site. The Council can take account of factors such as how regularly the person or organisation attends the park, the level of involvement with residents and what impact(s) that person's presence on the site has on residents in relation to factors such as their wellbeing, welfare, quiet enjoyment of their homes and safety. The Council will consider the evidence and circumstances of each individual case.
- 11.3 It is the site owner's responsibility to know who is involved in the management of their site and ensure the right management and reporting structures are in place. Where a site owner makes no or very little effort to be transparent, it could be an indication of other site management issues.
- 11.4 There is no requirement to investigate, in every case, whether there are other persons involved in the management of the site. Where the Council has information or knowledge about other persons or organisations who may be involved in the management of the park, it will be reasonable for the Council to expect that person or organisation will be included on their application.
- 11.5 The Council will take into account that some site owners, particularly smaller operators, may lack a clear understanding of the Regulations. In such circumstances, the Council will explain any concern about the application and ask for clarification before drawing any adverse inference.

## **12.0 FEES AND CHARGES**

- 12.1 The Council can charge two types of fees to cover their costs, an application fee and an annual fee.
- 12.2 An application fee can be charged to cover the cost of assessing applications to be included on the fit and proper register. The fee must be paid when the application is submitted otherwise it is not valid.
- 12.3 Unless a valid application is made before the fit and proper person requirements come fully into force a site owner that continues to operate the site will commit an offence and could be prosecuted.
- 12.4 The Council can charge an annual fee if an application is granted subject to conditions, to cover the cost of monitoring the scheme or conditions attached to entries. The Council can decide and set the frequency of payments to cover their administrative costs. Breach of a condition requiring payment by annual fee is an offence.

- 12.5 All fees charged must be published, be transparent and reasonable. The fee-charging document is attached at Appendix 1 and includes:
- the fee(s) payable for applications for an entry on the register
  - any additional payments that may be required by way of annual fee as a condition of registration and their frequency
  - the matters and appropriate costs taken into account in setting each type of fee
  - the method of apportionment of those costs in setting those fees
  - such other matters as the Council considers to be relevant
- 12.6 The Council can revise the fees charged at any time providing the revised fee charging document is published.
- 12.7 In certain exceptional circumstances the Council may, with the site owner's consent, appoint a site manager. The Council would be able to recover from the site owner, the costs they incurred in making the appointment.
- 12.8 If the Council decides not to approve an application, the applicant is not entitled to a refund of the fee charged.

### **13.0 DECLARATIONS FROM THE APPROPRIATE PERSON**

- 13.1 The appropriate person must make and sign a declaration that:
- a) where the site owner is not the relevant person (person subject to the assessment), the site owner has made all reasonable enquiries into the matters relating to the relevant person; and
  - b) that the information provided in the application is correct and complete to the best of the site owner's knowledge and belief.
- 13.2 The purpose of the declaration is to make the site owner accountable for providing the correct information. It will ensure that where the site owner asks for information from the relevant person, a responsible person or anyone else involved in the management of the site to enable them to complete the application form, they do all they reasonably and legally can to ensure they receive and provide the correct information.
- 13.3 If it is later found that some or all of the information included in the form is false or misleading, the site owner could be prosecuted for a breach of the Regulations.

### **14.0 SECURING PROPER MANAGEMENT OF THE SITE**

- 14.1 The Council must consider whether the relevant person has the ability to secure the proper management of the site, including securing compliance with the site licence and the long-term maintenance of the site.
- 14.2 In considering this, the Council must have regard to:

