

Application for
inclusion on Fit and
Proper Person
Register
Guidance Document

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



Introduction

1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter ‘the regulations’) 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.
2. The Regulations were made on 23 September 2020 and allow local authorities to prepare to receive applications from site owners by 1 July 2021. From that date and by 1 October 2021, all site owners must have submitted an application to be assessed as fit and proper persons.
3. This document provides non-statutory guidance to local authorities to help them prepare for and implement the test. The guidance also aims to help site owners to understand how the test will apply.
4. **In this document, references to a “site owner” are used in place of the term “occupier¹” for ease of reference.**

Overview of the Fit and Proper person test

5. The site owner must apply to the local authority to be included, or for their appointed site manager to be included, on a register of fit and proper persons. A site owner may only apply if they hold or have applied for a site licence for the site. The same requirements apply where the owner or the site manager is a non-natural person (such as a company).
6. The local authority 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.
7. 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.
8. It is an offence for a site owner to (a) 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; (b) provide false or misleading information or fail to provide information in an application; (c) fail to comply with a requirement set as a condition of the local authority’s decision to include a person on the register.
9. If convicted for a breach of the fit and proper person requirement, the site owner will face a level 5 fine (unlimited).

¹ An occupier is defined in section 1(3) of the Caravan Sites and Control of Development Act 1960. A person who holds a site licence issued under section 3(1) of the 1960 Act must be the occupier of the land under s3(1) of the 1960 Act, but an occupier may also be a site owner who does not, but should, hold a site licence.

Section 1 - Who will the “fit and proper person” test apply to?

1. The fit and proper person test will apply to the site owner **or** the person appointed to manage the site.

Site Owner

2. The test will apply to all existing site owners and any person who has applied to the local authority for a new licence or for the transfer of an existing licence.
3. Where a person becomes the site owner as a result of being the beneficiary of the estate of a previous site owner, and there is no fit and proper site manager in place, they will have to apply either for themselves or the person appointed or to be appointed to manage the site, to be placed on the fit and proper register. If within 28 days of becoming the site owner, they inform the local authority of their intention to make an application, they will have 3 months from the day after they became the site owner, to make the application. If they fail to give notice within the 28 days, the period for making an application will be 28 days from when they became site owner. The 28 days starts from the day after they became site owner (also see paragraph 126 - Defences).

Person appointed to manage a site

4. If a site owner has appointed a person to manage the site, the site owner can apply for the site manager to be placed on the fit and proper register.

Which sites will the test apply to?

5. The test will apply to all relevant protected sites² unless exempted by the Regulations.
6. Sites that are exempted by the Regulations are those that are only occupied by members of the same family and are not being run as commercial residential sites.
7. In determining whether a site is a “non-commercial family-occupied site”, the local authority must take two considerations into account.
8. The first consideration is whether each caravan stationed on a permanent pitch and used as a permanent residence is so used only by—
 - (i) the site owner or the site owner and one or more members of the site owner’s family;
or
 - (ii) a member of the site owner’s family (“F”) or F and one or more members of F’s family.
9. A person is a member of the same family as another person if—
 - (i) those persons are married to each other, in a civil partnership or live together as if they were married or in a civil partnership;

(ii) one of them is a relative of the other; or

(iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

10. For these purposes;

- A “couple” means two persons who are married to each other, in a civil partnership or live together as if they were married or in a civil partnership. .
- A “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
- A relationship of the half-blood is to be treated as a relationship of the whole blood and the stepchild or adopted child of a person (“P”) is to be treated as P’s child.

11. The second consideration is whether the site is operated on a commercial basis.

12. A site is operated on a commercial basis if the amount which any person is required to pay the occupier of the site in respect of the right to station or reside in a caravan on the site and the use of the common areas of the site, exceeds a fair contribution towards the relevant costs OR the total amount payable to the occupier exceeds the relevant costs.

13. “Relevant costs” means the total of—

(a) any amount which the occupier is liable to pay as regards the site by way of a nondomestic rate under Part 3 of the Local Government Finance Act 1988;

(b) any council tax for which the occupier is liable in respect of any caravan situated on the site (other than a caravan in which the occupier resides) or any dwelling situated on the site that is not a caravan (other than a dwelling in which the occupier resides); and

(c) the occupier’s reasonable costs of repairs, maintenance and insurance in respect of the site.

