

Decision by Portfolio Holder



Report reference: CRS-001-2021/22

Date of report: 16 June 2021

**Epping Forest
District Council**

Portfolio: Community and Regulatory Services – Councillor A Patel

Author: Sally Devine (Ext) 4149 Democratic Services: J Leither

Subject: Caravan Sites and Control of Development Act 1960- Fit and Proper Person Test

Decision: To adopt the proposed Fit and Proper Person Determination Policy and Fit and Proper Person Fees Policy in order to administer the new regime.

ADVISORY NOTICE:

*A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest.
A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.*

I have read and approve/~~do not approve~~ (delete as appropriate) the above decision:

Comments/further action required: None

Signed: Councillor A Patel

Date: 29th July 2021

Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:

None

Dispensation granted by Standards Committee:
Yes/No or N/A

Office use only:

Call-in period begins: 29th July 2021

Expiry of Call-in period: 5th August 2021

After completion, one copy of this pro forma should be returned to Democratic Services IMMEDIATELY

Reason for decision:

New Regulations require all protected residential sites (park home sites) which are operated on a commercial basis to demonstrate that they are operated/managed by a fit and proper person. The local authority has a duty to administer this new function and it can recover its reasonable costs only after an appropriate fees policy is adopted.

Options considered and rejected:

The option not to adopt a Fit and Proper Person Determination Policy and Fees Policy is rejected because the local authority can charge for the administration and enforcement under the relevant Regulations and it is reasonable to do so.

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Background Report:

Following a Government review of the Mobile Homes Act, 2013, the Government introduced a new regime under the Caravan Sites and Control of Development Act 1960 called the Fit and Proper Person test (FPPT). The new regime was introduced by regulations in 2020 and it is to be implemented by Local Authorities on 01 July 2021. The regime sits within The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020.

All protected residential sites which are operated on a commercial basis must have demonstrated that they are operated/managed by a fit and proper person. This will include all residential park home sites on the district but will exclude family occupied sites and holiday sites. The legislation states that applications can be received by local authorities from 01 July 2021 until midnight on 30 September 2021. The Council can recover costs, once the appropriate fees policy is adopted.

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.

Officers have worked collaboratively with colleagues across the country as part of the Local Authority Caravan Site Licensing Officers' Forum, including taking barrister assistance in preparation of both policies. This ensures a consistent, fair and robust approach to implementing the new regime.

The Determination Policy

A Determination Policy has been drafted for consideration and adoption in order to support the assessment of F&PP test applications which can be received from 01 July 2021 and is attached as Appendix A.

The Policy sets out the matters to be taken in determining a fit and proper person application and the information and evidence that will be required in order to make that determination. The Council is entitled to take any matters which it believes to be of relevance in the application, but it will primarily focus on the relevant person's conduct, competence and their suitability to manage the site.

On receipt of an application the Council may grant the application unconditionally; grant the application subject to conditions; or reject the application. The Council can grant the application for the full 5 years, after which a new application is required, or it may grant an application for less than 5 years. Any application that is rejected is subject to appeal at the First Tier Tribunal.

Where a FPPT is rejected the applicant 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.

It is an offence to contravene the Regulations, which includes withholding information or including false or misleading information and failing to comply with any conditions imposed.

The Council will set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in the Epping Forest District area. The register will include details of the person. It will be open to inspection and will be available online.

The Fees Policy

A Fees Policy has been drafted for consideration and adoption to support the recovery of costs associated with performing this new function and is attached at Appendix B. It includes a Fee Structure which is at Appendix 1 of the policy document.

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A number of options have been considered and it is proposed that a Fixed Initial Application Fee will be charged based on officer time, renewable after 5 years or such lesser time as the Council may set based on the Determination Policy. The legislation allows for the charging of an additional annual fee but this is not being proposed because the site owner is entitled to pass on the costs to the home owners and is more likely to do so if the fees are escalated; and the Council can reduce the length of the period between new applications (and new fee) if it justifies.

The proposed application fee is £95.00 for a single application and, where a site owner operates more than one site, each additional application will be £47.50 (50%). The fee structure will be reviewed annually.

