

6th AUGUST 2024

KEY DECISION? NO

REPORT NO. OS2411

MOBILE HOMES FIT & PROPER PERSON DETERMINATION POLICY

SUMMARY AND RECOMMENDATIONS:

The local authority is required to determine applications for entry on the mobile homes fit and proper person register. To enable determination of applications it is appropriate for a determination policy to be adopted. Whilst the policy was produced and adopted under delegated authority some time ago, in accordance with the constitution formal adoption of the policy by Cabinet is required.

Cabinet are recommended to retrospectively adopt the proposed Mobile Homes Fit & Proper Person Determination Policy.

1. INTRODUCTION

- 1.1. The purpose of this report is to seek Cabinet approval to retrospectively adopt the proposed Mobile Homes Fit & Proper Person Determination Policy.

2. BACKGROUND

- 2.1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) England Regulations 2020 require the local authority to determine applications for Site Managers to be included on the fit and proper person register. The determination policy informs and directs decision making in this regard.
- 2.2. The policy was adopted under delegated powers following a previous Cabinet decision in March 2023. However, the constitution requires that Cabinet formally adopt the policy.

3. DETAILS OF THE PROPOSAL

General

- 3.1. The proposed Mobile Homes Fit & Proper Person Determination Policy is given at Appendix 1.

Alternative Options

- 3.2. Members may amend any element of the proposed policy where this is not a legal requirement.

Consultation

- 3.3. There is no requirement for consultation in respect of the proposed policy. Currently there are 4 mobile home sites within Rushmoor therefore the policy affects a limited number of local residents and businesses.

4. IMPLICATIONS (of proposed course of action)

Risks

- 4.1. There are no risks associated with this report.

Legal Implications

- 4.2. The Council is obliged to work within the relevant legislation and have regard to the guidance. Applications and/or regulatory action carried out in accordance with the policy are often subject to a legal right of appeal to the first-tier tribunal. The policy will be taken into consideration as part of any appeal hearing.

Financial Implications

- 4.3. The relevant legislation specifies what costs can be recovered in respect of licensing fees, the licensing authority sets fees on this basis to cover all recoverable costs of administering the regime.

Resource Implications

- 4.4. Applications are already being processed under this regime, therefore there are no additional resource implications of this report.

Equalities Impact Implications

- 4.5. An Equality Impact Assessment has been produced, and there are no negative equalities implications associated with this report.

Community Safety Implications

- 4.6. The purpose of the fit and proper person regime is to ensure protection of residents of mobile home sites, therefore the measures detailed in the proposed policy have a positive impact on community safety.

5 CONCLUSIONS

- 5.1 To assist with determinations under the regulations and ensure appropriate site management of mobile home sites within Rushmoor it is recommended to Cabinet to retrospectively approve the proposed policy.

LIST OF APPENDICES/ANNEXES:

Appendix 1 – Proposed Mobile Homes Fit & Proper Person Determination Policy

BACKGROUND DOCUMENTS:

None

CONTACT DETAILS:

Report Author – Shelley Bowman – shelley.bowman@rushmoor.gov.uk -01252 398162

Executive Head of Service – James Duggin – james.duggin@rushmoor.gov.uk – 01252 398543



**MOBILE HOMES FIT AND PROPER PERSON
DETERMINATION POLICY**

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

SUMMARY

This document sets out Rushmoor Borough Council's fit and proper person policy for mobile home sites in recognition of its role and functions as the relevant local authority in this regard.

In preparing this document, consideration has been given to the relevant legislation and the non-statutory guidance for local authorities produced by Ministry of Housing, Communities and Local Government regarding the fit and proper person test.

This policy document was approved and adopted on the XXXX. While subject to regular review, this document shall constitute RBC's mobile homes fit & proper person policy.

INTRODUCTION

Background

The [Mobile Homes \(Requirement for Manager of Site to be Fit and Proper Person\) \(England\) Regulations 2020](#) (hereafter "the Regulations") prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the occupier and anyone appointed to manage the site is a fit and proper person to do so.

