



Committee and Date

Strategic Licensing Committee

9th July 2021

Item

Public

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

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1. Summary

- 1.1** 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.
- 1.2** Local authorities in England had until the 1 July 2021 to prepare to receive applications for the fit and proper person register, this involved establishing the processes for receiving applications, making and issuing decisions and developing the register itself. Existing owners of affected sites have from the 1 July 2021 until 1 October 2021 to make their application.
- 1.3** This report sets out the process which has been developed to set up the register in the short term and proposals for how it will be managed going forward. It was not possible to bring the short-term process before Strategic Licensing Committee prior to it being implemented because of the election period followed by the original first meeting being re-arranged from June.

2. Recommendations

- 2.1** That Committee acknowledge and retrospectively agree the short-term process for establishing the register and managing it in the early stages between 1 July 2021 and 1 October 2021, and thereafter on an interim basis until 30 June 2022.
- 2.2** That Committee agree the preparation of a Fit and Proper Person Determination Policy and a Fit and Proper Person Fees Policy, both of which will be brought back to Committee for further consideration prior to a formal period of consultation within an appropriate timescale that will ensure both policies are fully implemented by 30 June 2022.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** The implementation of the Regulations and being in a position to accept and determine applications from 1 July 2021 is a legal duty placed upon Shropshire Council.
- 3.2** 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.
- 3.3** An Equality and Social Inclusion Impact Assessment (ESIIA) has not been completed; this is primarily because the Council is simply implementing the law and nothing further at this stage. It is proposed that an ESIIA will be undertaken alongside the development of the determination and fees policies, because these are the potential areas where risks may exist in relation to equality and social inclusion.
- 3.4** There is no anticipated environmental or climate change impacts associated with the recommendations in this report.
- 3.5** The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications.

4. Financial Implications

- 4.1** There are no direct financial implications associated with the recommendations in this report.

5. Background

- 5.1** Section 8 of the Mobile Homes Act 2013 ('the Act') introduced a power for the Secretary of State to create a requirement for residential caravan sites (referred to as relevant protected sites in the Act) in England to be managed by a fit and proper person. In 2017 the Government reviewed the Mobile Homes Act 2013 and the review concluded that more needed to be done to protect the interests of those living on residential caravan sites. One of the outcomes of the review was to introduce the previously not enacted fit and proper test, subject to a technical consultation.
- 5.2** Between 25 July 2019 and 17 September 2019 the technical consultation on the fit and proper person test gathered information from stakeholders to ensure the test would cover the required elements and target and remove the worst offenders in terms of poor site management without unduly burdening responsible owners.
- 5.3** Following the end of the consultation the Regulations were developed and came into force on the 23 September 2020. They allowed local authorities until 1 July

2021 to prepare their processes and get ready to receive applications, which must be made by all existing residential site owners between 1 July 2021 and 1 October 2021. The only exceptions to the Regulations are non-commercial family-occupied sites.

- 5.4** Those applying to be on the register of fit and proper persons must show that they are able to secure the proper management of the site; demonstrating amongst others things a history of compliance with the site licence, a good history of maintenance of the site, that they have a sufficient level of competence to manage the site and that they have not been convicted of a number of offences the Regulations deem relevant.
- 5.5** Following a successful application a person may be added to the fit and proper register for a period the Council deems appropriate, but for no longer than five years. The Council may also decide to include a person on the register subject to conditions if it would only be satisfied that the relevant person would meet the fit and proper requirement if the condition(s) were complied with.
- 5.6** Owing to the significant and still very present pressure that COVID-19 has put on the Council as a whole and on the Licensing Team in a manner which has taken a large percentage of the team's capacity, there has been neither the time nor resource to consider the Regulations with the usual rigor that would be employed. As such, the position from the 1 July 2021 will be a starting point, whereby the legal requirements of the Regulations will be met insofar as the Council will be in a position to receive and process applications. From here the intention is to develop a determination and fees policy which has had the benefit of the service's full attention. This is particularly important because of the discretionary nature of some elements of the Regulations, such as the attaching of conditions. Providing a defined framework which clearly sets out to all stakeholders how the Council intends to exercise its functions, and the costs associated with that, is crucial.
- 5.7** Whilst it would have been preferable to be in a position to implement a determination and fees policy from 1 July 2021, circumstances have prevented the necessary work to do this from being undertaken. There is, however, a clear benefit in the proposed approach in that the policies will be informed by an interim period of between six and nine months, during which it will be possible to determine exactly what is required to accept and process applications and to manage the register. Ultimately the determination and fees policies that result will be better informed and more accurate in terms of the associated cost and, therefore, the fees charged.
- 5.8** Between 1 July 2021 and 1 October 2021, applications 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, the determination and fees policies will be in place. New residential caravan site developments are uncommon and, therefore, applications to place new persons on the register, after the applications from current sites, are unlikely. Nevertheless, in the event that this occurs, applications will be processed with no charge and successful applicants will be placed on the register for an interim period up to 30 June 2022. At the point of registration renewal, the determination and fees policies will be in place and will allow renewals to be considered against the agreed policy requirements and charged the relevant fee.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

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/contents/made>

Mobile homes: a guide for local authorities on the fit and proper person test

<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>

Cabinet Member (Portfolio Holder)

Councillor Dean Carroll - Portfolio Holder for Adult Social Care, Public Health and Assets

Local Member

County wide application

Appendices