

# Fit and Proper Persons Determination Policy

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## 1. INTRODUCTION

- 1.1. This Fit and Proper Persons Determination Policy sets out Dartford Borough Council's ('the Council's) policy in respect of the mobile homes' fit and proper person test, which applies to relevant protected sites<sup>1</sup> requiring a licence.
- 1.2. The purpose of this Policy is to ensure the matters and considerations taken into account when undertaking the fit and proper person test function are fair and transparent so that anyone required to submit an application understands the process.
- 1.3. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (the Regulations), require the manager of a site to be a fit and proper person. Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations (see section 1.8 below).
- 1.4. The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.
- 1.5. A local authority must be satisfied that the site owner "*is a fit and proper person to manage the site*" or, if the owner does not manage the site, "*that a person appointed*" to do so by the site owner "*is a fit and proper person to do so*" or has, with the site owner's consent, "*appointed a person to manage the site.*"
- 1.6. Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.
- 1.7. Unless the site is exempted by the Regulations (see section 1.8 below), the fit and proper person test applies to the relevant persons of all relevant protected sites<sup>2</sup>. These include both residential and mixed use (holiday and residential) parks.
- 1.8. Sites that are exempted by the Regulations are those that are only occupied by members of the same family and are not being run as commercial residential sites.

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<sup>1</sup> "Relevant protected site", as defined in section 5A(5) of the Caravan Sites and Control of Development Act 1960, is land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is—

(a) expressed to be granted for holiday use only, or

(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).

<sup>2</sup> Supra

- 1.9. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park homeowners.
- 1.10. The local authority must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours and published online.

## **2. EVIDENCE RELATING TO A FIT AND PROPER PERSON ASSESSMENT**

- 2.1. When conducting the fit and proper person assessment, the Council will consider the following points relevant to the application:

- 1. Whether the relevant person has the ability to secure the proper management of the site**

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. The Council will therefore consider:

- whether the person has a sufficient level of competence to manage the site;
- the management structure and funding arrangements for the site or
- the proposed management structure and funding arrangements.

*(a) Competence to manage the site*

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

*(b) The management structure and funding arrangements for the site*

The Council will consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The Council will want to ensure that the applicant has a robust management plan, this will also be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager's contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may complex issues as a result

of this, such as needing the court's permission to serve a claim in a foreign country. The applicant's interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

*(c) The proposed management structure and funding arrangements in place for managing the site*

The Council will consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be made available.

Another consideration is if funding is through a third party (including an associated company), as if this is not disclosed this will impact on the Council's ability to deem whether the application is financially viable.

## **2. Personal information relating to the applicant concerned**

This includes a criminal record check and evidence that the applicant:

- (a) has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (b) has not 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 not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- (d) has not harassed any person in, or in connection with, the carrying on of any business;
- (e) is not or has not been within the past 10 years, personally insolvent;
- (f) is not or has not been within the past 10 years, disqualified from acting as a company director;
- (g) has the right to work in the United Kingdom and,
- (h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

The Council has a duty to investigate any conduct which could amount to harassment and any evidence obtained will be reviewed to determine whether it is sufficient to be used to prosecute a site owner. The Council may also rely on convictions by the courts as evidence of harassing behaviour, which would reduce the risk of the Council being successfully challenged on any refusal to approve an applicant on this basis.

The Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints these may be taken into consideration in the fit and proper person determination. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the

management of the site or the site owner's lack of experience/skills in dealing with customers. The Council may decide to address any underlying issues by attaching conditions to the individual's entry on the register.

### **3. Conduct of associated persons**

The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) is also an important factor to be considered in the fit and proper person assessment.

Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners, as that information would have already needed to have been provided in their own application forms.

It is not routinely required to provide information of all current or past associates of the site owner. However, prior to making any final decisions, the Council may consider the conduct of past and current associates relevant to that individual's application. The site owner may be asked to provide additional information during the application process.

The Council is required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.

## **3. CONSIDERATIONS FOR FIT AND PROPER PERSON ASSESSMENT**

- 3.1. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.
- 3.2. To be able to secure the proper management of the site, the Council must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.
- 3.3. 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. Therefore upon rejection of a person's application by any other local authority this will be centrally recorded and include the details of the person involved and the reasons for the rejection.
- 3.4. The Regulations are drafted widely giving the opportunity for the Council to take into consideration other relevant matters. However, the Council will be cognisant that poor management practices do not affect a person's conduct,

unless they are also a breach of the criminal or civil law. A person cannot be deemed unfit due to conduct, simply because of poor management, although that factor is highly relevant to determining any question of suitability or competence. However, all conduct is relevant in relation to the person's fitness to hold a licence and/or manage the particular mobile home site.

