

Report of	Meeting	Date
Director of Planning and Development (Introduced by Cabinet Member (Planning, Business Support and Regeneration))	Council	22 September 2021

Is this report confidential?	No
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Is this decision key?	Not applicable
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## Caravan Site Licensing - Fit and Proper Test

### Purpose of the Report

1. To seek approval to adopt The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

### Recommendations to Council

2. To note the content of the report
3. To agree to adopt - The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

### Reasons for recommendations

4. It is a statutory requirement to adopt The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

### Other options considered and rejected

5. There are no other options it is a statutory requirement for councils to perform a fit and proper person test on all its Site Licence Managers.

### Corporate priorities

6. The report relates to the following corporate priorities: (please bold all those applicable):

<b>An exemplary council</b>	Thriving communities
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<b>A fair local economy that works for everyone</b>	<b>Good homes, green spaces, healthy places</b>
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## **Background to the report**

7. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ('the Regulations') prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The purpose of the fit and proper person test is to improve the standards of residential mobile home site management.
8. From 1 October 2021 the owners of certain mobile homes (sometimes called Park Homes) sites within South Ribble will need to ensure that they, or a person who they appoint to manage the site, is a "Fit and Proper Person".

## **The fit and Proper Person Test**

9. To be sure that the relevant person is a fit and proper person to manage the site, and to add them to the register, we will consider:
  - the owner's past compliance with the site licence
  - the long-term maintenance of the site
  - whether the person has a sufficient level of competence to manage a site
  - the management structure and funding arrangements for the site or proposed management structure and funding arrangements
10. We also consider whether the relevant person:
  - has the right to work within the UK
  - 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)
  - 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
  - has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
  - has harassed any person in, or in connection with, the carrying on of any business
  - has had an application rejected by any other local authority
  - is or has been personally insolvent within the past 10 years
  - is or has been disqualified from acting as a company director within the last 10 years

Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application.

11. The Licensing authority will consider the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis), if it appears that the person's conduct is relevant. We can also consider any evidence on any other relevant matters.

12. If we have concerns, we can apply registration conditions to ensure that effective management is in place or that any contravention or offence is not repeated.
13. If we believe that the applicant or their appointee are not “fit and proper” with or without conditions, we can refuse to accept that person onto the register. There is an appeal process against this decision and any decision to impose conditions on registration.
14. If a site is operated without a relevant person being registered, then the site owner may be committing a criminal offence that could lead to prosecution and ultimately removal of the licence to operate the site.
15. It is a criminal offence if the owner or manager operating a site fail to comply with the Fit and Proper Person test. If found guilty at a Magistrates’ Court they would be liable, on summary conviction, of an unlimited fine (level 5).

## **Fees**

16. If a fee is required and is not included with the application, the application is not valid. Unless a valid application is made before the fit and proper person requirements come fully into force a site owner that continues to operate the site will commit an offence and could be prosecuted.
17. It is proposed that a follow up report will be taken to the next meeting of the Licensing and Public safety Committee to obtain approval to consult all interested parties before setting an annual fee for acceptance onto the fit and persons register.
18. A site owner can recharge site fees down to residents, residents should be consulted before the council makes a decision on the levels of fees charged.
19. As per regulation 10 - The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, the fees charged will be set to cover the cost of monitoring the scheme or conditions attached to entries.
20. The authority can decide and set the frequency of payments to cover their administrative costs. Breach of a condition requiring payment by annual fee is an offence.
21. Applications received before the 1<sup>st</sup> October 2021, for currently licensed sites, will be accepted and processed with no charge and all successful applicants will be placed on the register for a 12-month period. When these owners renew their registration in 12 months’ time, a fees policies will be in place.

## **How will the register be published?**

22. The register must be published on the South Ribble Borough Council website. The register must be set out in a standard format as required under the regulations. A copy must be available to any person on request. This will be emailed or posted as an Excel spreadsheet. The register will be published from 1 October 2021.

## **How is the fit and proper person determined?**

23. The Licensing Department will determine the application within a reasonable time and notify the applicant in writing. We must approve the application unconditional, approve with conditions, appoint a manager, serve a notice of action or revoke a licence.

## **Application form**

24. The application form can be found attached to the report as appendix 1.

## **Climate change and air quality**

25. N/a

## **Equality and diversity**

26. N/a

## **Risk**

27. The implementation of the Regulations and being in a position to accept and determine applications is a legal duty placed upon South Ribble Borough Council.

28. If the Council fails to implement the Regulations, it may be challenged when exercising its functions under the Regulations and the Mobile Homes Act 2013 through several routes, e.g. service complaints to the Local Government and Social Care Ombudsman and judicial review. Conversely, by implementing the requirements of the Regulations, the Council is complying with its legal obligation.

## **Comments of the Statutory Finance Officer**

29. There are currently only 3 sites in South Ribble. This report does not propose to charge fees in the first year. The charge for the fee will be calculated over the coming year but the gross income is expected not to be material.

## **Comments of the Monitoring Officer**

30. The main legal implications are set out within the body of the report. There are Criminal offences set out for contravening the Regulations, and any relevant person in contravention of these regulations may be liable to a summary prosecution and a consequent unlimited fine. It should be noted that any relevant person on whom a Final Decision Notice is served by the Local Authority under Regulations 6 (1) and 8 (1) and (2) can be appealed to the First Tier Lands Tribunal as set out in Paragraph 9 of Schedule 4 of the Regulations . There is no compensation payable by a Local Authority.

## **Background documents**

31. Background Document 1 - link to The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020  
<https://www.legislation.gov.uk/ukxi/2020/1034/schedule/3/made>

32. Background Document 2 – Link to Gov.uk guidance  
<https://www.gov.uk/government/publications/mobile-homes-fit-and-proper-person-test-guidance-for-local-authorities/mobile-homes-a-guide-for-local-authorities-on-the-fit-and-proper-person-test>

## **Appendices**

33. Appendix 1 – Application Form

Report Author:	Email:	Telephone:	Date:
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