



**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:
2 September 2021**

CABINET: 14 September 2021

Report of: Corporate Director of Place & Community

Relevant Portfolio Holder: Councillor Gareth Dowling

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SUBJECT: MOBILE HOMES FIT & PROPER PERSON POLICY 2021

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To consider and agree the Mobile Homes Fit & Proper Person Policy 2021.

2.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW & SCRUTINY

2.1 That the Mobile Homes Fit & Proper Person Policy 2021 attached at Appendix 1 be put before Cabinet to be approved.

2.3 That Call In is not appropriate for this item as this matter is one where urgent action is required because the deadline for site owners to meet the Regulations is 1 October 2021.

3.0 RECOMMENDATIONS TO CABINET

3.1 That the Mobile Homes Fit & Proper Person Policy 2021 attached at Appendix 1 be approved.

3.2 That the Corporate Director of Place & Community, in consultation with the relevant Portfolio Holder, be authorised to amend the policy considering any legislative or guidance changes.

3.3 That the Corporate Director of Place & Community, in consultation with the relevant Portfolio Holder, be authorised to review and change the fees charge or level of financial penalties issued as required.

3.4 That the Corporate Director of Place & Community, in consultation with the relevant Portfolio Holder, be authorised to amend the current Private Sector Housing Enforcement Policy, originally approved by Cabinet, to include The

4.0 BACKGROUND

- 4.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the Regulations) were made on the 23 September 2020, however, guidance on the implementation of the regulations was only published on the 4 June 2021.
- 4.2 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. The fit and proper person test is to improve the standards of park (mobile) home site management.
- 4.3 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.
- 4.4 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.

5.0 FIT & PROPER PERSON TEST & REGISTER

- 5.1 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.
- 5.2 The Council will consider the application 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.
- 5.3 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

5.4 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 in their area
- 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

5.5 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.

6.0 OFFENCES

6.1 It is an offence under the Regulations 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 local authority's decision to include a person on the register

6.2 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.

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

7.0 FEES & CHARGES

7.1 The Council can charge two types of fees to cover their costs, an application fee and an annual fee.

7.2 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.

7.3 An annual fee can be charged where an application has been 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 any administrative costs. Breach of a condition requiring payment by annual fee is an offence.

7.2 The application fee has been set at £230. The annual fee has been set at £30, £60 or £90 depending on the number of conditions attached to the entry.

8.0 SUSTAINABILITY IMPLICATIONS

8.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

9.1 There are no significant financial or resource implications arising from this report. A small income will be generated from the application fee and any annual fees that can be levied.

10.0 RISK ASSESSMENT

10.1 The Regulations provide an opportunity by increasing the powers available to the Council to ensure Park Home sites are being managed in a professional manner.

10.2 Failure to carry out these functions is a breach of the Regulations and this presents a risk to the Council.

11.0 HEALTH AND WELLBEING IMPLICATIONS

11.0 There are no health and wellbeing implications arising from this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders, therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report

Appendices

1. Mobile Home Fit & Proper Person Policy 2021
2. Equality Impact Assessment (revised 03/09/21)

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3. Minute of Executive Overview & Scrutiny Committee 2 Sept 2021 (To follow)