

Royal Borough Windsor & Maidenhead
Mobile Homes Act 2013: Fit and Proper Person Determination
Policy

January 2026

“A borough of safer, greener and cleaner communities, with opportunity for all”

Our vision is underpinned by five priorities:

Put the council on a strong financial footing to increase resilience and serve the borough effectively.

A cleaner, greener, safer and more prosperous borough.

Children and young people have a great start in life and opportunities through to adulthood.

People live healthy and independent lives in supportive communities.

A high-performing council that delivers for the borough.

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1. Introduction

- 1.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, requires the manager of a 'Relevant Protected Site' to be a Fit and Proper Person ("the Regulations").
- 1.2. 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, are suitable persons to manage the site and follow best practice. Additionally, it provides the safeguard that individuals managing sites, will not pose a risk to the welfare or safety of persons occupying mobile homes on the site.
- 1.3. Local authorities are 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 (i.e. it is a non-commercial, family occupied site under Regulation 3)
- 1.4. Royal Borough of Windsor Maidenhead Council (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.*"
- 1.5. 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.
- 1.6. This document sets out the Council's process for receiving and determining applications for persons to be included in the fit and proper person register. It should be read in conjunction with the Council's Residential Mobile Homes Site Licensing Policy, and the Council Enforcement and Prosecution Policy, both of which are available on the Council's webpages.

2. Definitions

The '**applicant**' is the person who makes the application under regulation 6

The '**site manager**' is the person appointed by the licence holder to manage the site on their behalf.

A '**responsible person**' is a person other than the relevant person/entity, appointed to manage the site on a day-to-day basis, for whom information must be provided in the application.

The '**status**' refers to the relationship of the relevant person to the site i.e. are they the owner of the site or the site manager.

3. The Application Process

- 3.1. The application for the inclusion of a person in the Council's fit and proper person register must be made by the person holding the licence for the site under section 1 of the Caravan Sites and Control of Development Act 1960; or a person that has applied for a site licence, in respect of the site under section 3 of that Act.
- 3.2. Where the site owner is not an individual, the application must be made on behalf of the site owner by a 'relevant officer'. A '**relevant officer**' is in the case of a company, a director or other officer; in the case of a partnership, a partner; for a body corporate where the conduct of the management of the body is vested in its members, a member; and for any other body, a member of the management committee
- 3.3. Where a site is owned jointly, one owner may make the application on behalf of all, however they must provide the details of all owners in the application form.
- 3.4. The site owner may make an application for themselves to be included in the register, or they may appoint a person to manage the site on their behalf, in which case they will apply for the site manager to be included in the register. The person who is the subject of the fit and proper assessment is referred to as the 'relevant person'. The relevant person can be an individual or an entity.
- 3.5. The information required at the initial application stage will depend on whether the application is made in respect of the site owner themselves or a person appointed to manage the site on their behalf. The '**status**' of the relevant person in relation to the site must be clearly set out in the application.
- 3.6. Management arrangements vary significantly, so to ensure consistent levels of scrutiny are applied across different sites, fit and proper person applications must also contain information about certain '**responsible persons**' involved in the management of the site; for example, persons appointed by the relevant person to manage the site, where the relevant person is a limited company. **Appendix 1** sets out the information required in a range of circumstances.
- 3.7. All applications must be made in writing to the Council and details of how to apply can be found on the Council's webpages or by contacting Environmental Health - Residential Team.
- 3.8. **Appendix 1** contains the information required at the initial application stage. It is for the Council to determine what information is relevant to the application. The Council may require further information to make its determination. Requests for further information will be made to the applicant in writing. The Council will explain why the further information is required.
- 3.9. Where an applicant fails to provide the further information, this may indicate wider problems with the management of the site, which may be relevant to the fit and proper person determination.

