**Mobile Homes Act 2013 update**

**Fit and Proper Person Test - Guidance note for applicants**

**Introduction**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) introduced a fit and proper person test for mobile home site owners or the person appointed to manage the site, unless exempted by the Regulations.

It is important to highlight that from 1 July 2021 until 1 October 2021 protected sites, operated on a commercial basis, must be shown to be being managed by a fit and proper person.

The local authority are currently preparing to implement the new regulations to enable site owners, or the person appointed to manage the site, to make their applications to be included on the register of fit and proper persons.

Cumberland Council will write to owners of protected sites before 1st October 2021 to advise that they need to apply to be added to the register of fit and proper persons and will provide the relevant application form.

It is a criminal offence for site manager/owners not to apply.

**What is a fit and proper person?**

The applicant wishing to be included on the register will have to show that there are suitable financial and management arrangements in place for the site and to provide information relating to their conduct in relation to any of the following:

* Offences relating to fraud, dishonesty, violence, arson or drugs or listed in schedule 3 of the Sexual Offences Act 2003.
* Contraventions of law in relation to: housing, caravan sites, mobile homes, public health, planning or environmental health or landlord and tenant law.
* Contraventions of law in relation to the Equality Act 2010, or in connection with the carrying out of any business.
* Harassment of any person in connection with the carrying out of any business.
* Insolvency within the last 10 years.
* Disqualification from acting as a company director within the last 10 years.
* Has the right to work in the UK

[**Site Owner Guidance for Fit and Proper Person**](https://www.eastcambs.gov.uk/sites/default/files/Site%20Owner%20Guidance%20for%20Fit%20and%20Proper%20Person%20-%2016.6.21.pdf)

**Does it apply to all protected sites?**

No, only park home sites, which operate on a commercial basis, where units are sold or rented to residents. Park Home sites which are only occupied by the site owner or members of the site owner’s family do not need to apply. However, if circumstances change, and units are rented out to non-family members, then the owner or site manager will need to apply to be included on the register.

**Who will need to apply?**

Under the legislation the fit and proper person must be the person with day-to-day responsibility for managing a site, whether that is the site owner, or a person appointed to undertake the task on the owner’s behalf.

Anyone currently with a licence of a protected site, applying for a new site licence, or the transfer of a site licence to a new owner, will need to apply to have themselves and the site manager included on the register. This may in some cases be more than one person and any registered companies it would be appropriate for any active Director to apply.

**How do you apply to be put on the register of fit and proper persons?**

You must submit an application between the 1 July 2021 and by midnight of 30 September 2021 inclusive to be assessed as a Fit and proper Person.

**If you are operating a site and fail to comply with the fit and proper person test it is a criminal offence and if found guilty you would be liable, on summary conviction, of a fine up to level 5 (unlimited).**

Applying for inclusion on the register will have a reasonable fee attached and this should be included with the submitting application.

The applicant seeking entry on the register will need a basic DBS certificate (dated no more than 6 months before the date of the application) and this must be included with the application. The DBS certificate must be from an approved supplier. Information about how to arrange a DBS check can be found on the Government’s web site:

* [**https://www.gov.uk/request-copy-criminal-record**](https://www.gov.uk/request-copy-criminal-record)

As previously stated, an application form and guidance for applicants will be sent out to relevant site owners in due course.

**What we'll consider on receipt of the application?**

To be sure that the relevant person is a fit and proper person to manage the site, and to add them to the register, we will consider:

* the owners past compliance with the site licence
* the long-term maintenance of the site
* whether the person has a sufficient level of competence to manage a site
* the management structure and funding arrangements for the site or proposed management structure and funding arrangements

We also consider whether the relevant person:

* has the right to work within the UK

We also may consider the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis), if it appears that person's conduct is relevant. We can also consider any evidence on any other relevant matters from third parties, to include our Partner agencies, Cumbria Constabulary, Cumbria Fire and Rescue Services and any active residents association.

**Decision**

As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the local authority must make a decision on the application and either serve a Final Decision Notice without conditions and include the relevant person on the register for 5 years, or serve a Preliminary Decision Notice on the applicant and accept written representations from the applicant within 28 days. Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

**Appeals**

Where the authority may seek to remove a relevant person from the register or to impose further conditions a Notice of Proposed Action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued. A person on whom a final decision notice or a notice of action is served may appeal to a First-tier Tribunal (FTT) against the decisions made.

No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

**Register**

The Regulations require a local authority to 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 and to make the register open to inspection by members of the public at the offices of the local authority during normal office hours.

The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.

A person’s inclusion in the register has effect for a maximum period of 5 years.

If the application is not approved then the applicant is **NOT** entitled to a refund, as the application has been processed.