Under this legislation, the local authority is responsible for ensuring that the occupier and manager of the site is a fit and proper person to manage the mobile home site.

Status

This document sets out the policies and arrangements the local authority will normally apply and consider in carrying out its mobile homes fit and proper person registration functions and responsibilities. This document will therefore be used to inform and direct our decision making, particularly when making decisions on relevant applications and/or our general enforcement approach. It acts as a guide to the considerations and standards to be applied in our work together with the roles and responsibilities of those to whom it applies. However, on occasion where it is deemed appropriate, the local authority may divert from this policy. In all cases where a decision is made that differs from this policy, there will be a decision sheet with the justification for doing so, and the matter will be determined in accordance with the Council's scheme of delegation.

The document is not intended to be a full and/or authoritative statement of the law or its associated guidance and does not in any way constitute legal advice. The policy does not override the legal requirements embodied in any legislation in force at the time of adoption or as may be enacted thereafter. The relevant statutory provisions together with any subordinate legislation will take precedence.

Applicability

This document applies to the functions of the Council as the authority responsible for administering the fit and proper person requirements for relevant mobile homes sites within the Borough.

Other documents and references

Where appropriate, this policy should be read in conjunction with the following documents -

- (a) RBC Enforcement and compliance policy; and
- (b) RBC Guidance notes for applicants

Disclaimer

Please note that every effort has been made to ensure that the information in these pages is correct at the time of writing. This is the first policy as the relevant legislation and guidance is new. Changes in the law will take precedence and will be incorporated when this policy is next reviewed. Policies may change and/or be adopted in the meantime as the local authority begin to administer the regime.

LICENSING PRINCIPLES, OBJECTIVES AND GENERAL CONSIDERATIONS

FUNDAMENTAL PRINCIPLES & OBJECTIVES

Licensing objectives

We will aim to regulate mobile home fit and proper person registrations in the public interest and will, where appropriate, seek to **enable good business** for all concerned. We will endeavour to do this by providing quality, timely and value for money registration and regulatory services that reasonably ensure –

- (a) the safety and protection of both residents and visitors to relevant sites; and
- (b) the provision of a suitable and efficient mobile home provision for all.

Other general principles

Where appropriate the local authority will -

- (a) be objective;
- (b) consider any matter on its own individual merits; and
- (c) consider any impact on the licensing objectives.

OTHER RELEVANT CONSIDERATIONS

Policy and guidance

In exercising its functions, the local authority will, where appropriate, have regard to -

- (a) this policy; and
- (b) any guidance issued by or on behalf of the relevant Secretary of State (e.g. Ministry of Housing, Communities and Local Government).

Integration of policies, strategies and objectives

The local authority may, where it is entitled to do so have consideration for the aims, objectives and findings of any published government strategies and plans which relate to its licensing objectives.

For these purposes, government strategies and plans are taken to mean those prepared and published by or on behalf of HM Government, Rushmoor Borough Council and / or any other statutory authority with responsibilities within the area concerned.

Departure from guidance and policy

The local authority may, where it is entitled to do so, use its discretion to depart from this policy and any other guidance where it considers it appropriate to do so and, in such cases, will give clear reasons.

DUPLICATION & OTHER RELEVANT LEGISLATION

General expectation of compliance

The local authority expects those to whom it has granted any authorisation to fully comply with all other relevant legislation (e.g. Health & Safety) applicable to their site, and/or their activities. The local authority will, subject to circumstances, seek to avoid duplication with other regulatory regimes in delivery of its functions.

Other authorisations and permissions

The local authority expects those operating / managing sites to ensure that they have obtained all necessary permissions before proceeding e.g. landowner permission, permits etc. Registration does not and shall not be taken to give or imply approval for any other activity regulated by this or any other authority. Prospective applicants are advised to check to ensure that their proposals / arrangements are suitably authorised in all respects.