Resource Implications:

The function will be administered under existing staff resources. Adopting the fees policy will enable the Council to recover the costs associated with delivering this process whilst not making a financial gain. If the proposed Fees Policy is not adopted the Council will not be able to recover its costs.

Legal and Governance Implications:

It is a legal requirement under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020 that local authorities implement the new Fit and Proper Person regime. Adopting the determination policy will enable the Council to make decisions and uphold these decisions if challenged. Not adopting the determination policy increases the risk of challenges to decisions made in relation to the F&PP test. Officers have worked collaboratively with colleagues across the country as part of the Local Authority Caravan Site Licensing Officers' Forum, including taking barrister assistance in preparation of both policies.

Safer, Cleaner and Greener Implications:

The purpose of the new legislation is to ensure that residential park home sites are managed by a fit and proper person. 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.

Consultation Undertaken:

There is no legal requirement to consult. Officers have worked collaboratively with over 200 colleagues across the country as part of the Local Authority Caravan Site Licensing Officers' Forum, including taking barrister assistance in preparation of both policies, to ensure a consistent, fair and robust regime

Background Papers: None

Impact Assessments:

Risk Management: Adopting the determination policy protects the Council from the risk of challenges to decisions made in relation to the F&PP test. It may also increase resident's perception that the Council invests importance to the new regime

Equality Analysis:

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix C to the report.

Key Decision Reference (Y/N): Y – raises new issue of policy

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Appendix A

EPPING FOREST DISTRICT COUNCIL
DETERMINATION POLICY FOR FIT AND PROPER PERSON TEST AND ENTRY INTO
REGISTER

(See page 20)

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Appendix B

The Epping Forest District Council Fit and Proper Person Fees Policy

(See page 12)

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Equality Impact Assessment

1. Under s.149 of the Equality Act 2010, when making decisions, Epping District Council must have regard to the Public Sector Equality Duty, ie have due regard to:
 - eliminating unlawful discrimination, harassment and victimisation, and other conduct prohibited by the Act,
 - advancing equality of opportunity between people who share a protected characteristic and those who do not,
 - fostering good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
2. The characteristics protected by the Equality Act are:
 - age
 - disability
 - gender
 - gender reassignment
 - marriage/civil partnership
 - pregnancy/maternity
 - race
 - religion/belief
 - sexual orientation.
3. In addition to the above protected characteristics you should consider the cross-cutting elements of the proposed policy, namely the social, economic and environmental impact (including rurality) as part of this assessment. These cross-cutting elements are not a characteristic protected by law but are regarded as good practice to include.
4. The Equality Impact Assessment (EqIA) document should be used as a tool to test and analyse the nature and impact of either what we do or are planning to do in the future. It can be used flexibly for reviewing existing arrangements but in particular should enable identification where further consultation, engagement and data is required.
5. Use the questions in this document to record your findings. This should include the nature and extent of the impact on those likely to be affected by the proposed policy or change.
6. Where this EqIA relates to a continuing project, it must be reviewed and updated at each stage of the decision.
7. All **Cabinet, Council, and Portfolio Holder reports must be accompanied by an EqIA**. An EqIA should also be completed/reviewed at key stages of projects.
8. To assist you in completing this report, please ensure you read the guidance notes in the Equality Analysis Toolkit and refer to the following Factsheets:
 - Factsheet 1: Equality Profile of the Epping Forest District
 - Factsheet 2: Sources of information about equality protected characteristics
 - Factsheet 3: Glossary of equality related terms
 - Factsheet 4: Common misunderstandings about the Equality Duty
 - Factsheet 5: Frequently asked questions
 - Factsheet 6: Reporting equality analysis to a committee or other decision making body

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Section 1: Identifying details

Your function, service area and team: Regulatory Service

If you are submitting this EqlA on behalf of another function, service area or team, specify the originating function, service area or team: No

Title of policy or decision: **Caravan Sites and Control of Development Act 1960- Fit and Proper Person Test**