- whether the relevant person has a sufficient level of competence to manage the site
  - the management structure and funding arrangements for the site or proposed management structure and funding arrangements
- 14.3 Competence to manage the site includes the level of site management experience the relevant person has or the level of training they have been given and whether they are familiar with the relevant legal and health and safety requirements.
- 14.4 The management structure of the site includes having the arrangements in place to collect pitch fees, availability of those involved in the day to day management of the site including out of hours emergency contacts, how complaints are handled, routine and cyclical maintenance regimes and that the site manager has the necessary authority to manage the site effectively
- 14.5 The sufficiency of the site owners' interest in the land, their financial standing, management structure and competence will all feed into the assessment. For example, a management structure would not be suitable if the site owner (individual or company) is not based in the UK unless there are sufficient arrangements in place within the UK to ensure that the site can be effectively managed.
- 14.6 The Council will consider whether the site owner(s) has sufficient funds to manage the site and comply with their obligations under the licence and whether the site manager has a budget and the authority to spend and make decisions in relation to the management and maintenance of the site.

## **15.0 DECISIONS**

- 15.1 The Council must consider an application as soon as reasonably practicable after an application is made.
- 15.2 Once an application has been considered, the Council must make one of the three following decisions:
- **Include the relevant person on the register without conditions:** where the relevant person meets the fit & proper person requirements, they will be included onto the register. The entry will last for 5 years. A final decision notice will be issued to the site owner to confirm the decision. The final notice will set out:
    - the date the final notice is served
    - the final decision
    - the reasons for the decision
    - when the decision takes effect
    - how to appeal & the time period
  - **Include the relevant person in the register, subject to certain conditions:** conditions can include those relating to the payment of an annual fee.

- **Not to include the relevant person on the register:** if the decision is that the relevant person does not meet the test, the application cannot be granted and must be refused.

## 16.0 DECISION NOTICES

16.1 **Preliminary Decision Notice:** Where the Council makes a decision to include the relevant person on the register for less than 5 years, subject to conditions or not to include on the register at all, a preliminary decision notice must be served on the site owner. The notice must set out:

- the date the preliminary decision notice is served
- the preliminary decision
- the reasons for it
- the date it is proposed that the final decision will have effect
- the right to make written representations
- where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations, and
- where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

16.2 A site owner who receives a preliminary decision notice will have 28 days to make representations to the Council. The 28-day period begins with the day after the day on which the notice was served. The Council must consider and take any representations received into account before making a final decision.

16.3 **Final Decision Notice:** a final decision notice must be issued as soon as reasonably practicable after the end of the period of representation. Where the decision is to grant the application unconditionally, and to include the relevant person on the register for 5 years, the Council must also serve a final decision notice on the applicant. The final decision notice must set out:

- the date the final decision notice is served
- the final decision
- the reasons for it
- when the decision is to take effect
- information about the right of appeal and the period within which an appeal may be made
- where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations; and
- where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

## **17.0 REJECTED APPLICATIONS**

- 17.1 Where a site owner accepts the Council's decision not to include the relevant person on the register, they will need to make alternative management arrangements to comply with the fit and proper person requirement.
- 17.2 If the rejected application was an in-time application, the site owner then has 28 days to either make an application in respect of an alternative person or notify the Council of their intention to do so. If they notify the Council, they must then make an application within 3 months of the date of service of the final decision notice. If they continue to operate the site and do not make an application within these periods, they will commit an offence.
- 17.3 Rejection of an out-of-time application means that the site owner immediately becomes liable for operating a site in contravention of the Regulations, which is an offence.
- 17.4 A site owner will not be able to claim compensation for losses incurred pending the outcome of an appeal.

## **18.0 REMOVAL FROM THE REGISTER & VARIATION OF CONDITIONS**

- 18.1 If, after a person is included on the register, new evidence relevant to the person's inclusion on the register becomes available, the Council may decide to:
- (a) remove the person from the register
  - (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed)
  - (c) vary a condition; or
  - (d) remove a condition
- 18.2 Before taking any of the above actions, the Council will serve a notice of proposed action on the site owner. The Council may also consider sending a copy to any site manager or relevant responsible person but is not required to do so.
- 18.3 The notice of proposed action must set out:
- a) the date the notice of proposed action is served;
  - b) the action the Council proposes to take;
  - c) the reasons for it;
  - d) the date it is proposed that the Council will take the action
  - e) information about the right to make written representations
  - f) where the proposed action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations; and

- g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition

18.4 A notice of proposed action is not required where the Council decides to remove a condition attached to an entry. A removal of a condition will generally be a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice, it is recommended that Council's make the occupier aware of the decision in writing and ensure the register is updated.