Planning permission and building control requirements

The local authority notes that the use of sites may be subject to control by the local Planning Authority and that such uses may require planning permission or must otherwise be lawful under planning legislation. Planning permission is usually required for new premises and/or a change of use of premises while building control approval is often required for structural alterations.

While relevant applications may be made pending any necessary planning permission, the local authority expects these normally to be made by businesses with planning permission for the property and uses concerned. However, the local authority would impress that planning, building control and fit & proper person registration are separate legislative regimes that involve consideration of different matters. In view of this, and so as to ensure a clear separation of planning and registration systems, registration applications will, in all cases, be considered wholly independently of planning applications.

GENERAL ADMINISTRATIVE ISSUES

APPLICATIONS

Equality of opportunity

Subject to the requirements of the relevant statutory provisions, nothing in this policy shall override or undermine the right of any individual or business -

- (a) to apply for one or more of the registrations provided for and, where appropriate, to have that application considered on its individual merits;
- (b) who is aggrieved by the decision of the local authority to appeal against that decision to the tribunal where provision has been made for them to do so.

Making an application

It is not the purpose of this document to detail how to make an application for any relevant authorisation, the local authority will maintain basic guidance notes for applicants on its website (www.rushmoor.gov.uk).

Submission of applications

All applications must be made to the Licensing Team detailed below –

The Licensing Team
Rushmoor Borough Council
Council Offices
Farnborough Road
Farnborough
GU14 7JU

Telephone: 01252 398855

Email: licensing@rushmoor.gov.uk

Website: www.rushmoor.gov.uk

Validity of applications

The local authority will, normally, only accept and, where appropriate, process applications that **fully** comply with all relevant requirements and eligibility criteria. Applications will normally be treated as being invalid where they fail to comply with all relevant requirements.

Except for local authority documents not required by the applicant / registered person for any other purpose e.g., application forms, the local authority will not hold any original documents. Original documents submitted in person will be scanned and returned immediately to the applicant / registered person.

Safeguarding against fraud

So that it can satisfy itself against the potential for fraud, the local authority will require, where appropriate, **all** submissions to –

- (a) be in and up-to-date and
- (b) be suitably addressed (i.e., both in respect of the individual concerned **and** in respect of the address where they are ordinarily resident in the UK), and
- (c) suitably cross reference (i.e., be consistent with all other relevant documents and submissions).

Photocopies, scans, emails and/or similar will **not** be accepted in respect of DBS certificates and identity documents e.g., passport, driving licence, birth certificate. Where there are any concerns regarding any other document submitted electronically, the local authority reserves the right to ask to see the original document before making any determination.

Where appropriate, we will treat any document as being invalid where it is not in original form (if requested), is out of date, bears incorrect details, cannot be validated or where we otherwise suspect it may have been forged, improperly altered or tampered with. Further, the local authority will refuse any application and/or review any registration held where any document submitted as part of an application and/or in maintenance of any registration is suspected to be fraudulent, inaccurate and/or out of date.

Suitable equivalent documents, certifications and standards

In recognition that there may be different service providers and/or different levels of qualification for many of the submissions required, the local authority may, where appropriate, accept suitable equivalent documents, and/or certification where the proposed equivalent –

- (a) provides for / covers / certifies the same (or enhanced) content or standards (in all respects) to that originally stated; and
- (b) is readily verifiable; and
- (c) is subject to prior written approval of acceptance by the local authority.

Renewal and lapse of existing registrations

In an effort to be helpful, the local authority will endeavour to remind applicants of the pending expiry of any individual registered in relation to their site. However, it asserts that it remains the responsibility of each applicant / occupier to re-apply for all appropriate registrations, other necessary documentation and/or permissions etc in advance of expiry.

Those registered who allow their licence to expire will be unregistered and therefore not authorised to act or otherwise provide the activities for which the registration was originally required.

Disclaimer

The local authority accepts no liability for rejection, loss or delays incurred due to late submission, the submission of documents of questionable validity or the submission of an incomplete application.