Officer completing the EqlA: Tel: 01992 564149 Email: sedvine@eppingforestdc.gov.uk

Date of completing the assessment: 11.6.2021

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Section 2: Policy to be analysed

2.1	<p>Is this a new policy (or decision) or a change to an existing policy, practice or project? New policy</p>
2.2	<p>Describe the main aims, objectives and purpose of the policy (or decision):</p> <p>New Regulations require all protected residential sites (park home sites) which are operated on a commercial basis to demonstrate that they are operated/managed by a fit and proper person. The local authority has a duty to administer this new function and it can recover its reasonable costs only after an appropriate fees policy is adopted</p> <p>What outcome(s) are you hoping to achieve (ie decommissioning or commissioning a service)?</p> <p>The Determination Policy will set out the matters to be taken in determining whether the person proposed to manage a residential park home site is a fit and proper person to do so. The Council is entitled to take any matters which it believes to be of relevance in the application, but it will primarily focus on the relevant person's conduct, competence and their suitability to manage the site. The Fees policy sets out the fee structure which should be fair and transparent and reflect local authority actual costs</p>
2.3	<p>Does or will the policy or decision affect:</p> <ul style="list-style-type: none"> • service users yes • employees no • the wider community or groups of people, particularly where there are areas of known inequalities? no <p>Will the policy or decision influence how organisations operate? Yes it will ensure that any person managing a protected site must be a fit and proper person as determined by the Council</p>
2.4	<p>Will the policy or decision involve substantial changes in resources? No</p>
2.5	<p>Is this policy or decision associated with any of the Council's other policies and how, if applicable, does the proposed policy support corporate outcomes? No</p>

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Section 3: Evidence/data about the user population and consultation¹

As a minimum you must consider what is known about the population likely to be affected which will support your understanding of the impact of the policy, eg service uptake/usage, customer satisfaction surveys, staffing data, performance data, research information (national, regional and local data sources).

3.1	What does the information tell you about those groups identified? Relates only to site owners of protected mobile home sites operating in the district
3.2	Have you consulted or involved those groups that are likely to be affected by the policy or decision you want to implement? If so, what were their views and how have their views influenced your decision? There is no requirement to consult. Extensive collaborative working across 200 partner authorities has determined the policy framework and fee structure options which is considered adequate
3.3	If you have not consulted or engaged with communities that are likely to be affected by the policy or decision, give details about when you intend to carry out consultation or provide reasons for why you feel this is not necessary: See above

Section 4: Impact of policy or decision

Use this section to assess any potential impact on equality groups based on what you now know.

Description of impact	Nature of impact Positive, neutral, adverse (explain why)	Extent of impact Low, medium, high (use L, M or H)
Age	Neutral – the impact has no particular relevance to this criterion	L
Disability	Neutral – the impact has no particular relevance to this criterion	L
Gender	Neutral – the impact has no particular relevance to this criterion	L
Gender reassignment	Neutral – the impact has no particular relevance to this criterion	L
Marriage/civil partnership	Neutral – the impact has no particular relevance to this criterion	L
Pregnancy/maternity	Neutral – the impact has no particular relevance to this criterion	L
Race	Neutral – the impact has no particular relevance to this criterion	L
Religion/belief	Neutral – the impact has no particular relevance to this criterion	L
Sexual orientation	Neutral – the impact has no particular relevance to this criterion	L

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Section 5: Conclusion

		Tick Yes/No as appropriate	
5.1	Does the EqIA in Section 4 indicate that the policy or decision would have a medium or high adverse impact on one or more equality groups?	No X <input type="checkbox"/>	
		Yes <input type="checkbox"/>	If 'YES', use the action plan at Section 6 to describe the adverse impacts and what mitigating actions you could put in place.

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Section 6: Action plan to address and monitor adverse impacts

What are the potential adverse impacts?	What are the mitigating actions?	Date they will be achieved.