Section 2 - The fit and proper person application process

14. Applications must be made to the local authority by the site owner or, where the site owner is not an individual, on their behalf by a relevant officer.
15. A 'relevant officer' means where the applicant is a;
 - i. Company: a director or other officer of the company;
 - ii. Partnership: a partner;
 - iii. Body corporate: a member where the conduct of the management of the body is vested in its members;
 - iv. Body not falling within any of the above categories: a member of the management committee.
16. Where there are joint owners, it should be acceptable for only one of the owners to make the application as details of the other owner(s) must be provided in the application form.

Information to be provided by the applicant

17. **The applicant** must provide the information in paragraph 18 about the site owner (whether they are an individual or an organisation) and the site.
18. The information to be provided by the applicant is;
 - The name and business contact details of the site owner;
 - Where the site owner is an organisation, the individual completing the form must provide for themselves and each relevant officer of the organisation, their name and details of their role in relation to the management of the site;
 - The name and address of the site.
 - Evidence of the site owner's legal estate or equitable interest in the site.
 - Confirmation that the site owner is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
 - The name and business contact details of any other person that has a legal estate or equitable interest in the site. This information will help the local authority to determine as part of its assessment whether the conduct of any of those persons is relevant to the question of whether the person subject to the test is a fit and proper person to manage the site.
 - The name and address of each other relevant protected site(s);
 - (a) for which the site owner holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
 - (b) in which the site owner has a legal estate or equitable interest; or
 - (c) that the site owner manages.

- Whether the application for inclusion in the register is made in respect of the applicant or a person that the applicant has appointed to manage the site and the status of that “relevant person” in relation to the relevant protected site.

19. The “relevant person” is the person subject to the test and their status means whether they are the site owner or the person appointed to manage the site. This will determine the additional information that must be provided in the application form.

20. In some cases, the applicant will be required to also provide information about other persons who are involved in the management of the site. Those other person(s) are referred to as “responsible persons”. This is necessary to ensure consistent standards are applied to companies and other organisations that are not individuals. By applying the considerations within the assessment which relate to any natural person with responsibility for the site management, the local authority can, in making its fit and proper assessment, give an equivalent level of scrutiny to key individuals in companies and other bodies operating sites as for individuals who are site owners and managers.

Additional information - the person’s conduct and the site’s financial and management arrangements

21. In addition to the information to be provided in paragraph 18, an applicant will be required to provide other information relating to the conduct of the relevant and/or the responsible person(s) and the financial and management arrangements in place for the site.

22. **In relation to the conduct of the relevant person**, 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 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;
- 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 (see paragraph 24).

23. 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 (see paragraph 25).

Redress schemes

24. The requirement in para 22(h) for the relevant person to be a member of a redress scheme is not currently in place so most applicants will be unable to provide that information. The relevant person may however be a member of a trade body and may want to provide that information in the application. If they do, it is for the local authority to decide its relevance to the application, its decision and any conditions that it may decide to attach to the entry.

Applications rejected by other local authorities

25. Some site owners or managers may own or manage other sites in the same local or other authority areas. The ownership or management of those sites may be relevant to the application in terms of the site owner's suitability to manage a site. Applicants must therefore provide information on whether the relevant person or a responsible person has had an application rejected by another local authority and if so, the reasons why (paragraphs 23 and 29). With this information, the local authority will be able to direct its enquiries to only those particular authorities, to confirm the details provided and whether there are any matters that may be relevant to the application.
26. If an applicant provides false or misleading information or fails to provide any required information in an application, they could be in breach of the regulations.
27. **In relation to responsible persons**, the applicant will have to provide the following "Required Information";
- (a) the person's name and business contact details;
 - (b) details of the person's role or proposed 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.
28. In addition to the Required Information in paragraph 27, the applicant must provide the following information about the responsible person's conduct. That is whether the responsible person;
- (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.
29. Also, where any other local authority has rejected an application for the responsible person to be included in a register, the local authority's reasons.

Criminal Records certificate

30. A Criminal Records Certificate will be required
- a) where the relevant person is an individual; and
 - b) for each individual in relation to whom the applicant is required to provide information.
31. The persons the applicant is required to provide information and a criminal records certificate for, are listed in paragraphs 33 - 38 below.
32. The certificate must have been issued no more than six months before the date of the application. It is for the site owner to ensure that any certificate they provide with an application meets this requirement.