USE & EXCHANGE OF INFORMATION

Data protection and exchange of information

The local authority will comply with the Data Protection legislation and the Council's Data Protection policy. As a public task, the local authority may use and process sensitive and / or personal data where this is necessary for the exercise of its functions.

Confidential information

The local authority recognises that it is subject to legal restrictions on confidentiality of certain information it requires and holds in order to determine applications for, and/or to supervise, the various authorisations it issues (e.g. criminal conviction and similar background disclosures).

In exercise of its duties, the local authority will only disclose such information, as may be necessary, to those involved in the determination of relevant applications in accordance with this policy and/or the Council's constitution and scheme of delegation. The local authority will not divulge any such information to any third party otherwise than where it is permitted or required to do so by law.

Keeping personal information up-to date

To allow for communications and ensure that registrations remain valid, both applicants and registered persons must formally notify the local authority (as soon as

reasonably practicable) of any change of name, address or contact details (telephone, mobile, email address etc). Where appropriate the local authority may check any notified change of details and/or require suitable proof of identity and evidence of the change(s) made.

Whilst other channels of communication are available (e.g., telephone, face to face, letter) the local authority will generally send written communications and reminders by email. As such, all applicants and registered persons are required to provide an email address for associated correspondence.

As the local authority may have urgent cause to contact applicants and/or registered persons in circumstances and situations that may affect public safety the local authority will take a serious view of any individual who fails to advise it of any relevant change in details.

REGISTER & PROVISION OF INFORMATION

As required by the legislation the local authority maintains a public record of those registered, together with other information.

Details on the public register will be provided on the Council's website www.rushmoor.gov.uk. A hard copy of the register is available at Rushmoor Borough Council, Council Offices, Farnborough Road, telephone (01252) 398855.

DELEGATION OF FUNCTIONS

All licensing decisions will be made, and functions carried out in accordance with the Council's Scheme of Delegation.

IMPOSITION OF CONDITIONS ON LICENCES ISSUED

What we mean by 'conditions'

Conditions include any terms, limitations or restrictions attached to a relevant registration and are essentially the steps the registered person / occupier will be required to comply with.

General principles on the imposition of conditions

The local authority will, impose conditions only in respect of matters that are within the control of the registered person / occupier.

As many issues of competence and ability to manage a site are generic, the local authority considers it appropriate to attach a standardised condition to each registration granted requiring the registered person / occupier to notify them of any change to information provided during the application procedure including but not limited to the organisational structure, criminal records etc. However, where appropriate, the local authority will impose conditions that are tailored to the individual / site concerned.

The local authority will seek to avoid disproportionate and/or over burdensome conditions wherever reasonably practicable and will, where it is entitled to do so, seek to ensure that conditions –

- (a) are only imposed where legal authority exists to do so.
- (b) are reasonable.
- (c) are proportionate to any risks/problems identified.
- (d) directly relate to any harms being addressed.
- (e) are consistent in the circumstances.
- (f) are capable of being complied with, and
- (g) do not unjustifiably duplicate the requirements of other legislation.

The local authority will, impose conditions that are clear, unambiguous, coherent, and enforceable.

Avoidance of conflicting conditions

The local authority will ensure, where it is entitled to do so, that no conditions are imposed on registrations that conflict with any other conditions.

Enforcement of conditions and rights of appeal

Failure to comply with any condition attached to a registration can be a criminal offence. As such, all parties will be informed of any rights of appeal against the imposition of conditions, where provision has been made to do so.

THE TERM AND DURATION OF REGISTRATION

By way of facilitating a reasonable operating period the local authority will, where appropriate, normally grant registration for a period of five years; this being the statutory maximum. However, the local authority may, using its discretion, grant registration of shorter duration where it considers this to be reasonable or appropriate in the circumstances.

Without affecting its discretion, the local authority may limit the term or duration of a registration in the following (and similar) circumstances -

- (a) in accordance with any work permit(s) and/or restrictions;
- (b) where there are indicators of concern e.g. relevant convictions, complaint history which are identified during the application process but do not result in refusal;

- (c) where the applicant plans to move to a different job or area;
- (d) where the applicant plans to retire at a set time;
- (e) to synchronise the registration with any other registration, application and/or policy requirements.