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Section 7: Sign off

**I confirm that this initial analysis has been completed appropriately.
(A typed signature is sufficient.)**

Signature of Head of Service: *S. Deane*

Date: 11.6.2021

Signature of person completing the EqIA: *S. Deane*

Date: 11.6.2021

Advice

Keep your director informed of all equality & diversity issues. We recommend that you forward a copy of every EqIA you undertake to the director responsible for the service area. Retain a copy of this EqIA for your records. If this EqIA relates to a continuing project, ensure this document is kept under review and updated, eg after a consultation has been undertaken.

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**EPPING FOREST DISTRICT COUNCIL
FIT AND PROPER PERSON FEE POLICY**

1. Introduction

- 1.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a fit and proper person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations.
- 1.2 The Regulations apply to all relevant protected sites.
- 1.3 A relevant protected site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person.
- 1.4 A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) (“the Regulations”) must apply to the Local Authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area (“the register”).
- 1.5 The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 1.6 The Regulations permit the Local Authority to determine the fee for an application or registration for someone to be added to the register. It is imperative that the fee is included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.
- 1.7 It is important to highlight that this fee policy will refer to any annual fee to recover costs which the Local Authority may have incurred, or which will be incurred, in appointing a person to manage a site with the site owner’s consent.
- 1.8 Site owners will be required to submit a completed application from 1 July until October 2021 (3 months) and pay the fee, outlined below, which will also include any additional fees such as an annual site fee.

2. Fee Structure

- 2.1 For the sake of transparency, it is necessary to produce and publish a Fees Policy for the Fit and Proper Person application fee. The Council will NOT charge an additional fit and proper person fee to cover expenses incurred in administering the fit and proper person test by way of an annual fee.
- 2.2 The Mobile Homes Act 2013 guide provides that there are several variations of fee structure that can be considered by a local authority. A local authority can adopt a fee structure it is comfortable with and should consider the pros and cons to each.
- 2.3 The following 3 options have been considered:
- A. Fixed Initial Application Fee
 - B. Risk Based Assessment Fee
 - C. No Fee

Option B: A fee based on a risk assessment has been ruled out on the basis that this would mean that a site that is less well run and which requires greater resources from the Local Authority to ensure compliance with the fit and proper person's requirements to effectively manage the site would attract a higher fee.

The law does not prevent the site owner from passing on the fee to occupiers of the site, thus a higher fee will be passed on to occupiers via their annual pitch fees resulting in them paying more to live on a poorly managed site. This will cause upset and will lead to more complaints which will affect the Councils administrative resources for dealing with the increased workload.

Option C: has been ruled out even though it would safeguard against owner's passing on the fit and proper person fee because the Council charges for all other licensing function in the private sector housing service and the implementation of the scheme and the processing of applications is an additional resource burden so it is fair and proper to apply a fee policy.

3. Decision

- 3.1 The Council has decided to adopt **Option A:** Fixed Initial Application Fee as it is deemed to be straight forward and fair because the cost to the Council in terms of officer time and administration is the same regardless of the size and nature of the site.
- 3.2 The Council has taken into account the possibility of the site owner passing on these fees and realises that this could mean that residents on smaller sites have a disproportionately larger pitch fee to pay than residents on larger sites. However, this fee policy relates to the administrative costs for processing applications only and isn't connected to activities related to Site Licensing Fees which have been banded dependent on the size of the site to take account of the Councils involvement in dealing with site licensing complaints.
- 3.3 The Council has not consulted with residents and park homeowners in relation to this fee policy as it is not legally obliged to do so.
- 3.4 The Fee Structure for inclusion in the Fit and Proper Person Register for mobile home

sites is attached at Appendix 1.

4. Review of the Fee Structure

- 4.1 A review of the fee structure will be carried out annually in March and revised if necessary. Any adjustments will take into account variations in actual officer and administration time to those predicted in Appendix 1; any changes to officer hourly rates, mileage costs or any other typical associated costs in providing the function.
- 4.2 Any surpluses and deficits for the previous year will be presented to the Service Manager, Commercial and Regulatory Services, and where agreed, the fees to the site owner will be adjusted accordingly for the following year.