Information that must be provided

33. **If the site owner is the subject of the test, is an individual and will manage the site themselves**, they have to provide;
- A criminal records certificate; and
 - the information in paras 22 & 23).
34. **If the site owner is an individual, is the subject of the test, but has appointed or intends to appoint someone else to manage the site**, the applicant must provide;
- the information in paragraph 22 & 23 for themselves; and
 - the additional information in paragraphs 27-29) for the person they have appointed or intend to appoint to be responsible for the day-to-day management of the site.
 - A criminal records certificate for themselves and the person appointed or to be appointed to manage the site.
 - If instead of a person, the site owner has appointed a company or other organisation to manage the site, then the applicant must provide;
 - for each relevant officer of the company or organisation:
 - (a) the person's name; and
 - (b) details of the person's role (if any) in relation to the management of the site.
 - the information in paragraphs 27-29 for the individual that the company has appointed or intends to appoint as the site manager to be responsible for the day-to-day management of the site; and
 - a criminal records certificate for the person appointed or to be appointed to manage the site.
 - If the site manager is not a relevant officer of the company, then the applicant must also provide;
 - the information in paras 27 -29 for the relevant officer of the company or organisation to whom the site manager is/will be accountable for the day-to-day management of the site: and
 - a criminal records certificate for the relevant officer.

35. **If the site owner is an individual and has or is to appoint a person who will be subject to the test, to manage the site (site manager)**, the applicant must provide for the site manager;
- The information in paras 27- 29; and
 - A criminal records certificate for the person appointed or to be appointed to manage the site.
36. **If the site owner is an individual and has or is to appoint a company to manage the site and who will be subject to the test**, the applicant must provide;
- for themselves and each relevant officer of the site manager;
 - (a) their name and
 - (b) details of their role (if any) in relation to the management of the site.
 - for the individual that the company has appointed or intends to appoint to be responsible for the day-to-day management of the site;
 - the information in para 27-29
 - a criminal records certificate.
37. If the individual above is not a relevant officer of the company, then the applicant must also provide the information in para 27-29 and a criminal records certificate for the relevant officer to whom the individual will be accountable for the day-to-day management of the site.
38. **Where the site owner will be subject to the test but is not an individual**, the applicant must provide;
- for themselves and each relevant officer of the site owner;
 - (a) their name and
 - (b) details of their role (if any) in relation to the management of the site.
 - the information in paras 27-29 and a criminal records certificate for the person that the applicant has appointed or intends to appoint to be responsible for the day-to-day management of the site;
 - where the person appointed to manage the site is not a relevant officer of the site owner, the information in paras 27-29 and a criminal records certificate must be provided for the relevant officer (B) to whom the person managing the site is/will be accountable for the day-to-day management of the site.
 - where B is not an individual, the information in paras 27-29 and a criminal records certificate must be provided for the individual ("C") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site;
 - where C is not a relevant officer of the organisation (B), the information in paras 27-29 and a criminal records certificate must be provided for the relevant officer to whom C is/ will be accountable for the day-to-day management of the site.

Additional considerations - management and financial arrangements

39. 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. Details of these considerations are set out in **Section 3**.
40. To enable the local authority to make those considerations and consider the application as quickly as they can, the applicant is requested to provide some minimum information and documents with the application form. If after considering the information the local authority requires clarification or further information, they can request the applicant to provide that information.
41. As good practice, the request should be in writing and state clearly the specific information that is required to enable the site owner to meet the request and avoid any delays to the application process.

Persons associated with the site owner or manager

42. Local authorities 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. See **Section 3** for further details.

Other persons involved in the management of the site

43. As set out in paragraphs 21-32, the applicant will be required to provide certain information for any responsible person involved in the management of the site. There may however be instances where a person or organisation may be involved in the management of the park but in an unofficial role.
44. What is considered as involvement in the management of the park in an unofficial role will differ from site to site and the local authority must consider the evidence and circumstances of each individual case. The local authority may however want to take account of factors such as how regularly the person or organisation in their unofficial role attends the park, the level of involvement with residents and what impact(s) being on the site has on residents' in relation to factors such as their wellbeing, welfare, quiet enjoyment of their homes and safety.
45. For example, a person carrying out maintenance on the park every month may not be considered to be involved in the site's management. However, if that person is involved on a regular basis with dealing with or seen to be dealing with management issues such as residents' queries or contractual matters, on behalf of the site manager or a relevant officer, that person would more likely be involved in the site's management.
46. Also, where the owner of a small site permits a relative to manage the site each time they go on holiday, the relative will clearly be involved in the management of the site.

