



Strategic Licensing
Committee

6 October 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. Synopsis

- 1.1 The interim process to establish and manage the required fit and proper person register and the decision to prepare and publish a 'Determination Policy' under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 need to be revised.

2. Executive Summary

- 2.1 Further to the previous report considered by the Strategic Licensing Committee on 9 July 2021 concerning The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, the Government has published revised guidance and, as a result, it has become necessary to amend the recommendations that were previously agreed by the Committee
- 2.4 It is now necessary to ensure successful applicants are included in the register for a period not exceeding five years and the proposed Fit and Proper Person Determination Policy is no longer required.

3. Recommendations

- 3.1 That the delegation that was previously agreed on 9 July 2021 be extended to allow all applications made under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ('the Regulations') for a person to be included in the register of fit and proper persons to be determined in accordance with the provisions of the Regulations and all successful applicants to be placed on the register for a period not exceeding five years and that no charge is made in respect of these applications.

- 3.2 That a Fit and Proper Person Determination Policy ('Determination Policy') is not required and that such a Policy does not need to be prepared for consultation or implemented.

REPORT

4 Risk Assessment and Opportunities Appraisal

- 4.1 The Government has significantly extended the guidance relating to the Regulations and has also published and made this available to both local authorities and to site owners. Considering the guidance in conjunction with the Regulations and taking these into account when determining actual applications has led officers to conclude that including persons in the register for any period of less than five years must only be based on reasons that demonstrate that the individual person might be deemed not to be a fit and proper person.
- 4.5 The current interpretation of the Regulations, which is supported by the guidance, indicates the Council may be acting beyond its powers (*ultra vires*) if it was to proceed with the short-term process that was previously agreed, and this may give rise to legal challenge.
- 4.8 It has also become clear that there is now no need for a separate Determination Policy as this would only reiterate what is already in the Regulations and guidance.

5 Financial Implications

- 5.1 In the event of a legal challenge, there would be a cost associated with this both in terms of officer time and costs for external legal representation. It would be likely, in the event that the challenge was successful, that the Council would also have to pay the costs incurred by the applicant.

6 Climate Change Appraisal

- 6.1 There are no anticipated climate change or environmental impacts associated with the recommendations in this report.

7 Background

- 7.1 This is available in the previous report.

8 Conclusions

- 8.1 The short-term process previously agreed by the Committee to establish and manage the fit and proper person register under

Regulations must be extended to allow the Council to fulfil its statutory duties under the Regulations and remove the risk of legal challenge.

- 8.2 As a result of the publication of detailed national guidance to support the implementation of the Regulations, the proposed Determination Policy previously agreed by the Committee is now considered unnecessary.

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

Report to Strategic Licensing Committee (Agenda Item 8) on 9 July 2021 entitled "The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020" [Agenda for Strategic Licensing Committee on Friday, 9th July, 2021, 2.00 pm – Shropshire Council](#)

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)

Cllr Ed Potter, Deputy Leader and Portfolio Holder for Economic Growth, Regeneration and Planning

Local Member

County wide application

Appendices

None