5. Publishing the Fee Policy

- 5.1 The Fees Policy for Inclusion on the Fit and Proper Person Register for mobile home sites will be published on the Council's website (insert link).
- 5.2 If the Council revises its fee policy, it will replace the published policy with the revised policy.

6. Payment of Fees

- 6.1 The Council will not consider an application for entry into the register unless the application is accompanied by the correct fee. If the correct fee is not paid the application will not be valid and the site owner could be in breach of the Regulations.
- 6.2 The Council requires payment to be made by bank transfer/BACS.
- 6.3 If the Council decides not to approve an application the applicant is not entitled to a refund of the fee paid.

7. Appeals against the fees charged

- 7.1 The applicant has the right to apply to the First Tier Tribunal where they disagree with the fee being charged.



EPPING FOREST DISTRICT COUNCIL
FEES FOR FIT AND PROPER PERSON TEST 2021

8. Fixed Initial Application Fee

- 8.1 The fit and proper person assessment and/or checks to be included on the fit and proper register will take a total of 180 minutes per application. This time of 180 minutes includes updating and publishing the register.
- 8.2 The checks are likely to be carried out by the same officers who carry out the licensing functions and, therefore, their hourly rate of £31.75 as per **Table 1** should be applied. Therefore, the fee is set at £95.25 rounded to £95.00 for the fit and proper person application.
- 8.3 Where an applicant has more than one mobile home site in the Epping Forest District Council area, and where the same person is to be subject to the fit and proper test for more than one site, for subsequent applications the fee will be reduced by 50% to £47.50.
- 8.4 We will take into account the following matters on which costs are incurred, or likely to be incurred (by various departments), when determining the fee policy for consideration of applications for entry on a fit and proper person register:
- (a) Initial enquiries;
 - (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
 - (c) sending out forms;
 - (d) updating files/ computer systems and websites;
 - (e) processing the application fee;
 - (f) land registry searches;
 - (g) time for reviewing necessary documents and certificates;
 - (h) preparing preliminary and final decision notices;
 - (i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
 - (j) updating the public register;
 - (k) carrying out any risk assessment process considered necessary and

(l) reviews of decisions or in defending appeals.

8.5 Fee charges are limited to recovering the costs of exercising the fit and proper person test function only and no other costs that have already been charged for by other service areas.

9. Additional considerations for an application fee

9.1 The Council will conduct relevant checks regarding that applicants background in management and their financial standing. The result of these checks will allow the Council to decide on whether or not to accept the application. The time taken for these checks is accounted for in the fee, irrespective of whether or not the entry on the register is granted.

9.2 Where an applicant contacts the Council before making an application to ascertain the likelihood of the success of the application, the council will provide informal advice, for example, the conditions surrounding an application, the information required to be submitted and general guidance on making the application. Further guidance relating to the fit and proper person test can be found in the determination policy.

9.3 Any preliminary advice the Council gives, prior to receiving and application, is accounted for in the fee and will not be charged separately.

10. Appointed Manager Fee

10.1 This is where the Council is provided with the site owner's consent to appoint an individual to manage a site. The Council's costs associated with this will be in line those detailed at paragraph 8.2 above and will be recoverable from the site owner.

TABLE 1

Details	Officer Hourly Rate	Application Fee (based on 180 minutes of Officer Time).
Fit and Proper Person Test for Entry onto Register	£31.75	£95.25 single application Rounded to £95.00
Details	Officer Hourly Rate	Application Fee (where same person is subject to F&PP test for more than one site owned by the applicant).

Fit and Proper Person Test for Entry onto Register	£31.75	£47.50 per additional application
Annual Fee for monitoring Fit and Proper Person Register	N/A	N/A

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EPPING FOREST DISTRICT COUNCIL

**DETERMINATION POLICY FOR FIT AND PROPER PERSON TEST AND ENTRY INTO
REGISTER**

Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person (“the Regulations”). The Council is 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 Regulations².

The Regulations, made on 23 September 2020, allow the Council 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.

The Council 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.*”

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 Council can instead appoint a person to manage the site, but only with the consent of the site owner.

Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site, which requires a licence, and which is not solely for holiday purposes or is otherwise not capable of being used all year round. 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.

The Evidence

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

1. **Is the individual able to conduct effective 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. It follows that, the Council must have regard to:
 - (i) whether the person has a sufficient level of competence to manage the site;

² *i.e. it is a non-commercial, family occupied site under Regulation 3

- (ii) the management structure and funding arrangements for the site or
- (iii) 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 *may* want to ensure that the applicant has a robust management plan, in these cases this will 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.

The site is to be managed by an applicant based in the UK (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 must 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 readily available.

Another consideration is if funding is through a third party (including an associated company), the Council should be wary if this is not disclosed as 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 would include a criminal record check and should include 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 should 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 will still 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 also address any underlying issues by attaching conditions to the individual's entry on the register.

3. Upon rejection of a person's application by any other local authority this should be centrally recorded and include the details of the person involved and the reasons for the rejection.

Items to be taken into consideration

4. "The applicant" is defined at paragraph 2 of the Regulations as "the person who makes an application under regulation 6".
5. The "relevant person" is also defined at paragraph 2 of the Regulations to mean "the subject of the fit and proper person assessment under Regulation 7".
6. 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.
7. 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.
8. It is not routinely required to provide information of all current or past associates of the site owner. However, prior to making a final decision, the Council can consider the conduct of past and current associates relevant to that individual's application. The site owner can be asked to provide additional information during the application process.

9. The Council will need 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.
10. The Regulations give the Council the opportunity to take into consideration other relevant matters. However, 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.
11. The Council is able to decide the specific matters deemed 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 which the Council believe to be of relevance to the application primarily focus on the relevant person's conduct, competence and their suitability to manage the site.
12. Evidence will be obtained by the Council to support any additional matters it requires 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 its final decision. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions. (Allegations which have not been investigated or documented may be difficult to use as evidence to support the Councils decision).

Applications

The Regulations use various terms in the application process, and these are outlined below:

“Relevant Person” is defined in paragraph 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

13. Details of the site and the applicant:

- (1) The applicant's name and business contact details.
- (2) 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.
- (3) The name and address of the site.
- (4) Evidence of the applicant's legal estate or equitable interest in the site.
- (5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- (6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

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

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

15. 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

16. 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

17. 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

18. 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.

19. 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 to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

Criminal Record Certificate(s)

20. Criminal Records Certificates must be issued under section 113A (1) of the Police Act 1997 and will be required 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.

21. With reference to the above law, the Criminal record may be either basic or enhanced, at the discretion of the Council.

22. 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 made and signed by the “Appropriate Person”, which means:

- (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.

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

24. The declaration should also state that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

Considerations Relevant to Fit and Proper Person Assessment

25. 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.

26. 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.

Decisions, Notification and Rights of Appeal

27. The Council must 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.

28. On receipt of an application the Council may:

(a) grant the application unconditionally;

(b) grant the application subject to conditions; or

(c) reject the application.

Granting the Application Unconditionally

29. Where the Council is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.

30. The final decision notice must 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)

31. 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.
32. It may be the case that the Council decides to include the person on a register subject to condition(s), if it would only be 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.
33. Conditions will need to be clearly stated for the applicant's understanding and this will also allow the Council to ensure that they are enforceable.

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

Table 1

Specific	The specific condition/s a site owner is being requested to address.
Measurable	The conditions required and the outcome(s) expected.
Achievable	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.
Realistic	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.
Timebound	A clear timescale in which the task/action must be completed.

What can a condition relate to?