FIT AND PROPER PERSON ASSESSMENT

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the occupier and/or manager(s) of a site to be a Fit and Proper Person. Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations.

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

The local authority will, where appropriate, seek to ensure that applicants and appointed managers are both safe and suitable on demonstration that they are, and continue to be -

- (a) of suitable background, character and integrity (including being suitably professional, responsible, reliable, sober, honest, trustworthy, civil, decent, courteous and respectable);
- (b) suitably competent to manage the site;
- (c) entitled and, where appropriate, authorised to live and work in the UK; and
- (d) will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park homeowners

General application requirements

Section 7 of Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 provides details of matters that the local authority must have regard to in making a fit and proper person assessment. It also specifies that the local authority may have regard to the conduct of any person associated or formerly associated with the relevant person where relevant and that the local authority may have regard to any evidence as to other relevant matters.

For fit and proper registration purposes, the local authority considers the following as relevant and will, where appropriate, require applicants to provide and/or facilitate -

- (a) suitable immigration and asylum status and/or work entitlement documents proving right to work in the UK in accordance with the current Home Office document requirements applicable at the time of application;
- (b) a suitable basic DBS disclosure (dated within 1 calendar month of the application);
- (c) a suitable declaration of previous applications to any local authority (including any refusals) and details of any history of management of relevant sites as part of the application form);
- (d) a suitable demonstration of competence to manage the site;
- (e) suitable demonstration of the management structure and funding arrangements for the site, including evidence of access to sufficient funds to manage the site and comply with licence conditions;
- (f) suitable evidence as to whether the individual / company has been insolvent in the last 10 years;
- (g) suitable evidence as to the status of any company, and disqualifications of individuals acting as a company director;
- (h) suitable evidence of membership of any redress scheme for dealing with complaints in connection with the management of the site;

Other requirements

In addition, the local authority will, where appropriate, require applicants to provide -

- (a) suitable demonstration of any other knowledge, experience and skills considered appropriate in the circumstances to demonstrate competence to manage the site;
- (b) details of any mitigating and/or aggravating factors associated with one or more of the above;
- (c) details of and relevant information in respect of the above matters in regards to any person associated or formerly associated with the relevant person

Further to the above, and in recognition that local knowledge and intelligence concerning individual applicants can help inform its determination of 'propriety', the local authority will, where appropriate, invite the Hampshire Constabulary to comment on any application.

POLICIES, STANDARDS AND RELEVANCE OF FITNESS & PROPRIETY REQUIREMENTS

While the policies, standards and considerations are set out in this policy, these matters should not be seen as a comprehensive checklist or, in any way, be regarded as standards to be automatically applied in all cases. Where appropriate, the local authority may require additional information, documents, or other certifications it reasonably considers necessary to enable it to determine whether registration should be granted and, where appropriate, if conditions should be attached to any such registration. In all cases, the costs of any requirements must be met by the applicant. The following policies and guidelines will normally be used to determine the relevance of convictions, cautions and other known issues concerning those holding or seeking registration.

Residential Address

In order to ensure the ability to effectively manage the site, the local authority will normally refuse any application for registration where the individual does not reside in the UK.

Dependent on the role of an individual, consideration will be given as to their proximity to the site to ensure that the local authority can be satisfied that effective management can take place.

Immigration and asylum status and/or entitlements

To ensure compliance with Immigration & Asylum legislation, it is the policy of the local authority to check an individual's immigration and asylum status; together with an individual's right to live and/or work in the UK.

To check these matters, the local authority will normally require any individual applying to be registered to provide suitable and sufficient documents as proof of identity and the right to live and work in the UK. For this purpose, the local authority will normally follow and apply the extant Home Office (and Border Agency) guidelines for the prevention of illegal working in the UK (or suitable equivalent).