47. Local authorities are not expected to investigate, in every case, whether there are other persons involved in the management of the site. They may however have information or knowledge about other persons or organisations who may be involved unofficially in the management of the park. It would be reasonable in those circumstance for the local authority to expect the site owner to provide that information in their application.
48. As site owner, it is their responsibility to know who is involved in the management of their site and ensure the right management and reporting structures are in place. Where a site owner makes no or very little effort to be transparent it could be an indication of other site management issues.
49. For all such other persons involved in the management of the site, the site owner will be required to provide the information set out in para 27-29 and a criminal records certificate. If the site owner does not provide required information about other persons involved in the management of the site, they could be in breach of the regulations.
50. If the information is not provided but comes to light before the local authority makes a decision on the application, the site owner could be asked to provide the necessary information about that person. If the information comes to light after a decision has been made and the site owner has already been entered on the register with or without conditions, the local authority could review the entry and if appropriate, attach an additional condition(s) to the entry or remove the person from the register if they consider that the information was so important that it would have affected their initial decision.

Fees and charges

51. Local authorities 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.
52. All fees must be published in an authority's Fees Policy document and must be transparent and reasonable.
53. When fixing the application fee and deciding the amount and frequency of additional payments by way of annual fee the local authority—
- (a) must act in accordance with their published fees policy;
 - (b) may fix different fees for different cases or descriptions of case; and
 - (c) may determine that no fee is required to be paid in certain cases or descriptions of case.

54. A local authority can revise their fees policy at any time but where they do so they must publish the revised policy.
55. The items that can be included in calculating both fees are set out in the published fee policy at www.gedling.gov.uk
56. In certain exceptional circumstances a local authority may, with the site owner's consent, appoint a site manager. The local authority would be able to recover from the occupier, the costs they incurred in making the appointment (see paragraphs 128 -130).

Declarations from the appropriate person

57. The appropriate person must make and sign a declaration that—
- (a) where the applicant is not the relevant person (person subject to the test), the applicant has made all reasonable enquiries into the matters relating to the relevant person; and
 - (b) that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.
58. "The appropriate person" 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 the conduct of the management of which is vested in its members, a member;
 - (d) where the applicant is a body not falling within paragraph (a), (b) or (c), a member of the management committee;
 - (e) where the applicant is an individual, that individual.
59. The purpose of the declaration is to make the applicant accountable for providing the correct information. It will ensure that where the applicant asks for information from the relevant person, a responsible person or anyone else involved in the management of the site to enable them to complete the application form, they do all they reasonably and legally can to ensure they receive and provide the correct information. If it is later found that some or all of the information included in the form is incorrect, the site owner could be prosecuted for a breach of the legislation.

Section 3 - What local authorities must consider in making a fit and proper assessment

60. Making a fit and proper assessment means
- (a) considering a registration application; or
 - (b) deciding whether it is appropriate to appoint a person as the manager of a site.
61. In making the fit and proper assessment local authorities must have regard to the following;
- (A) Whether the relevant person has the ability to secure the proper management of the site**
62. Proper management of the site” includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. In considering whether the relevant person is, or would be, able to secure the proper management of the site, the local authority must (among other things) have regard to;
- (a) whether the relevant person has a sufficient level of competence to manage the site
 - (b) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.
63. If the site manager is the subject of the test, the provision of the information in paragraph 62 will enable the local authority to consider whether the site manager has the necessary authority and independence to manage the site effectively and take timely decisions and actions in carrying out their responsibilities.

Competence to manage the site

64. The local authority must consider whether the management structures in place are adequate to ensure the site can be effectively managed. This includes whether the applicant and/or any person they have appointed to manage the site are competent to do so. Being “competent” means having sufficient experience in managing a site or having received sufficient training in doing so and being familiar with the relevant law and health and safety requirements.