Other persons involved in the management of the site

- 3.10. In some cases, the site owner must provide information about other persons involved in the management of the site. What is considered 'involvement in management' will differ from site to site and the Council will judge each case on its merit based on factors like how regularly the person attends the park, the duties they undertake, the actual or potential impact their presence has on resident's safety, well-being and quiet enjoyment of their home etc.
- 3.11. Persons appointed to manage the site when the main site manager is on holidays, are likely to be considered involved in the management of the site; as are persons regularly responding to resident's complaints or dealing with management or contractual issues. Conversely those commissioned to undertake maintenance work on an ad-hoc or irregular basis are unlikely to be involved in the management.
- 3.12. The Council will expect the site owner to include the details of any person involved in the management of the site in their application. Site owners are encouraged to contact the Council if they are unsure about whether a person's details need to be included.
- 3.13. The Local Authority may, either proactively or in response to information, investigate to establish whether there are persons other than the relevant person, involved in the management of the site, and may consider attempts by the site management to conceal the involvement of other persons, as an indicator of other site management issues.

Persons associated with site owner or manager

- 3.14. The Council may have regard to the conduct of persons associated or formerly associated with the site owner or manager. The Council will only consider the conduct of an associated person if it is relevant to the question of whether the 'relevant person' is fit and proper. The Council may make reasonable enquiries in relation to relevant associated persons in deciding whether to include a person on the fit and proper person register.

Criminal Records Certificate- Disclosure and Barring Service

- 3.15. Criminal records checks are a mandatory element of the fit and proper person application. Criminal Records Certificates must be issued under section 113A (1) of the Police Act 1997 and will be required for the relevant person and other responsible persons. The persons for whom a criminal records check is required is set out in **Appendix 1**.
- 3.16. If any applicant is unsure about whether a DBS is required in respect of any person for whom they are required to provide information in their application, they are encouraged to make enquiries with the environmental health team.
- 3.17. 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. Applications not accompanied by a DBS certificate will be deemed incomplete.

Declaration

- 3.18. Each application must include 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.
- 3.19. Where the applicant is not the relevant person and therefore not the subject of the fit and proper assessment, they must make all reasonable enquiries into the relevant matters, as set out below, and they must sign a declaration to that effect.
- 3.20. The applicant must also sign a declaration confirming that the information provided in the application is correct and complete to the best of their knowledge and belief.

Fit and proper person application fee

- 3.21. The Council can attach a fee to cover the costs associated with processing and enforcing the fit and proper person regime. The Council has devised a separate fee policy, setting out how the fees are calculated, and how they should be paid, which can be found on the Council’s webpages.
- 3.22. Fit and proper person applications not accompanied by the appropriate fee will not be considered valid.

4. Undertaking the Fit and Proper Assessment

- 4.1. On receipt, officers from environmental health- residential services team will review the fit and proper person application and associated documents to ensure that all required information is included. Officers will also check that the correct application fee has been paid.
- 4.2. Where an application is incomplete, or where the fee has not been paid, officers will write to the applicant giving them an opportunity to provide any missing information or documentation. Officers will specify a timescale within which the information should be provided, after which they will deem the application has not been made and further action will be considered.
- 4.3. If, consequently, the site operates without a fit and proper manager, the site owner

could be subject to enforcement action. Furthermore, a failure to cooperate with the Council and provide the required information may be considered by the Council to reflect wider management problems which could be relevant to any future fit and proper person assessment.

- 4.4. If, following receipt of a valid application and associated fee, the Council requires further information it will write to the applicant as set out in the previous section.
- 4.5. In making the fit and proper person assessment, officers may seek clarification on matters included in the application, directly from the applicant and/or relevant person. It may write to interested parties, or, in certain circumstances, it may invite the relevant person to attend a meeting or interview. The relevant person will be under no obligation to attend the meeting; however, the Council may consider a refusal to engage with the Council relevant to its fit and proper person determination.
- 4.6. In determining a fit and proper person assessment the Council may wish to conduct an inspection of the site to assess the effectiveness of current management arrangements. It is anticipated that such an inspection would be facilitated by the site owner or manager.
- 4.7. The Council may make enquiries with relevant third parties including, but not limited to other Local Authorities, Police, or Fire Service. Officers may make written requests for additional information from the applicant if the Council believes that additional information is relevant to the fit and proper person assessment. Where an application indicates the relevant person, or any other person involved in the management of the site has had a fit and proper application rejected by another Local Authority, the Council will make enquiries with that local authority.
- 4.8. Although multiple authorized officers may be involved in determining the fit and proper person determination, the final decision to approve or reject an application will be made by an officer of appropriate seniority, with the relevant delegated authority.
- 4.9. In all cases the Council will make its decisions based on evidence and will clearly record the reasons for making its decision.