- 3.5. The Council is able to decide the specific matters it deems relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area. Additionally, the site owner's conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters considered by the Council as relevant to the application will primarily focus on the relevant person's conduct, competence and their suitability to manage the site.
- 3.6. Evidence will be obtained by the Council to support any additional matters that are deemed to be required to be taken into consideration for the application. This is to mitigate any risks should the Council face being challenged at a tribunal because of the final decision. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions.

## 4. APPLICATION PROCESS

- 4.1. The Regulations use various terms in the application process and these are outlined below:

**“Relevant person”** is defined in reg.2 of the Regulations and is “the subject of the fit and proper person assessment under Regulation 7”. This could be the site owner or person appointed to manage the site by the site owner.

**“Relevant officer”** is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

**“Required Information”** is defined in paragraph 14 of Schedule 2 of the Regulations as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; 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; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

### **The applicant and site details required**

#### 4.2. Details of the site and the applicant:

- The applicant's name and business contact details.
- Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
  - i. the person's name;
  - ii. details of the person's role (if any) in relation to the management of the site.
- The name and address of the site.
- Evidence of the applicant's legal estate or equitable interest in the site.
- Confirmation that the applicant 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.

#### 4.3. The name and address of each other relevant protected sites:

- for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- in which the applicant has a legal estate or equitable interest; or
- that the applicant manages.

#### 4.4. The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

### **Information relating to the site manager**

#### 4.5. In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person (the Relevant person) must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual ("A"), 'Required Information' would also be needed from A, and where A is not a Relevant officer of the site manager, the Relevant officer to whom A is accountable for the day-to-day management of the site, should be the one to provide the Required Information.



### **Additional information when the applicant is the Relevant person and an individual**

- 4.6. When the applicant is the Relevant person, and is an individual, and the applicant has appointed, or intends to appoint, someone else (“B”) to be responsible for the day-to-day management of the site, ‘Required Information’ would be needed from B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual (“C”) to do the day-to-day management, ‘Required Information’ would be needed from C. Where C is not a Relevant officer of a company, the Relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required Information.

### **Additional information where applicant is Relevant person and not an individual**

- 4.7. When the applicant is the Relevant person but is not an individual and the applicant has appointed or intends to appoint someone else (“B”) to be responsible for the day-to-day management of the site, Required Information would be needed from this person. If B is not a Relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site (“C”) would also need to provide the Required Information. Where B itself is not an individual, the individual (“D”) that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would also need to provide the Required Information. Where D is not a Relevant officer of B, the Relevant officer to whom D is accountable for the day-to-day management of the site would also need to provide the Required Information.
- 4.8. The Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the Council as a fit and proper person. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

### **Criminal record certificate/s**

- 4.9. A criminal record certificate issued under section 113A (1) of the Police Act 1997 will have to be produced to the Council as part of the process where: (a) the Relevant person is an individual and (b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.
- 4.10. The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

## **Declaration**

A declaration must be made and signed by the “appropriate person”:

- (a) where the applicant is a company, a director or other officer of the company;
- (b) where the applicant is a partnership, one of the partners;
- (c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- (d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- (e) where the applicant is an individual, that individual.

4.11. Where the applicant is not the Relevant person, the declaration must confirm that the applicant has made all reasonable enquiries into the matters mentioned in paragraph 9 of Schedule 3 of the Regulations and considerations relevant to the fit and proper person assessment as set out below.

4.12. The declaration will also state that the information provided in the application is correct and complete to the best of the applicant’s knowledge and belief.

## **5. DECISIONS, NOTIFICATION AND RIGHTS OF APPEAL**

5.1. The Council will make a decision on the application in a timely and practicable manner and either:

- (a) where the decision is to grant the application unconditionally and include the Relevant person on the register for 5 years, serve a final decision notice on the applicant; or
- (b) otherwise, serve a preliminary decision notice on the applicant.

5.2. The Council may:

- (a) grant the application unconditionally;
- (b) grant the application subject to conditions; or
- (c) reject the application.

### **Granting the application unconditionally**

5.3. Where the Council is satisfied that the applicant meets the fit and proper person test unconditionally, the applicant will be included on the register for 5 years. The Council will issue a final decision notice to the applicant to inform them of its decision.