The management structure and funding arrangements for the site

65. In terms of management structures, the local authority may want to ensure the applicant has a management plan in place covering issues such as pitch fee collection, proximity of manager to the site, manager’s contact details for residents (including out of office or emergency contact details), how complaints about the condition of the site are dealt with, routine and cyclical maintenance, staffing, refuse removal etc.
66. A management structure would be unlikely to be suitable if the applicant is an individual or a company (including its directors) domiciled outside of the United Kingdom. The sufficiency (or otherwise) of the applicant’s interest or estate in the land will have a bearing as would their financial standing, management structures and competence, in order to give an overall assessment as to suitability to manage the site in a sustainable way.

The funding arrangements in place for managing the site

67. The local authority must consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with obligations under the licence. The applicant should be transparent about funding in place to finance the management and maintenance of the site.
68. A local authority should consider carefully where funding is through a third party (including an associated company) and should be wary if the applicant does not disclose to it such information as the authority needs, to make an informed judgement on financial viability.

(B) Information regarding the relevant person and a responsible person

69. The local authority must have regard to the information listed in paragraphs 18, paragraphs 22 & 23 for relevant person and 27-29 for responsible person.
70. The information local authorities must have regard to in paragraphs 22 and paragraphs 28 includes whether the person “has harassed any person in, or in connection with, the carrying on of any business” (paragraphs 22(d) and 28(d)).
71. Harassment is both a criminal offence and a civil action under the Protection from Harassment Act 1997. It is also an offence under the Caravan Sites Act 1968 and if convicted the site owner could face an unlimited fine or in a second or subsequent offence, an unlimited fine or imprisonment not exceeding 6 months. Local authorities have a duty to investigate any conduct which could result in harassment. They will determine whether any evidence provided to them is sufficient to prosecute. Local authorities will be expected to rely on convictions may therefore consider relying on convictions by the courts as evidence of harassment to reduce the risk of a successful challenge of their decisions.
72. However, a local authority may have several records of complaints of harassment previously made against a site owner or their manager, but where the authority did not take any action on those complaints. The authority may in such cases want to consider whether those complaints are indicative of underlying problems with the management of the site or the site owners lack of experience/skills in dealing with customers.
73. If there are underlying issues with the site’s management or the owner’s skills/experience, the local authority may consider other options to address those underlying issues such as attaching conditions to the entry. See section 6.

(C) Conduct of associated persons.

74. The local authority may 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 relevant person is a fit and proper person to manage the site or proposed site.
75. Site owners are given an opportunity to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information would have already been provided in the application form.

76. If a site owner does not provide any information in the application form about a current or former associate, even if the local authority would have expected them to do so, they will not be in breach of the legislation.
77. Local authorities should not routinely require information of all current or past associates of the site owner. However, if before the local authority makes a final decision, it considers that the conduct of a current or former associate they are aware of, will be relevant to that application, they can ask the site owner to provide the required information about that associate.
78. It is for each local authority to decide based on the facts of the case who they consider to be an associate and why they consider the conduct to be relevant to the application. A relevant associate could be considered as one who may have 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.

(D) Any other relevant matters

79. A local authority may also have regard to any evidence as to any other relevant matters.
80. Local authorities can decide what matters they think are relevant to the application. These could be in relation to current or previous issues or events that occurred in relation to the park or any other park owned or managed by the site owner or site manager in another local authority area. Those matters could also be in relation to the site owner's other business dealings outside the park homes sector, which have implications on the financial and management arrangements of the site in question. Any matters which the local authority thinks is relevant to the application should primarily be about the relevant person's conduct, competence and their suitability to manage the site.
81. In all cases, it is advisable that a local authority has evidence to support any matters it considers relevant, as its final decision could be challenged at the Tribunal. The evidence could include tribunal and court decisions, documents or records from Companies House, public bodies or financial institutions. Allegations which have not been investigated or documented may be difficult to use as evidence to support an authority's decision.

Section 4 - Local authority decisions, notification and appeal rights

82. Local authorities should consider an application as soon as they can after an application is made. In making the decision, the authority should take account of all factors and not just one aspect.
83. After considering an application, a local authority will be required to make one of three possible decisions.

