
PPP Fit and Proper Test for Mobile Home Site Owners/Managers Briefing

Committee considering report:	Joint Public Protection Committee
Date of Committee:	14 June 2021
Chair of Committee:	TBC
Date JMB agreed report:	03 June 2021
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Forward Plan Ref:	N/a

Purpose of the Report

- 1.1 To provide the Joint Public Protection Committee with an update to the legislation requiring owners or those in charge of mobile home sites to apply to the Local Authority to be placed on a Fit and Proper Register under The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

Recommendations

- 2.1 The Committee **NOTES** the role PPP have in determining the Fit and Proper test for mobile home site owners/managers.
- 2.2 The Committee **APPROVES** the fee setting which is based on the existing framework of Fees and Charges within PPP (hourly rate)(see 3.7).

Implications and Impact Assessment

Implication	Commentary
Financial:	This is additional work to be carried out and the charging will be cost recovery.
Human Resource:	There could be approximately 50 applications received to be reviewed to determine if exemptions apply; and those in scope examined.
Legal:	There is potential for Legal involvement should an application go to appeal where it is determined to reject or put conditions on an application, and also where no application has been received. This will have an implication on the Case Management Unit of PPP and on the legal teams in the LAs.
Risk Management:	Financial risk is managed elsewhere. JMB will be kept informed of any service changes and adjustments and any consequences arising from these will be notified.

	Should there be nobody deemed as fit and proper the LA needs to work with the Owner/Manager to ensure a suitable alternative is found. This will involve officer time.			
Property:	There are no direct implications arising from these proposals.			
Policy:	The role of the Joint Committee includes consideration of reports relating to service delivery matters. This report addresses that requirement by setting out the approach.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	x			The report set out the steps taken to protect the vulnerable and address community need with the new Legislation.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	x			Fit and Proper determination, by its nature, will have a positive effect on the vulnerable groups in society. By PPP targeting non-compliance in this sector we can improve living conditions and lives.
Environmental Impact:		x		
Health Impact:	x			The proposals create no direct health impacts on staff. They do however set out community based health protection measures.
ICT or Digital Services Impact:		x		With the current situation much more emphasis has been put on alternative methods of communication.
PPP Priorities :	x			This is in line with priorities in the PPP Private Sector Housing Policy
Data Impact:		✓		None

**Consultation
and
Engagement:**

Information will be circulated to affected businesses

Summary

3.1 Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 introduce a fit and proper person test for mobile home site owners or the person appointed to manage the site. The purpose of the fit and proper person test is to improve the standards of park home site management.

The Environmental Health Housing Team at Public Protection Partnership (PPP) are preparing to receive applications. Under the legislation all site owners must have submitted an application to be assessed as a fit and proper person between 1 July 2021 and 1 October 2021.

3.2 Overview of the Fit and Proper person test

The PPP will consider the application in order to satisfy itself that the relevant person is a fit and proper person to manage the site. They will then make a decision whether to place the person on the register with or without conditions, or not to place them on the register. A site owner will have a right of appeal against a decision or condition.

Where a site owner or their manager fails a test and they are unable to identify and appoint a suitable alternative manager who must also undergo the fit and proper assessment, the local authority could appoint a person to manage the site, with the consent of the site owner.

3.3 Offences

There are a number of offences included in the legislation. These are;

- To cause or permit land to be operated as a park home site unless they or the person appointed to manage the site is a fit and proper person to manage the site;
- To provide false or misleading information or fail to provide information in an application;
- To fail to comply with a requirement set as a condition of the local authority's decision to include a person on the register.

If convicted for a breach of the fit and proper person requirement, the site owner will face a level 5 fine (unlimited).

3.4 Exemptions

The legislation applies to all relevant protected sites except those that are only occupied by members of the same family and are not being run as commercial residential sites.

3.5 The application process

Information that forms part of the application will include information on three areas; the owners/ responsible persons conduct and the site's financial and management arrangements.

For example, under conduct, the information that must be provided is whether the relevant person—

- has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act
- 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;
- is, or has been within the past 10 years, personally insolvent;
- is, or has been within the past 10 years, disqualified from acting as a company director;
- has the right to work in the United Kingdom; and
- is a member of any redress scheme for dealing with complaints in connection with the management of the site.