Matters relevant to the fit and proper person determination

- 4.10. The matters that the Council **must** consider in determining a fit and proper person application are set out in the The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020. However, the Council has discretion about other matters that may be relevant to its determination.
- 4.11. The Council will generally restrict its considerations to matters relevant to the person's conduct, competence and their suitability to manage the site. For example, the Council may consider current or previous issues on the site, or other sites managed by the relevant person. The relevant person's other business dealings may also have implications for the management of the site.
- 4.12. **Appendix 2** sets out the matters relevant to the Council's fit and proper person

assessments. The list of matters is not exhaustive, and the Council reserves the right to take matters other than those listed into account when making its decisions.

- 4.13. In determining fit and proper person applications, the weight the Council gives to each of the matters listed in **Appendix 2** will vary. In general, more recent issues will be given greater weight than historic ones; failures that relate to health and safety will be considered more serious than those relating purely to management; and enforcement action and convictions will be given more weight than investigations that have not resulted in enforcement. Unsubstantiated allegations of wrongdoing will not be considered.

Timescale for determining a fit and proper person application

- 4.14. The timescale for determining a fit and proper person application will vary considerably between sites. It is likely that applications for sites with complex multi-layered management structures will take longer to process than those with simple arrangements.
- 4.15. The Council will endeavor to determine all applications within 8 weeks of receipt of **all** required information, including any further information the Council requests after the submission of the initial application.

5. Granting the application unconditionally

- 5.1. Following assessment of an application the Council will:
- a) grant the application unconditionally;
 - b) grant the application subject to conditions; or
 - c) reject the application.
- 5.2. The Council will follow the legally prescribed processes for issuing decisions relating to the fit and proper person register.
- 5.3. Where officers are satisfied that the applicant meets the fit and proper person test unconditionally, they shall include the applicant on the register for 5 years. The authority 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.

6. Granting the application subject to certain condition(s)

- 6.1. In some circumstances the Council may decide that it can only be satisfied of a person's suitability for registration as a fit and proper person, subject to certain requirements being fulfilled. In such cases the Council will grant the registration with conditions attached.
- 6.2. Council may also decide to include the relevant person on the register for less than 5 years. A shorter registration duration may be appropriate where the Council is concerned about the relevant person's fitness to operate the site, but the concern is not so serious as to warrant outright refusal of the application. A shorter duration would reduce the risk to residents but still provide the relevant person an opportunity to demonstrate their ability and competence, while being carefully monitored by the Council.
- 6.3. The decision to attach conditions to the relevant person's registration, or to reduce the term of the registration, will be based on evidence and the Council will clearly record the reasons for its decision.
- 6.4. An applicant can appeal the decision to attach (or vary) any condition to an entry on the register.
- 6.5. Conditions will be clearly stated for the applicant's understanding, and this will also allow for the local authority 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?

- 6.6. The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions will relate directly to the person's ability to secure the proper management of the site. 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, or other

relevant factors.

- 6.7. Conditions would not be appropriate where concerns about the relevant persons fitness arise from the commission of relevant offences e.g. for fraud, violence, harassment; as those incidents cannot be undone by requiring the person to do, or stop doing something. Instead, breaches of legislation will be considered, together with all the other information available, when reaching the preliminary decision.
- 6.8. **Example 1** - The local authority has evidence of a site owner's failure over a certain period, 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 local authority 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 local authority consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

- 6.9. **Example 2** – If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the local authority 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".
- 6.10. **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.

7. Decisions not to include the applicant on the register

- 7.1. Should the council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, the council can refuse to grant the application.
- 7.2. Where the council decides 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.
- 7.3. 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.

8. Right to make a representation

- 8.1. 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.
- 8.2. Representations must be made to the Council in writing, and the preliminary decision notice will clearly specify to whom such representations must be addressed. The council is obliged to consider and take any representations it receives into account before making a final decision, but the Council will not always respond separately in writing to the representations, unless clarification is required.

9. Final decision notice

- 9.1. 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.
- 9.2. The final decision will be made by an officer of appropriate seniority with relevant delegated authority, in consultation with authorized officers from the environmental health- residential services team.
- 9.3. The final decision 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.