To include the applicant on the register unconditionally

84. Where a local authority is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.
85. The final decision notice must 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—
 - (i) the right of appeal to the First Tier Tribunal; and
 - (ii) the period within which an appeal may be made;

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

86. Where the local authority 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 local authority can also grant an application for less than 5 years.

Not to include the applicant on the register

87. If the local authority 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.
88. Where a local authority makes a decision to include the applicant on the register subject to conditions or not to include the applicant on the register, it must issue a preliminary decision notice to the applicant.
89. The preliminary decision notice must set out—
 - (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 condition.

Right to make a representation

90. 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.
91. The local authority must consider and take any representations it receives into account before making a final decision.

Final decision notice

92. 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.
93. The final decision notice must 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.

Appeals

94. The person on whom the local authority serves a final decision notice may appeal to the First-tier Tribunal against any decision to—
 - (a) include the relevant person on the register for an effective period of less than 5 years;
 - (b) include the relevant person on the register subject to conditions; and
 - (c) reject the application.
95. If the applicant decides to appeal the decision, they must make an application to the First Tier Tribunal in line with the timeframes set by the tribunal at the time.
96. Where an applicant accepts a local authority's decision not to include the person to whom their test application related, on the register, they will need to make alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence unless they have an appropriate defence (see Section 7- Defences).
97. An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal

Removal from register, variation of conditions etc.

98. If after a person is included in the register, new evidence relevant to the person's inclusion in the register becomes available, the local authority may decide to;
- (a) remove the person from the register;
 - (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);
 - (c) vary a condition; or
 - (d) remove a condition
99. Local authorities are expected to use their judgement in reaching a decision on whether to review an entry and any subsequent action. It is recommended that any such decision should be related to the person being a fit and proper person rather than for example site licensing issues which can be dealt with under other powers.
100. If the local authority decides to take any of the actions listed in para 98 (a)-(c), the local authority must serve a notice of proposed action on the occupier.
101. The notice of proposed action must set out—
- (a) the date the notice of proposed action is served;
 - (b) the action the local authority proposes to take;
 - (c) the reasons for it;
 - (d) the date it is proposed that the local authority will take the action;
 - (e) information about the right to make written representations;
 - (f) where the proposed 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 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 any condition.
102. A notice of proposed action is not required where the local authority decides to remove a condition (paragraph 98 (d)) attached to an entry. A removal of a condition will generally be a positive step which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice, it is recommended that local authorities make the occupier aware of the decision in writing and also ensure the register is updated.

Notice of action

103. Where a notice of proposed action is given, the occupier will have 28 days starting from the day after the notice is served, to make representations.
104. The local authority must, as soon as reasonably practicable after the end of the 28 day period decide whether or not to take the action proposed.
105. Where the council decides to and takes the action mentioned in paragraph 98 (a), (b) or (c) the local authority must serve a notice of action on the occupier within the period of 5 working days beginning with the day after the day on which the action was taken.
106. The notice of action must 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.

Withdrawal or amendment of notice

107. There may be circumstances where a local authority may decide not to continue with an action it has decided to take. Where the local authority decides not to take the action it may withdraw or amend—
- (a) a preliminary decision notice before service of the final decision notice;
 - (b) a final decision notice before the decision to which it relates takes effect; or
 - (c) a notice of proposed action before the proposed action is taken.
108. To withdraw or amend a notice, the local authority must serve notice on the person on whom the original notice was served.
109. Though there is no requirement for the notice to contain specific information, it is recommended that the withdrawal or amendment notice should state
- That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference)
 - The reasons for withdrawing the notice
 - the date it takes effect; and
 - the implications of the decisions in relation to their entry on the register

Section 5 - Register of fit and proper persons

110. Local authorities will be required to—
- (a) establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area;
 - (b) make the register open to inspection by members of the public at the offices of the local authority during normal office hours; and
 - (c) publish the register online.
111. The requirement to publish the register online only applies to the fit and proper person test. It does not apply to the register of site licences that local authorities are already required to keep and maintain. Local authorities could however decide to publish their register of site licences alongside the register of fit and proper persons.
112. A person's inclusion in the register will be for such period as the local authority may decide, but that period must not exceed 5 years.