5.4. The final decision notice will clearly state:

- (a) the date the final decision notice is served;
- (b) the final decision;
- (c) the reasons for the decision;

- (d) when the decision is to take effect;
- (e) information about:
  - (i) the right of appeal to the First Tier Tribunal; and
  - (ii) the period within which an appeal may be made.

**To include the applicant on the register subject to certain condition(s)**

- 5.5. In some circumstances, the Council can specify that the individual for the fit and proper person test will only be successful if certain conditions are met. If these conditions are satisfied, the Council can grant an application subject to those condition(s). The Council can also grant an application for less than 5 years.
- 5.6. It may be the case that the Council decides to include the person on a register subject to condition(s), if it is satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative that the Council has clear and justifiable reasons for attaching any condition(s) and that any conditions imposed, can be enforced by the Council.
- 5.7. Conditions will be clearly stated for the applicant’s understanding and this will also allow for the Council to ensure that they are enforceable.

An example of the requirements are included in the Table 1 below.

Table 1

|                   |  |
|-------------------|--|
| <b>Specific</b>   | The specific condition/s a site owner is being requested to address.   |
| <b>Measurable</b> | The conditions required and the outcome(s) expected.   |
| <b>Achievable</b> | The applicant 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. |
| <b>Realistic</b>  | The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors, which would make the achievement of the outcome impossible or unlikely.                                     |
| <b>Timebound</b>  | A clear timescale in which the task/action must be completed.  |

**What can a condition relate to?**

- 5.8. The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person’s ability to secure the proper management of the site.

- 5.9. Previous declared offences will be considered, together with all the other information available, when the Council reaches a preliminary decision on the application.
- 5.10. Examples of conditions could include where the Council has evidence of a site owner's failure over a certain period of time to address residents' complaints. This is an example of poor management, which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to "implement an effective and accessible three stage complaints process for residents by [a specified] date and provide the Council with quarterly reports of complaints and outcomes, from that date and for the first year", or if, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the Council may wish to attach a condition to the entry on the register that the site owner "is to provide the authority by registered post, with the original [specified] document by [a specified] date". A further example of a condition could relate to ensuring the relevant person has the ability to secure the proper management of the site.
- 5.11. In summary, conditions can relate to any factors, which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

### **Decisions**

- 5.12. Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, it can refuse to grant the application.
- 5.13. Where the Council makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant will be issued.
- 5.14. The preliminary decision notice will clearly state:
- (a) the date the preliminary decision notice is served;
  - (b) the preliminary decision;
  - (c) the reasons for it;
  - (d) the date it is proposed that the final decision will have effect;
  - (e) information about the right to make written representations
  - (f) 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
  - (g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

### **Right to make a representation**

- 5.15. An applicant who receives a preliminary decision notice will have 28 days in which to make representations to the Council. The 28-day period begins with the day after the day on which the notice was served.
- 5.16. The Council is obliged to consider and take any representations it receives into account before making a final decision.

### **Final decision notice**

- 5.17. The Council will, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.
- 5.18. The final decision notice will set out:
- (a) the date the final decision notice is served;
  - (b) the final decision;
  - (c) the reasons for it;
  - (d) when the decision is to take effect;
  - (e) information about the right of appeal and the period within which an appeal may be made;
  - (f) 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
  - (g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.
- 5.19. Council Officers will use their professional judgement and knowledge in the decision making process. Final decisions will be made by the Housing Solutions & Private Sector Housing Manager, based on a thorough examination of all the evidence available and in accordance with this Policy.

### **Appeals**

- 5.20. The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decision issued by the Council. These could include:
- (a) including the relevant person on the register for an effective period of less than 5 years;
  - (b) including the relevant person on the register subject to conditions; and
  - (c) rejecting the application.
- 5.21. Where an applicant accepts the Council’s decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

- 5.22. An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

### **Withdrawal or amendment of notice**

- 5.23. There may be circumstances where the Council may decide not to continue or to withdraw a previously agreed action such as after serving:
- (a) a preliminary decision notice but before service of the final decision notice;
  - (b) a final decision notice but before the decision to which it relates takes effect; or
  - (c) a notice of proposed action but before the proposed action is taken.
- 5.24. To withdraw or amend a notice, the Council will serve notice to the person on whom the original notice was served.
- 5.25. There are no requirements for notices to contain specific information, however, the Council's withdrawal or amendment notice will state:
- (a) that it is withdrawing/amending the original notice (a copy of the original notice will be attached for reference);
  - (b) the reasons for withdrawing the notice;
  - (c) the date it takes effect; and,
  - (d) the implications of the decisions in relation to the person's entry on the register.