34. 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.
35. Where a person has contravened legislation, or committed offences set out in paragraph 2 above, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above in paragraph 33. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.
36. Local Authorities are advised that, in cases where the person has committed those listed offences or contravened legislation, these breaches should be considered, together with all the other information available, when reaching their preliminary decision.
37. An example of a condition could relate to the payment of an annual fee. A condition can also be set with respect to ensuring the relevant person has the ability to secure the proper management of the site. 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.
38. **Example 1** - A 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 xx date and provide the LA with quarterly reports of complaints and outcomes, from that date and for the first year"*.
- If the condition is met within the specified time frame, the Council can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year. The site owner could also be expected to complete a relevant "CPD Customer Service/Dealing with Complaints" course by a certain period. However, should the Council consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.
39. **Example 2** – 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 xx document by xx date".
40. **Example 3** - An associated person has been visiting the park and, through their action 'X', has caused distress to the residents impacting their well-being and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

Decisions not to include the Applicant on the Register

41. Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, a Council can refuse to grant the application.
42. 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 must be issued.
43. The preliminary decision notice must 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

44. 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.
45. The Council is obliged to consider and take any representations it receives into account before making a final decision.

Final Decision Notice

46. The Council must, 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.
47. The final decision notice must 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.

Appeals

48. 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 decisions served 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.

49. 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.

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

Withdrawal or Amendment of Notice

51. 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.

52. To withdraw or amend a notice, the Council must serve notice to the person on whom the original notice was served.

53. There are no requirements for notices to contain specific information, however, it is recommended that a withdrawal or amendment notice should state:

- (a) That it is withdrawing/amending the original notice
(a copy of the original notice should 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

54. 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.

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55. The Council will use its judgement when determining whether to review an entry and consider whether any subsequent actions are required. 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 paragraph 51 (a) to (c) above, it must serve a notice of any proposed action on the occupier.

56. The notice of proposed action must 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.

57. 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

58. 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.

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

60. Where the Council decides to take the action, the Council must 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.

61. The notice of action must set out—

- (a) the date the notice of action is served;
- (b) the fact that they have 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

62. There are 3 offences which can occur within the Regulations. They are as follows:

- 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.

63. Local Authorities are 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

64. 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.

Relevant Periods in Specific Circumstances

65. The below table outlines limited circumstances where a site owner may have a defence.

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 1 st 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 Council 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 Council 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 Council 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 Council has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the Council's decision the occupier notifies the relevant Council 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 Council 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 Council 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 Council 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 Council 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

The Fit and Proper Persons Register

66. The Council will set up and maintain a public register of persons who they are satisfied are fit and proper persons to manage a site in the Epping Forest District area. The register will be published online.
67. The register will provide a record of the outcome (as discussed above) of the fit and proper person tests the Council have 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—
 - (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).

68. 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 is for, up to a maximum of 5 years.

69. 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.

70. 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.

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 name of the rejected applicant will not be included on the register. The Council can however 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.

71. Where the Council has, with the site owner's consent, appointed a person to manage the site, the Council will include the following information:

- (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).

Decisions List and Action to be taken by Officer

Details	Actions
<p>Decision to Grant Application Unconditionally</p> <p>(See paragraphs 29-30 above)</p>	<ul style="list-style-type: none"> • Issue Final Decision Notice (Acceptance Unconditional) • Include the applicant on the register for 5 years (max period) • Set reminder 2 months before entry expires to send letter regarding renewal
<p>Decision to Grant Application subject to certain conditions</p> <p>(See paragraphs 31-33 and 34-40 above)</p> <p>(See paragraphs 44 and 45 above)</p> <p>(See paragraphs 46 and 47 above)</p>	<ul style="list-style-type: none"> • Issue Preliminary Notice (Acceptance subject to Conditions). • The Council can decide to grant the application for a period of less than 5 years • The Council can decide to grant the application subject to conditions if it would be satisfied that the person would meet the F&PPT if those conditions were complied with. • Conditions must be clearly stated and must be enforceable. See paragraphs 34 to 37 for details of what conditions can relate to. • Include the applicant on the register for 5 years (max period) or lesser period if applicable and include conditions relating to entry on register (include compliance dates where appropriate). <p>Representations:</p> <ul style="list-style-type: none"> • Applicant has the right to make representation within 28 days beginning the day after the day on which the notice was served. • Set reminder for expiration of representation period. • The Council must consider and take into account any representations it receives. <p>Final Decision Notice:</p> <ul style="list-style-type: none"> • As soon as reasonably possible after the end of the representation period make a final decision and serve the decision notice on the applicant (Final Acceptance Subject to Conditions) <p>Appeals</p> <ul style="list-style-type: none"> • The applicant has the right to appeal the decision to the FTT within 28 days beginning the