113. It will be for each authority to decide on the format of their local register. A template is however available at **Annex A** to aid local authorities. A register must contain the following details;
- (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;
 - (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
 - (e) whether any condition is attached to the person's inclusion in the register; and
 - (f) 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).

Information that must be included in respect of a local authority appointee

114. Where a local authority has, with the occupier's consent, appointed a person to manage a site, the local authority must include the following information in the register—
- (a) the name and business contact details of the person;
 - (b) the name and address of the site which the person has been appointed to manage;
 - (c) the status of the person;
 - (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
 - (e) whether any condition is attached to the person's inclusion in the register; and
 - (f) 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).

Rejected applications

115. Where a local authority has rejected an application, the local authority must 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.
116. Information about a rejected application will remain in the register until a successful fit and proper person application is made in respect of the owner or manager of the site.
117. For privacy reasons, the name of the rejected applicant will not be included on the register. Local authorities will however be able to 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.

Section 6 - Conditions attached to an entry on the register

118. A local authority could decide to include the person on a register subject to a condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against a decision to attach (or vary) a condition to an entry. It is therefore important that the local authority has clear and justifiable reasons for attaching a condition(s) and that the conditions are also enforceable.
119. To ensure conditions are enforceable, local authorities may wish to set them to meet certain tests such as those in Table 1 below.

Table 1

Specific	The condition sets out clearly the specific actions a site owner is being asked to take to address an issue.
Measurable	the condition sets out the required 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 would do
Realistic	the applicant should have a clear understanding of how the required outcome might 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?

120. As the test is aimed at ensuring that the person managing the site is competent to do so, conditions should relate to the person's ability to secure the proper management of the site.
121. Where a person has contravened legislation or committed offences set out in paragraphs 22 & 28, it is not recommended that conditions are set in relation to those breaches. This is because such a condition would be unlikely to meet the tests set out above in paragraph 119. For example, if a person has committed fraud or violence, that specific event cannot be reversed by requiring the person to perform a specific task.
122. Local authorities should, in cases where the person has committed those offences or contravened legislation, consider that breach together with all the other information available, in reaching its preliminary decision.
123. A condition can be set in respect of whether the relevant person has the ability to secure the proper management of the site. This means conditions can relate to the factors set out in paragraphs 64 – 68 and 74 – 81, which are the relevant person's competence to manage the site, the management structure or funding arrangements for the site, an associated person's influence and any other relevant factors.
124. **Example 1** - A local authority 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*".

125. If the condition is met at the end of the first year, the local authority will record this in the register. If at a future date it is found that the site owner was failing to implement the complaints procedure appropriately, the local authority could give them a further opportunity to improve their management of the site by attaching a new condition requiring them to provide quarterly reports of complaints and outcomes for another year or for the site owner to complete a relevant “CPD customer service/Dealing with complaints” course by a certain period. If the local authority however considers these courses of actions are unlikely to achieve the desired outcome, it could remove the site owner from the register.
126. **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 local authority 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 document by specified date.
127. **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 a specified date and prevent the associated person or any other person from carrying out action X on the site.

Consent for local authority to appoint a site manager

128. 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.
129. 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.
130. Local authorities should seek legal advice before agreeing any terms with the site owner. Where the local authority is able to identify a suitable person, the person must undergo the fit and proper test and their details included on the register.

Section 6 - Sanctions

131. The Regulations create three offences. These are;

- Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences in proceedings against them. These are set out in Section 7.
- Withholding information or including false or misleading information in a registration application - The site owner will not have any defences in proceedings against them for this offence.
- Failing to comply with a condition - The site owner will have certain defences in proceedings against them. These are set out in Section 7.

132. Local authorities are responsible for enforcing the regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

Revocation of site licence

133. In certain circumstances, local authorities could apply to a court or tribunal for an order to revoke a site licence. These are;

- If a site owner is convicted twice or more for operating a site without they or their appointed manager having been assessed by the local authority as a fit and proper person, a local authority may apply to the magistrates' court for an order to revoke the site licence; and
- If a site owner is convicted for operating a site without them or their appointed manager having been assessed by the local authority as a fit and proper person, a local authority may apply to the First-tier Tribunal for an order to revoke a licence.