10. Appeals

- 10.1. The applicant can appeal the final 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 Local Authority. 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.

10.2. 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, and the site remains with a registered fit and proper manager, they will be committing an offence.

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

11. Withdrawal or Amendment of Notice

11.1. There may be circumstances where the council may decide not to continue or to withdraw a previously agreed action 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.

11.2. The circumstances under which the Council will withdraw or amend its decisions will vary considerably but the Council will have regard to the Council’s Enforcement and Prosecution policy when deciding to withdraw or amend an action.

11.3. To withdraw or amend a notice, the council will serve notice on the person to whom the original notice was issued.

11.4. There are no requirements for notices to contain specific information, however, withdrawal or amendment notices will 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 decision in relation to the person’s entry on the register.

12. Removal from the register

- 12.1. If, after a person is included in the register, new evidence relevant to the person's inclusion becomes available to the Council by any means, the council may choose to undertake a review of the fit and proper person's registration.
- 12.2. The decision to review the inclusion of a person on the fit and proper person will be made by the Environmental Health Services Manager in consultation with the relevant case officer.
- 12.3. The review may involve some or all the actions undertaken at the application stage e.g. site visits, interviews with the relevant person, examining documentation. The Council may request additional information from the site owner or fit and proper person to assist with the review. The Council may also seek information from other persons including residents and other agencies e.g. Thames Valley Police.
- 12.4. When reviewing a person's inclusion in the register, the same considerations will be applied, as were applied when the original fit and proper person determination was made. The consideration will relate to the person's conduct and competence to manage the site, while site licensing concerns will be dealt with under a separate regulatory process which is explained in the Council's Mobile Homes Site Licensing Policy.
- 12.5. When the review is complete the Council may decide to take no further action, or:
- a) remove the person from the register;
 - b) impose a condition on the inclusion of the person in the register (whether there are conditions already imposed);
 - c) vary a condition; or
 - d) remove a condition.
- 12.6. In making its decision the Council will have regard to relevant guidance and the Council's Enforcement and Prosecution Policy.
- 12.7. If the council decides to take any of the actions listed in paragraph 12.5 (a) to (c) above, it will serve a notice of any proposed action on the occupier.
- 12.8. 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.

12.9. 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. However, the Council will make the site owner or their manager aware of the decision in writing and ensure the register is updated.

13. Notice of action taken

- 13.1. Where a notice of proposed action is given, the site owner will have 28 days, starting from the day after the notice is served, in which to make representations. The notice of proposed action will specify to whom the representations should be addressed. Representations will be considered by a suitably authorized officer of the Council in consultation with the case officer.
- 13.2. The council will, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.
- 13.3. Where the council decides to take the action, it will serve a further notice on the site owner, 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.
- 13.4. The notice of action will 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.

14. Offences

- 14.1. There are 3 offences relating to the fit and proper person regulations:
- a) Operating a site in contravention of the fit and proper person regulations - The site owner may have certain defences under the Regulations in any proceedings brought against them.
 - b) Withholding information or including false or misleading information in the registration application - The site owner will not have any defence under the Regulations in any proceedings brought against them.
 - c) Failing to comply with a specified condition - The site owner may have certain defences under the Regulations in any proceedings brought against them.
- 14.2. The Council is responsible for enforcing the regulations and officers may investigate alleged offences in line with relevant legislation, codes of practice and local policies.
- 14.3. It is for the Council to determine on a case-by-case basis whether to take

enforcement action for any offence. Decisions relating to enforcement action will be made by an officer with appropriate delegated authority, in line with the Council's Enforcement and Prosecution Policy and the Code for Crown Prosecutors. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine. A conviction for breaching any of the offences in paragraph 14.1, may be considered relevant in any decision relating to site licensing, including new site licence applications.

14.4. If following prosecution, an operator is convicted of any of the above offences, the Council will generally publicise the conviction as a means of deterring future offending and reassuring compliant site owners and members of the public, that the Council is holding rogue operators to account.