### **Removal from the register**

- 5.26. If, after a person is included in the register, and new evidence relevant to the person's inclusion 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.
- 5.27. The Council will use its discretion, based on the facts, when determining whether to review an entry and consider any subsequent actions are required. Any such decision will be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the Council decides to take any of the actions listed in section 5.24. (a) to (c) above, it will serve a notice of any proposed action on the occupier.
- 5.28. The notice of proposed action will clearly state:
- (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 requires the removal of 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 said conditions.

5.29. A notice of proposed action is not required if the Council decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being 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 though, the Council will make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

### **Notice of action taken**

5.30. Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations.

5.31. The Council will, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

5.32. Where the Council decides to take the action, it will serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

5.33. The notice of action will set out:

- (a) the date the notice of action is served;
- (b) the fact that the Council has taken the action;
- (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.

### **Offences**

5.34. There are three offences set out the Regulations:

- Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them.
- Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

5.35. The Council is responsible for enforcing the Regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

### Defences

5.36. One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

5.37. The below table outlines limited circumstances where a site owner may have a defence (Schedule 5 of the Regulations):

| Row | Circumstance  | Relevant period for making an application in the circumstance   |
|-----|---|---|
| 1   | the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.   | From 1st July 2021 before 1 October 2021, the day on which regulation 4 came into force                               |
| 2   | 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                       |
| 3   | at the time that the occupier became entitled to within the period of 3 months 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) | beginning with the day after the day on which the person became the occupier of the land                              |
| 4   | 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 3 above  | within the period of 28 days beginning with the day after the day on which the person became the occupier of the land |



|    |   |   |
|----|---|---|
| 5  | 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 |
| 6  | a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above   | within the period of 28 days beginning with the day after the relevant day  |
| 7  | 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               |
| 8  | 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 7 above   | within the period of 28 days beginning with the relevant day                |
| 9  | 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 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  | within the period of 3 months beginning with the relevant day               |
| 10 | 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 9 above   | within the period of 28 days beginning with the relevant day                |

## 6. THE FIT AND PROPER PERSONS REGISTER

- 6.1. The Council will set up and maintain a register of persons who it is satisfied are fit and proper persons to manage a site in its area. This register will be open to inspection by the public during normal office hours and published online.
- 6.2. The register will provide a record of the determined outcome of the fit and proper person tests the Council has carried out for sites. The register will include the following:
- (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 (site owner or manager of the site);
  - (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—
  - (g) the number of any such conditions;
  - (h) the dates of the first and last day of the period for which any such condition applies (if applicable); and
  - (i) the date any condition is varied or satisfied (if applicable).
- 6.3. Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion on the register is for, up to a maximum of 5 years.
- 6.4. In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.
- 6.5. Where there are rejected applications, the following information must be included in 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.

The name and address of the rejected applicant will not be included on the register.

Details of the 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.

The Council will 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.

- 6.6. Where the Council has, with the site owner's consent, appointed a person to manage the site, it will include the following information in 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).

## **General**

- 6.7. The Council will have regard to the following when determining a fit and proper person application:
- The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
  - Ministry of Housing Communities & Local Government Guidance
  - The Council's Fit and Proper Persons' Determination Policy

## **7. DATA PROTECTION**

- 7.1. The Data Protection Act 2018 and the UK GDPR regulate the processing of information relating to individuals, which includes the obtaining, holding, using or disclosing of such information.
- 7.2. The Council needs to collect and use certain types of information about its service users in order to carry out its everyday business and to fulfil its objectives and its statutory functions.

The Council's:

- [Data Protection Policy](#) sets out how it will protect special category and criminal convictions personal data; and
- The [Private Sector Housing Privacy Notice](#) explains that the Council collects personal information to administer these services.

## **8. EQUALITY AND DIVERSITY**

- 8.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.
- 8.2. The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated to a contractor/service provider and is a continuing duty.
- 8.3. A Customer Access Review has been undertaken to assess the impact the policy will have on affected persons with protected characteristics. The review concluded there were no known circumstances of a negative equality impact.

## **9. REVIEW**

- 9.1. This policy will be reviewed every three years, or sooner, in the event of major legislative or operational changes.