134. The requirement for two convictions is only in relation to the magistrate's court.

135. The ability for the local authority to apply to the Tribunal for an order to revoke a site licence without any requirement of a prior conviction, is to ensure that in very extreme cases where the best option for all stakeholders would be for a site licence to be revoked urgently to protect the safety and security of residents, the authority is able to do so.

136. Local authorities would be expected to use other powers first where appropriate, for example attaching conditions to an entry, to address any issues about a person being fit and proper to manage a site. The power to revoke a licence without any prior convictions should be used as a last resort as revoking a licence generally, will have an impact on residents, site owners and the local community.

Section 7 - Defences to fit and proper person offences

137. In certain limited circumstances, a site owner may have a defence where they have breached the regulations. These are set out in Table 2 below.

Table 2 - Specified circumstances and relevant periods

Row	Circumstance	Relevant period for making an application in the circumstance
1	the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2	the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a) (removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3	at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4	at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
5	a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
6	a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day
8	the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above	within the period of 28 days beginning with the relevant day
9	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	within the period of 3 months beginning with the relevant day
10	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above	within the period of 28 days beginning with the relevant day

138. The full text of the Regulations referred to in Table 2 are set out below.

Regulation 4.— Requirement for fit and proper person

(1) An occupier of land may not cause or permit any part of the land to be used as a relevant protected site other than a non-commercial family-occupied site unless the relevant local authority—

- (a) are satisfied that the occupier is a fit and proper person to manage the site;
- (b) are satisfied that a person appointed by the occupier to manage the site is a fit and proper person to do so; or
- (c) have, with the occupier's consent, appointed a person to manage the site.

(2) A local authority may only appoint a person to manage a site if the local authority are satisfied that the person is a fit and proper person to do so.

Regulation 6.—Application for inclusion in register

1) An application for the inclusion of a person in the register by the relevant local authority may be made by the occupier of land in the local authority's area that is, or is proposed to be, used as a relevant protected site in the local authority's area that—

- (a) holds a licence in respect of the site under section 1 of the Caravan Sites and Control of Development Act 1960 ("a site licence"); or
- (b) has applied for a site licence in respect of the site under section 3 of that Act.

(2) On such an application the local authority may—

- (a) grant the application unconditionally;
- (b) grant the application subject to conditions; or
- (c) reject the application.

(3) A registration application must include the matters listed in Schedule 2.

Regulation 8.—(Removal from register, variation of conditions etc.

1) Where a person is included in the register, the local authority may in the circumstance prescribed in paragraph (2)—

- (a) remove the person from the register;
- (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions imposed by virtue of regulation 6(2)(b)); or
- (c) vary or remove a condition imposed by virtue of regulation 6(2)(b) or this regulation.

(2) The circumstance is that, after the person was included in the register, new evidence relevant to the person's inclusion in the register becomes available.

Glossary

discretionary criteria	Information which is relevant to a fit and proper assessment which local authorities can choose to take into account to be satisfied that a person is fit and proper to manage a park home site.
final decision notice	Notice issued by the local authority following any representations received from the applicant in respect of the local authority's decision to include an applicant on the fit and proper person register. The applicant has a right to appeal a final decision (to the First Tier tribunal)
mandatory criteria	A prescribed list of information which local authorities must consider in the fit and proper person test. park home site A mobile home site with planning permission for residential use.
occupier	An occupier is defined in section 1(3) of the Caravan Sites and Control of Development Act 1960. A person who holds a site licence issued under section 3(1) of the 1960 Act must be the occupier of the land under s3(1) of the 1960 Act, but an occupier may also be a site owner who does not, but should, hold a site licence.
prospective site licence holder	An owner or prospective owner of a park home site who may intend to apply for a site licence
relevant protected site	Relevant protected site", as defined in section 5A (5) of the Caravan Sites and Control of Development Act 1960, means land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is – (a) expressed to be granted for holiday use only, or (b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).
representation period	28 day period after an interim decision has been issued during which a site licence holder can provide additional information for a local authority to take into account before it reaches a final decision on the fit and proper person test and inclusion on the fit and proper person register.
register	The fit and proper person register which will contain details of those who have been assessed as meeting the fit and proper person test.
site licence holder	In this document means an "occupier" to ease understanding. The fit and proper person requirements apply to occupiers (see above). All site licence holders are occupiers.
Tribunal	The First Tier Tribunal (Property Chamber)