Where appropriate, the local authority may check with, and/or refer any concerns about an individual's immigration and asylum status or their right to live and/or work in the UK to the relevant Government departments; currently the UK Border & Immigration Agency and HM Revenue & Customs.

Relevance of immigration and asylum status to applications

As it will otherwise be unable to satisfy itself of the applicant's propriety, the local authority will normally refuse any application for registration where the applicant fails to provide or otherwise obtain suitable and sufficient evidence of identity and/or the right to live and work in the UK.

Where appropriate, the local authority will grant registration in accordance with any work permit(s) and/or restrictions and may, where it is entitled to do so, impose associated conditions and/or restrictions on the term, duration, nature and extent of any registration accordingly.

Criminal Records Checks

DBS disclosure requirements

To assist it in the determination of 'propriety', it is the policy of the local authority that all persons for which registration is requested should submit a basic DBS disclosure, dated within one calendar month of the application for registration.

Interim disclosure requirements

To ensure continued fitness & propriety, the local authority expects those listed on the register and applicants to notify them as soon as reasonably practicable of any relevant conviction received following the issue of the DBS disclosure.

Relevance of convictions etc & background information

In consideration of a criminal record and other relevant information (e.g. police intelligence, actions of other local authorities, complaint & compliance history etc), the local authority will consider each case on its own merits and will take account of any disclosed information, convictions, cautions etc, only in so far as they are relevant to the individual's fitness and/or propriety to manage a site.

An individual with a relevant conviction, caution etc need not be permanently barred from obtaining or holding a licence but shall generally be expected to -

- (a) remain free of conviction etc for a suitable period according to the circumstances; and
- (b) show, where appropriate, adequate evidence of good character from the time of any conviction or other relevant issue.

Where appropriate, the local authority may afford some discretion if the conviction, caution etc is isolated and there are relevant mitigating circumstances. Conversely, the local authority will take a more serious view of multiple offences or a series of offences etc over time as a pattern of inappropriate behaviour.

While each case will be considered on its own merits, the overriding consideration will be the protection of residents and their right to the peaceful enjoyment of their homes.

Offences that may be taken into consideration

The Rehabilitation of Offenders Act 1974 (ROOA74)

The local authority notes that the Rehabilitation of Offenders Act 1974 (ROOA74) aims to help individuals with a conviction history and generally provides that previous convictions need not be disclosed and should not be considered where they are spent i.e. after specified periods of time (dependant on the conviction concerned). A basic DBS disclosure will not show spent convictions, and therefore they will not be taken into account when determining an application.

Issues generally considered to be relevant

While not a comprehensive checklist, the local authority will, where entitled to do so, normally consider the following general categories of issues to be relevant for the purposes of fit and proper person registration:

- Fraud
- Dishonesty
- Violence
- Firearms
- Drugs
- Sexual Offences
- Local Authority Issues (including landlord & tenant law)
- Equality Issues
- Harassment

However, other issues / offences may also be considered relevant in appropriate circumstances; particularly where it demonstrates a history of conduct which may have an impact on the ability to effectively manage a site.

For the purposes of these guidelines, convictions, conditional and formal/simple cautions (i.e. a formal admission of guilt) together with fixed penalties shall be treated as relevant considerations. Civil actions shall also be treated as relevant considerations, particularly (although not exclusively) those that relate to housing, caravan sites, mobile homes or business conduct.

Consideration of suitability

In considering whether any relevant information (convictions, cautions etc) renders an individual unsuitable to be registered, the local authority -

- (a) will not, in recognition that guilt has already been established, go behind any conviction, caution etc; but
- (b) may, by way of informing its assessment, take any of the following (and similar) matters into consideration -
 - (i) The nature and seriousness of any offence/issue;

- (ii) The currency (i.e. age) of the conviction, caution/enforcement action etc;
- (iii) The nature and extent of any penalty/sentence imposed or actions taken;
- (iv) The circumstances giving rise to any conviction, caution, enforcement action etc;
- (v) The nature, degree and/or pattern to which similar offences/issues are repeated;
- (vi) Any reasons given by the Courts (or other authority) for imposing any relevant sentence/taking any action;
- (vii) The nature and degree of any remorse shown;
- (viii) The nature and extent of any residual risk/threat that the individual may pose to residents (either real or perceived);
- (ix) The honesty of the individual/applicant (i.e. in declaring any conviction, caution etc);
- (x) Any other aggravating, provoking or mitigating factors; and
- (xi) Any other information submitted by the individual concerned detailing why the conviction, caution etc should be disregarded.