14.5. In certain circumstances a person operating a site in contravention of the fit and proper person requirement may have a defence in law. Schedule 5 to the Regulations sets out the circumstances under which the defence exists, and the relevant period for making a fit and proper person application in each of those circumstances. An up-to-date version of the regulations can be found by searching <https://www.legislation.gov.uk/on.gov.uk>

15. The Fit and Proper Persons Register

15.1. The council will set up and maintain a register of persons who they are satisfied are fit and proper to manage a site in their area. This register will be open to inspection by the public during normal office hours and will be available online.

15.2. The register will contain only the information required by the Regulations. There are no legal exemptions from inclusion in the register so it is important that relevant persons are aware that if they pass the fit and proper person assessment, or if they are appointed by the Council to manage the site under Regulation 4(2), the following information will be included in the register and therefore will be published online:

- 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
- e) person's inclusion in the register has effect;
- f) whether any condition is attached to the person's inclusion in the
- g) register; and
- h) 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).

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

Registration renewal

- 15.4. 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.
- 15.5. Compliance with the fit and proper person requirement is the responsibility of the site owner and the Council will **not** issue a written reminder to site owners that the fit and proper person registration is due to expire.

Rejected Applications

- 15.6. Where there are rejected applications, the Council will include the following information 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.
- 15.7. 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.
- 15.8. It must be noted that the name of the rejected applicant will not be included on the register. Local authorities will 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. The decision about whether to share information about rejected persons will be made by the Environmental Health Service Manager.

16. Policy Review and Publication

16.1. This policy has been approved by RBWM Cabinet and will be regularly reviewed and maybe revised, particularly to reflect changes in law or best practice.

16.2. The policy will be published on the Council's website.

Appendix 1- Information that must be provided in a fit and proper person application

Information relating to the applicant and the site

- 1) The site owner must include the following information about the applicant and the site in their application
 - a) The applicant's name and business contact details.
 - b) 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.
 - c) The name and address of the site.
 - d) Evidence of the applicant's legal estate or equitable interest in the site.
 - a) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
 - b) The name and business contact details of any other person that has a legal estate or equitable interest in the site.
 - c) The name and address of each other relevant protected sites:
 - i. for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
 - ii. in which the applicant has a legal estate or equitable interest; or
 - iii. that the applicant manages.
 - d) Whether the application is made in respect of the site owner, or a person that the site owner has appointed to manage the site, and the 'status' of the 'relevant person' in relation to the site.

'Required Information'

- 2) In paragraphs 3, 4 and 5, reference to 'required information' means:
 - a) The person's name and contact details;
 - b) Details of the person's role in relation to the management of the site;
 - c) Where the person has not yet been appointed, the address telephone number and email address (if any) at which the person may be contacted in respect of the application;
 - d) Details of each relevant protected site (other than that to which the registration application relates)
 - i) For which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960
 - ii) In which the person has a legal estate or equitable interest; or
 - iii) That the person manages

Information when the applicant is the relevant person and an individual

- 3) 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.

- a) 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.
- b) 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*.

Information required when applicant is relevant person and not individual

- 4) 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.
 - a) 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*.
 - b) Where B 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*.
 - c) 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*.

Information required where the applicant is NOT the relevant person

- 5) In circumstances where a “site manager” has been appointed to manage a site, and the site manager is the relevant person, the applicant must provide the required information in relation to the site manager.
 - a) Where the site manager is not an individual, for each relevant officer, the applicant must provide
 - i) the person’s name
 - ii) and details of that person’s role (if any) in relation to the management of the site.
 - a) If the site manager has appointed or intends to appoint a further individual (“A”), *required Information* would be needed from A.
 - b) 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*’

DBS Certificates

- 6) Criminal records certificates (DBS certificates) dated no more than 6 months before the date of the application will be required in respect of the

- a) The relevant person, and
- b) any of the persons for whom *required information* is needed, in paragraphs 3, 4 and 5 above.

Financial information

- 7) The applicant will be asked to detail funding arrangements for the management and maintenance of the site. Information should include the name(s) of any third parties providing funding to the site owner or manager. The application should also detail the level of authority the site manager has to spend and make financial decisions.