18.5 **Notice of action:** Where a notice of proposed action is given, the site owner will have 28 days starting from the day after the notice is served, to make representations. The Council must, as soon as reasonably practicable after the end of the 28-day period decide whether to take the action proposed.

Where the Council decides to and takes the action mentioned in (a), (b) or (c) above, the Council must serve a notice of action on the site owner within the period of 5 working days beginning with the day after the day on which the action was taken.

The notice of action must set out:

- (a) the date the notice of action is served
- (b) the fact that the action has been taken
- (c) the reasons for doing so
- (d) the date the action was taken
- (e) information about the right of appeal and the period within which an appeal may be made
- (f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of Regulations; and
- (g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition

## 19.0 WITHDRAWAL OR AMENDMENT OF NOTICE

19.1 There may be circumstances where the Council may decide not to continue with an action it has decided to take. Where the Council decides not to take the action it 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

- 19.2 To withdraw or amend a notice, the Council must serve notice on the person on whom the original notice was served.
- 19.3 Though there is no requirement for the notice to contain specific information, it is recommended that the withdrawal or amendment notice should state:
- that it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference)
  - the reasons for withdrawing/amending the notice
  - the date it takes effect; and
  - the implications of the decisions in relation to their entry on the register

## **20.0 REGISTER OF FIT & PROPER PERSONS**

- 20.1 The Council is required to:
- a) establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site;
  - b) make the register open to inspection by members of the public at the offices of the local authority during normal office hours; and
  - c) publish the register online
- 20.2 The requirement to publish the register online only applies to the register of fit and proper persons. It does not apply to the register of site licences that the Council is already required to keep. The Council could, however, decide to publish the register of site licences alongside the register of fit and proper persons.
- 20.3 A person's inclusion in the register will be for such period as the Council may decide, but that period must not exceed 5 years.
- 20.4 It is for the Council to decide on the format of the register but it must contain the following details:
- a) the name and business contact details of the person;
  - b) the name and address of the relevant protected site to which the application relates;
  - c) the status of the person;
  - d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
  - e) whether any condition is attached to the person's inclusion in the register; and
  - f) where any condition is attached to the person's inclusion in the register:
    - (i) the number of any such conditions;
    - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
    - (iii) the date any condition is varied or satisfied (if applicable)

- 20.5 Where the Council has, with the site owner’s consent, appointed a site manager, the following details must be included on the register:
- a) the name and business contact details of the person;
  - b) the name and address of the site which the person has been appointed to manage;
  - c) the status of the person;
  - d) the dates of the first and last day of the period for which the person’s inclusion in the register has effect;
  - e) whether any condition is attached to the person’s inclusion in the register; and
  - f) where any condition is attached to the person’s inclusion in the register:
    - (i) the number of any such conditions;
    - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
    - (iii) the date any condition is varied or satisfied (if applicable).
- 20.6 Where the Council has rejected an application, the following information must be included on the register:
- a) the name and address of the site to which the application relates;
  - b) that an application in respect of the site has been rejected; and
  - c) the date on which the application was rejected.
- 20.7 Information about a rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site or the Council have, with the occupier’s consent, appointed a person to manage the site.
- 20.8 For privacy reasons, the name of the relevant person who was rejected will not be included on the register. The Council will however be able to consider requests for further information about the entry on the register, for example the details of the specific conditions attached and any additional information, on a case by case basis and in accordance with data protection legislation.