NB: The above considerations should not be seen as a comprehensive checklist or, in any way, be regarded as matters to be automatically addressed in all cases. Where appropriate, the local authority may require additional information, documents, and/or take account of other matters it reasonably considers necessary to enable it to determine the most appropriate outcome and/or if conditions should be attached to any registration (where granted). In all cases, the costs of any additional requirements must be paid for by the individual concerned.

Provision of additional information

To assist it in determination of the relevance of disclosed information, convictions, cautions, enforcement actions etc and/or the suitability of the individual, the local authority will normally invite them to give -

- (a) any further details and/or explanation in respect of any disclosed and/or similar information; and/or
- (b) the opportunity to state why any conviction, caution, enforcement action etc should be disregarded.

General actions and guidelines where issues are known

Subject to the considerations of suitability, the local authority will normally refuse, revoke and/or refuse to renew a registration where it considers that any relevant information, conviction, caution, enforcement action etc renders the individual unsuitable.

However, the local authority may, in exercising its discretion to grant, renew, revoke or otherwise refuse to renew a registration, take one or more of the following steps –

- (a) Give advice on the standards expected;
- (b) Issue a warning on future conduct;
- (c) Limit the term or duration of the registration;
- (d) Impose conditions on the registration*;
- (e) Require suitable demonstration of knowledge and skills;
- (f) Require the acquisition of knowledge and skills;
- (g) Require such other information, documentation and certification as may be appropriate.

* *which may include the alteration, omission of any existing condition(s) or the addition of any new condition(s) as may be appropriate.*

NB: The above matters should not be seen as a comprehensive checklist or, in any way be regarded as matters to be automatically applied in all cases. Where appropriate, the local authority may require additional information, documents etc, and/or take account of other matters it reasonably considers necessary to enable it to determine the most appropriate outcome and/or if conditions should be attached to any registration (where granted). In all cases, the costs of any additional requirements must be paid for by the individual concerned.

Subject to the considerations of suitability, the examples given below afford a general guide on the actions that might be taken where convictions, cautions etc are disclosed or other issues become known.

NB: These guidelines are specifically stated to be guidelines, are not prescriptive and purposefully allow for some discretion.

Unspent Criminal Convictions

The local authority will not grant registration for an individual who has an unspent criminal conviction for any offence involving fraud or other dishonesty, violence, harassment, firearms, equality or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements), local

authority offences relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law.

Other known issues

Where there are other known issues or indicators of behaviours which relate to the types of offences detailed above, or any provisions related to housing, caravan sites, mobile homes, public health, planning, environmental health, landlords or equality have been contravened, the local authority will generally not grant registration where; if the individual was convicted for the closest relevant offence, taking account of the sentencing guidelines the conviction would be unspent.

The local authority has a duty to investigate any conduct which could amount to harassment and any evidence obtained should be reviewed to determine whether it is sufficient to be used to prosecute a site owner.

A local authority may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints, these will be taken into consideration in the fit and proper person determination. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. The local authority may where appropriate refuse registration, or address any underlying issues by attaching conditions to the individual's entry on the register.

Previous Application / Site Management History

In recognition that applicants may have been refused registration or managed sites licensed by other authorities, the local authority requires all applicants to declare -

- (a) whether or not any such applications have previously been made to any other local authority, the date of any such application, together with details of (i.e. the reasons for) the outcome; and/or
- (b) whether or not any such registrations or sites have previously been held or managed with any other local authority, the dates any such sites were managed, together with the details of any complaint or enforcement action taken.