Matters relating to the conduct of the relevant person that must be included in the application

- 8) The applicant is required to declare whether, the relevant person, or any other person for whom they must provide required information under paragraph 3, 4 or 5:
 - a) has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
 - b) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
 - c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
 - d) has harassed any person in, or in connection with, the carrying on of any business;
 - e) is, or has been within the past 10 years, personally insolvent;
 - f) is, or has been within the past 10 years, disqualified from acting as a company director;
 - g) has the right to work in the United Kingdom; and
 - h) is a member of any redress scheme for dealing with complaints in connection with the management of the site (this applies to relevant persons only)

9) Rejected applications

In respect of the relevant person and any person for whom the applicant must provide required information under paragraphs 3, 4 and 5 above, the applicant must provide details of fit and proper person applications that have been rejected by another Local Authority, and the reasons the Local Authority gave for the rejection.

Appendix 2 Matters the Council will Consider in Assessing a Fit and Proper Person 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 local authority will have regard to:

a) whether the person has a sufficient level of competence to manage the site;

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.

In determining the individual's competence, the Council will consider, amongst other things past compliance with the licence conditions for the site to which the application relates, as well as site licence conditions for other sites for which the relevant person is responsible. The Council will consider relevant information provided by any other local authority in whose area the individual operates another site.

The Council may seek a meeting or interview with the individual, where their competence and understanding can be assessed. The Council may also wish to interview other persons involved in the management of the site.

b) The management structure and funding arrangements for the site or the proposed management structure and funding arrangements in place for managing 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 be sure that the applicant has a robust management plan, which addresses the following issues: the pitch fee payment, proximity of the manager to the site and their ability to respond to emergencies or serious matters, manager's contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal. The Council may request copies of written records in relation to these matters from the applicant as part of the application process. A failure to provide documents when requested may be considered relevant in the fit and proper person assessment.

It is advisable that the site is managed by an applicant based in the UK and a management structure is 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 maybe complex issues because 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.

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 and be provided to the Council on written request.

The Council recognizes that funding requirements will differ between sites and depend on a range of factors including the size and age of the site for example.

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

2. Personal information relating to the relevant and /or responsible persons

This would include a DBS 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).

* Contraventions of law will not automatically preclude a positive fit and proper person determination. The seriousness of the contravention, the level of actual or potential harm caused by the contravention, the time since the contravention occurred and the relevant persons actions and levels of compliance since, will all influence the weight the Council attaches to the contravention. Contraventions that have resulted in formal enforcement action are likely to be given greater weight than those that didn't.

**In relation to harassment, referred to in point 2.d. above, the Council has a duty to investigate allegations of harassment under the Caravan Sites Act 1968. When investigating, the Council will apply the usual evidential and public interest tests before determining whether to prosecute anyone for harassment.

When making fit and proper person assessments the Council will rely on any criminal convictions as evidence of harassment. However, even in the absence of a

conviction, the Council may view a record of substantiated complaints about harassment as an indicator of wider management problems and may consider that record relevant to its determination.

Where the relevant person is not an individual

Where the relevant person is not an individual, the Council will consider whether the responsible person has:

- a) has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- b) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning, or environmental health or of landlord and tenant law*;
- c) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- d) has harassed any person in, or in connection with, the carrying on of any business**;
- e) is, or has been within the past 10 years, personally insolvent;
- f) is, or has been within the past 10 years, disqualified from acting as a company director; and
- g) has the right to work in the United Kingdom.
- h) Where any other local authority has rejected an application for the responsible person to be included in a register, the local authority's reasons.

3. Other persons involved in the management of the site or persons associated (other than other owners of the site)

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.

It will be for the Council to determine who is an associate and whether their conduct is relevant to the fit and proper person determination. A relevant associate may be defined as any individual who 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.

Applicants will not routinely be required to give information on **all** associates in their application, however applicants are encouraged to give as much information as possible to assist in the smooth and timely processing of the application. If applicants are in any doubt about whether to include information on their associates in their application, they are encouraged to discuss the matter further with the Environmental Health- residential team.

4. Other Relevant Matters

The Regulations are drafted widely giving the Council opportunities to take into consideration other relevant matters. The Council can decide the specific matters they deem 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. The Council will always make its decisions on the basis of evidence.

The Council is aware that poor management practices do not automatically render a person unfit due to conduct, unless they are also a breach of the criminal or civil law. However, a record of poor management, is highly relevant to determining any question of suitability or competence.

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