**21.0 INCLUSION ON THE REGISTER WITH CONDITIONS**

- 21.1 The Council may decide to include the relevant person on a register subject to a condition(s), if it would only be satisfied that the relevant person would meet the fit and proper requirement if the condition(s) were complied with. A site owner will be able to appeal against a decision to attach (or vary) a condition to an entry. It is therefore important that the Council has clear and justifiable reasons for attaching a condition(s) and that any condition is also enforceable.
- 21.2 To ensure conditions are enforceable, the Council will set them to meet certain tests such as those below.

Specific	The condition sets out clearly the specific actions a relevant person is being asked to take to address an issue
Measurable	The condition sets out the required outcome(s) expected



Achievable	The relevant person should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company would do
Relevant	The condition is appropriate and aligns with the overall aims of the test
Timebound	A clear timescale in which any task/action must be completed

- 21.3 As the fit and proper assessment is aimed at ensuring that the person managing the site is competent to do so, conditions should relate to the relevant person's ability to secure the proper management of the site.
- 21.4 Where a relevant person has contravened legislation or committed relevant offences, the Council could attach a condition aimed at addressing the underlying cause of the contravention or offence.
- 21.5 A condition can be set in respect of whether the relevant person has the ability to secure the proper management of the site including their competence to manage the site, the management structure, the funding arrangements, an associated person's influence and any other relevant factors.

## **22.0 CONSENT FOR THE COUNCIL TO APPOINT A SITE MANAGER**

- 22.1 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 Council to discuss if it can appoint a suitable alternative person.
- 22.2 The Council and site licence holder would agree the terms on which the Council could assist in finding a suitable site manager and the scope of that person's authority.
- 22.3 The agreement would likely include details such as the site licence holder and the Council's role in the process, the level of decision-making authority that the site manager may have on behalf of the site licence holder and payment of the Council's costs related to the appointment.
- 22.4 The Council will seek legal advice before agreeing any terms with the site owner. Where the Council is able to identify a suitable person, the person must undergo the fit and proper assessment and their details included on the register.

## **23.0 OFFENCES**

- 23.1 The Regulations create 3 offences:

- Operating a relevant protected site without a fit and proper person in place
- Withholding information or including false or misleading information in a registration application
- Failing to comply with a condition

23.2 A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

## **24.0 REVOCATION OF A SITE LICENCE**

24.1 In certain circumstances, the Council could apply to a court or tribunal for an order to revoke a site licence. These are:

- if a site owner is convicted for operating a site without they or their appointed manager having been assessed by the Council as a fit and proper person and has been convicted of that offence on two or more previous occasions, the magistrates' court before which the site owner is convicted may, on application by the Council, make an order to revoke the site licence; and
- if a site owner is operating a site without they or their appointed manager having been assessed by the Council as a fit and proper person, the Council may apply to the First-tier Tribunal for an order to revoke a licence

24.2 The requirement for two previous convictions before the site licence may be revoked by order only applies to the magistrate's court.

24.3 The ability for the Council to apply to the Tribunal for an order to revoke a site licence without any requirement of a prior conviction, is to ensure that the Council is able to do so in very extreme cases where the best option for all stakeholders would be for a site licence to be revoked urgently to protect the safety and security of residents.

24.4 The Council would be expected to use other powers first where appropriate, for example attaching conditions to an entry, to address any issues about a person being fit and proper to manage a site. The power to revoke a licence without any prior convictions should be used as a last resort as revoking a licence generally will have an impact on residents, site owners and the local community.

## **25.0 DEFENCES TO FIT & PROPER PERSON OFFENCES**

25.1 In certain limited circumstances, a site owner may have a defence where they have breached the Regulations by operating a protected site without themselves or a site manager being included on the register. These are set out in the table below.