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(See paragraphs 48 to 50 above)	<p>day after the day on which the notice was served.</p> <ul style="list-style-type: none"> • Set reminder for expiration of appeal period.
<p>Decision not to include the Applicant on the Register</p> <p>(See paragraphs 41 to 43)</p> <p>(See paragraphs 44 and 45 above)</p> <p>(See paragraphs 46 and 47 above)</p> <p>(See paragraphs 48 to 50 above)</p>	<ul style="list-style-type: none"> • Issue a Preliminary Refusal Notice (Notice of Preliminary Refusal Letter). • Include the refusal on the register with the following information: <ul style="list-style-type: none"> (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. <p>DO NOT include the applicants name on the register</p> <p>Representations:</p> <ul style="list-style-type: none"> • Applicant has the right to make representation within 28 days beginning the day after the day on which the notice was served. • Set reminder for expiration of representation period. • The Council must consider and take into account any representations it receives. <p>Final Decision Notice:</p> <p>As soon as reasonably possible after the end of the representation period make a final decision and serve the decision notice on the applicant.</p> <p>Appeals</p> <ul style="list-style-type: none"> • The applicant has the right to appeal the decision to the FTT within 28 days beginning the day after the day on which the notice was served. • Set reminder for expiration of appeal period. <p>Alternative Management Arrangements</p> <ul style="list-style-type: none"> • Where an applicant accepts the Council's decision not to include the person originally

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	<p>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.</p> <ul style="list-style-type: none"> • Set a reminder to contact the applicant after the expiration of the appeal period to discuss making alternative management arrangements.
<p>Withdrawal or Amendment (subsequent actions) of Notice</p> <p>(See paragraphs 51 to 53)</p>	<p>If the Council decides to withdraw or amend a previously agreed action such as</p> <ul style="list-style-type: none"> • Preliminary Refusal Notice before service of the final decision notice; • A final decision notice before the decision to which it relates takes effect; or • A notice of proposed action before the proposed action is taken, <p>It must:</p> <ul style="list-style-type: none"> • Serve notice on the person on whom the original notice was served (LA Withdrawing the Refusal/ LA Amending the Original Notice) Attach a copy of the original notice for reference. • Include the applicant on the register for 5 years (max period), include conditions or for a lesser period where relevant. • Set reminder 2 months before entry expires to send letter regarding renewal
<p>Removal from Register</p> <p>(See paragraphs 54 to 56)</p> <p>(See paragraphs 44 and 45 above)</p>	<p>If, after a person is included on the register the Council decides to:</p> <ol style="list-style-type: none"> Remove the person from the register; Impose a condition on the inclusion on the person in the register (whether or not there are already conditions imposed); Vary a condition <ul style="list-style-type: none"> • A new notice must be served (LA Amending the Original Notice). Attach a copy of the original notice for reference. <p>Representations:</p>

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<p>(See paragraphs 48 to 50 above)</p>	<ul style="list-style-type: none"> • Applicant has the right to make representation within 28 days beginning the day after the day on which the notice was served. • Set reminder for expiration of representation period. • The Council must consider and take into account any representations it receives. <p>Where the Council decides to take the action:</p> <ul style="list-style-type: none"> • It must serve a further notice on the occupier indicating that the action has been taken (e.g. person has been removed from register or a condition has been imposed or varied), within 5 working days of taking the action. <p>Appeals</p> <ul style="list-style-type: none"> • The applicant has the right to appeal the decision to the FTT within 28 days beginning the day after the day on which the notice was served. • Set reminder for expiration of appeal period.
<p>Removing a condition from the Register</p>	<p>If the Council decides to remove a condition from the entry on the register it is not necessary to issue a notice.</p> <ul style="list-style-type: none"> • Send informal letter to applicant as a matter of courtesy. • Update register to reflect removal of earlier condition(s).

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