Also, where any other local authority has rejected an application for the relevant person to be included in a register, the local authority's reasons for that must be included.

A Criminal Records Certificate will be required, issued no more than six months before the date of the application.

As part of its assessment, the local authority must have regard to whether the relevant person is able to secure the proper management of the site.

3.6 Associated Persons

As part of the process the Local Authority (LA) may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the person undergoing the test, is a fit and proper person to manage the site or a proposed. These people may be involved in an official or an unofficial way with the site, and may be involved only when the site owner is unavailable, for example, holiday cover.

3.7 Framework for charging

The Local Authority will be able to charge two types of fees to cover their costs.

- An application fee to cover the cost of assessing applications to be included on the fit and proper register. An application must be accompanied by the application fee that has been fixed by the local authority for that period. If the fee is not included with

the application, the local authority does not have to assess the application and the site owner could be in breach of the requirements and prosecuted by the local authority.

- An annual fee to cover the cost of monitoring the scheme or conditions attached to entries. The authority can decide and set the frequency of payments to cover their administrative costs. Payment of the annual fee may also be required as a condition of inclusion in the register.

All fees must be published in an authority's Fees Policy document and must be transparent and reasonable.

When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee the local authority—

- must act in accordance with their published fees policy;
- may fix different fees for different cases or descriptions of case; and
- may determine that no fee is required to be paid in certain cases or descriptions of case.

A Local Authority can revise their fees policy at any time but where they do so they must publish the revised policy.

It is proposed that for the PPP areas the Application fee is set at a two hour set fee based on existing hourly rate, plus hourly rate for each hour or part thereof should the application determination go over the two hours.

It is proposed that the fee for annual checking is directly cost recovery, based on the hourly rates and time taken.

3.8 Local authority decisions, notification and appeal rights

After considering an application, a Local Authority (LA) will be required to make one of three possible decisions.

1. To include the applicant on the register unconditionally

Where the LA is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years.

2. To include the applicant on the register subject to certain condition(s)

Where the LA would only be satisfied that the person would meet the fit and proper requirement if certain condition(s) were complied with, the local authority can grant an application subject to those condition(s). The LA can also grant an application for less than 5 years.

3. Not to include the applicant on the register

If the LA determines that the applicant does not meet the requirements and attaching a condition would not be appropriate, a local authority can refuse to grant the application. There is a process to be followed for this.

Examples of conditions that could be imposed

Example 1 - A LA has evidence of a site owner's failure over a period to address residents' complaints. This could be an indication of poor management which could be addressed by the site owner having an adequate complaints procedure in place. 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"*.

Example 2 - If at the time of making a decision on the application certain documents or information are unavailable to the applicant because of delays by third parties. The LA may wish to attach a condition to the entry on the register that the site owner "provide the authority by registered post, with the original documents by a specified date.

Example 3 –An associated person has been attending the park and through engaging in particular action X, has been causing distress to residents which impacts on their wellbeing and security. A condition could be attached to the entry on the register requiring the site owner to put a measure(s) in place by xxx date and prevent the associated person or any other person from carrying out action X on the site.

3.9 Right to make a representation

An applicant who receives a preliminary decision notice will have 28 days to make representations to the local authority. The 28 day period begins with the day after the day on which the notice was served.

The local authority must consider and take any representations it receives into account before making a final decision.

3.10 Final decision notice

The local authority must as soon as reasonably practicable after the end of the period of representation, make a final decision and serve the decision notice on the applicant.

3.11 Appeals

The person on whom the local authority serves a final decision notice may appeal to the First-tier Tribunal.

3.12 Consent for local authority to appoint a site manager

In exceptional circumstances where the site licence holder has been unable to find a fit and proper site manager to put forward, they can approach the local authority to discuss if it can appoint a suitable alternative person.

The local authority and site licence holder would agree the terms on which the local authority could assist in finding a suitable site manager and the scope of that person's authority. The agreement would likely include details such as the site licence holder and the local authority's roles in the process, the level of decision making authority that

the site manager may have on behalf of the site licence holder and payment of local authority costs related to the appointment.