NB: Where appropriate, the local authority will check the status and outcome of any other applications made to and/or sites managed with other authorities together with the reasons for any actions that may have been taken in connection with them, and any complaint or compliance history.

Demonstration of Competence to Manage the Site

Applicants will be required to demonstrate the competence of each relevant person to manage the site. Whilst not an exhaustive list the following would normally be considered suitable to demonstrate competence:

- (a) evidence of a minimum of 3 years' experience of site management and/or supervision, with no evidence of substantiated complaint history, a pattern of

unsubstantiated complaints from multiple complainants or enforcement action;
or

- (b) evidence of suitable training by a competent person in site management to include but not limited to:
- a. the legislation and regulations including licence conditions.
 - b. health and safety; and
- (c) demonstration as to how the relevant person will be supervised in their role (by a competent and registered person) until such time as they have gained appropriate experience.

Demonstration of Management Structure and Funding arrangements

Management Structure

Applicants will be required to provide evidence of the management structure for the site by way of an organisational chart showing named individuals, and which provides an overview of each role and the contingency arrangements should an individual be unable to carry out their role e.g. holiday, sickness, leaving employment.

To ensure that suitable contingency arrangements are in place the local authority require all individuals carrying out any management responsibilities of the site (including only as a contingency in the absence of another individual), to be registered. In order to allow for contingency arrangements, the local authority will generally require a minimum of two individuals to be registered for each site, unless the occupier can demonstrate to the local authority's satisfaction why this is not appropriate in the case of their specific site.

Management Plan / Policies

In addition, the local authority requires applicants to submit a management plan or suitable policies for the site in respect of the following:

- Pitch Fee and other Payments
- Contact for on-site issues including out of hours / emergencies (including how residents are made aware)
- Complaints procedure
- Site maintenance
- Staffing
- Refuse Removal

These plans / policies will be reviewed to ensure that they are adequate and robust to ensure effective management of the site.

Funding Arrangements

The local authority require applicants to submit evidence that they have sufficient funds to manage the site effectively and comply with the licence conditions. Evidence may include but is not limited to bank statements and/or accounts.

Where the applicant is a company registered with Companies House, it is the policy of the local authority to obtain a credit report in respect of the company to assist in determining the ability to effectively manage the site.

Where there is any indication that there is not sufficient funds or financial difficulties (including where there is any outstanding balance in respect of the business overdue for payment to the local authority e.g. business rates etc.) the local authority will refuse any application for registration.

The local authority will not grant registration for an individual who has been personally insolvent or disqualified from acting as a company director in the previous 10 years.

Complaints Redress Scheme

The local authority expects all applicants to be and continue to be a member of a redress scheme for dealing with complaints in connection with the management of the site, where one is available. Where suitable evidence of this is not available registration will be refused.

Associates and former associates

The conduct of any person associated or formerly associated with the person being assessed for fitness and propriety (whether on a personal, work or other basis) will where deemed appropriate be considered as part of the fit and proper person assessment. A relevant associate is considered to be any individual 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.

Where the local authority has reason to believe that an individual has associates who may be relevant to their application, information regarding those associates will be requested. Failure to provide requested information, which the local authority have reason to believe is relevant to the determination, will result in the application being refused.

Where an applicant is aware of associates within this definition, the local authority expects them to notify the local authority of the association at the time of application, or during the life of the registration where this is a change of circumstances.

Review of Registration

Where the local authority becomes aware of any change of circumstances, or new information during the life of a registration, which if known or applicable at the time of determination of the application may have impacted on the grant of the registration,

the local authority will investigate as appropriate, and determine whether any action should be taken in respect of the registration. This may include:

- (a) Removing a person from the register;
- (b) Adding a condition to the registration; and / or
- (c) Varying or removing a condition previously applied.

Appeals

The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the local authority. These could include:

- (a) including the relevant person on the register for an effective period of less than 5 years;
- (b) including the relevant person on the register subject to conditions; and
- (c) rejecting the application.

Where an applicant accepts the local authority’s decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.