	<b>Circumstance</b>	<b>Relevant period for making an application in the circumstance</b>
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a	The occupier held a site licence immediately before the day on which regulation 4 came into force	Before the day on which regulation 4 came into force
b	The period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a) (removal from the fit and proper register after new relevant evidence becomes available)	Not less than two months before the end of the period of the person's inclusion in the register
c	At the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	Within the period of 3 months beginning with the day after the day on which the person became the occupier of the land
d	At the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row c above	Within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
e	A person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	Within the period of 3 months beginning with the day after the relevant day
f	A person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row e above	Within the period of 28 days beginning with the day after the relevant day
g	The breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site	Within the period of 3 months beginning with the relevant day
h	The breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row g above	Within the period of 28 days beginning with the relevant day
i	The breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-	Within the period of 3 months beginning with the relevant day

	time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	
j	The breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row i above	Within the period of 28 days beginning with the relevant day

## 26.0 APPEALS

26.1 The person on whom the Council serves a final decision notice may appeal to the First-tier Tribunal against any decision to:

- include the relevant person on the register for an effective period of less than 5 years
- include the relevant person on the register subject to conditions; and
- reject the application

26.2 If the site owner decides to appeal the decision, they must make an application to the First Tier Tribunal in line with the timeframes set by the tribunal at the time.

## Appendix 1

### Mobile Homes Fit & Proper Person Application Fees and Charges

Based on mid-point of each salary grade as of 1 April 2021.

Homelessness & Private Sector Housing	PO3	£30.45
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Manager	
Principal Private Sector Enforcement Officer	PO1 £25.30
Private Sector Housing Administration Officer	Scale 4 £15.10

### **Application Fee**

The application fee has been set at £230. The breakdown of how this figure has been calculated is set out in the table below.

	<b>Action</b>	Time (Mins) Licensing And officer Allocation	Admin Cost (A)	Officer Cost (O)	Manager Cost (M)	
1	Application received and fee checked to ensure that it is complete and a full and proper application	30 (O)	£0	£12.65	£0	
2	Application acknowledged and receipt for fee issued	15(A)	£3.76	£0	£0	
3	Review application and documentation, make relevant enquiries (including into management and financial arrangements)	120 (O)	£0	£50.60	£0	
4	Update M3	15 (O)	£0	£6.33	£0	
5	Application file reviewed by Manager	30(M)	£0	£0	£15.23	
6	Grant of application or service of preliminary notice	30(O)	£0	£12.65	£0	
7	Establish any applicable conditions	30(O)	£0	£12.65	£0	Assume average of 1 condition per application
8	Discuss conditions with Manager	15 (O & M)	£0	£6.33	£7.61	
9	Review appeal paperwork & refer to	30 (O)	£0	£12.65	£0	

	Manager					
10	Consider appeal	60(M)	£0	£0	£30.45	
11	Produce appeal response and relevant notice	60 (M)	£0	£0	£30.45	
12	Issue Final Decision Notice following appeal	15(O)	£0	£6.33	£0	
13	Add relevant details to public register, update M3 record and upload public register to website.	30(A)	£7.55	£0	£0	
14	Annual review and maintenance of the register	15 (A) & 30(O)	£3.77	£12.65	£0	
15	Total hours as a Decimal	8.75	£15.08	£132.84	£83.74	
16	Total Cost		£231.66 – rounded down to £230			

In the case of an applicant making multiple applications for more than one site and the relevant person being the same then the following additional charges will apply.

A). Small sites of less than 25 caravans – no additional charge

B). Sites of 26+ Caravans – an additional charge of £50 per application will be applicable which relates to an estimated additional 2 hours of officer time to assess and process the additional application.

### **Annual Fee**

An annual fee will be charged for any entries on the register that have one or more conditions attached.

£30 - 1 condition (plus a standard condition requiring payment of the fee)

£60 - 2 conditions (plus a standard condition requiring payment of the fee)

£90 - 3 or more conditions (plus a standard condition requiring payment of the fee)

Local Authority appointed site manager: recovery from the occupier of reasonable costs incurred in making the appointment.