



Mobile Homes (Requirement for managers of site to be a Fit & Proper Person) (England) Regulations 2020 - Determination Policy

Corporate Priority:	Delivering excellent services positively impacting on our communities
Relevant Ward Member(s):	All Wards
Date of consultation with Ward Member(s):	11 November 2021
Exempt Information:	No

1 Summary

- 1.1 The Caravan Sites and Control of Development Act 1960 (CSCDA 1960) was amended by the Mobile Homes Act 2013 (MHA 2013) in order to provide greater protection to occupiers of residential park homes and caravans. This legislation places an expectation on local authorities to inspect caravan sites / mobile home parks and take the appropriate action to ensure that the site owners comply with the conditions of the site licence. These conditions relate to the safety and amenity provisions that must be adhered to.
- 1.2 Recent new legislation The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 place a requirement for local authorities to determine whether a Site owner or Site manager is 'Fit & Proper' to manage a site.
- 1.3 This policy aims to provide clarity to applicants, officers and members in how to determine whether an applicant is a 'Fit & Proper person' appointed to manage a site.

2 Recommendation(s)

That the Licensing Committee:

1. Approves the Mobile Homes (Requirement for managers of site to be a Fit & Proper Person) (England) Regulations 2020 - Determination Policy

3 Reason for Recommendations

The proposed policy will allow Melton Borough Council to maintain a consistent approach to determining whether the site owner or manager meets the Fit & Proper standards outlined in the regulations, the items to take into consideration and how to deal with decisions, representations, and appeals.

4 Background

- 4.1 The CSCDA 1960 introduced a licensing system to regulate the establishment and operation of caravan sites. The MHA 2013 was introduced to provide greater protection to occupiers of residential park homes as the existing legislation had not been updated for more than 50 years. The MHA 2013 brought in important changes to the buying, selling or gifting of a park home and the pitch fee review process.
- 4.2 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 place a requirement for local authorities to determine whether a site owner or site manager is 'Fit & Proper Person' (F&PP) to manage a site.
- 4.3 A Determination policy has been written to enable a consistent approach to determining whether the site owner or manager meets the Fit and Proper standards outlined in the regulations, the items to take into consideration and how to deal with decisions, representations, and appeals.
- 4.4 Without such a policy any determination will be open to challenge and the authority will struggle to show how it maintains that consistent approach.

5 Main Considerations

- 5.1 Following a Government review of the MHA 2013, the Government introduced a new regime under the CSCDA 1960 called the Fit and Proper Person test. The new regime was introduced by regulations in 2020 to be implemented by local authorities on 01 July 2021. The regime sits within The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020.
- 5.2 All protected residential sites which are operated on a commercial basis must have demonstrated that they are operated/managed by a fit and proper person. All site owners must submit an application for a relevant person to be assessed as fit and proper.

6 Options Considered

- 6.1 Adopt the determination policy to assist in maintaining a consistent approach and method of ascertaining a site owner or manager as a F&PP under the regulations
- 6.2 Do not adopt the determination policy and risk challenges to determinations.

7 Consultation

- 7.1 Consultation is not required under this legislation.

8 Next Steps – Implementation and Communication

- 8.1 If adopted this policy will come into operation from 1st December 2021 when current operators of 'Protected residential sites' will have been invited to apply to register the owner or manager as Fit & Proper under the regulations.

9 Financial Implications

9.1 There are no financial implications under this policy.

Financial Implications reviewed by: David Scott - Corporate Services Manager (deputy s151 officer)

10 Legal and Governance Implications

10.1 Section 8 of the MHA 2013 introduced a power for the Secretary of State to create a requirement for residential caravan sites in England to be managed by a fit and proper person. Regulations were developed and came into force on the 23 September 2020. They allowed local authorities until 1 July 2021 to prepare their processes and get ready to receive applications, which must be made by all existing residential site owners between 1 July 2021 and 1 October 2021. The only exceptions to the Regulations are non-commercial family occupied sites.

10.2 Those applying to be on the register of F&PPs must show that they are able to secure the proper management of the site; demonstrating amongst others things a history of compliance with the site licence, a good history of maintenance of the site, that they have a sufficient level of competence to manage the site and that they have not been convicted of a number of offences the Regulations deem relevant

10.3 The Determination Policy will assist in maintaining a consistent approach to determining whether the site owner or manager meets the Fit and Proper standards outlined in the regulations, the items to take into consideration and how to deal with decisions, representations, and appeals.

10.4 Without such a policy any determination will be open to challenge and the authority will struggle to show how it maintains that consistent approach.

Legal Implications reviewed by: Louise Arnold, Senior Solicitor

11 Equality and Safeguarding Implications

11.1 In this process no adverse impact on protected characteristics has been identified.

12 Community Safety Implications

12.1 The F&PP test will give better support to caravan site residents, a number of whom are elderly and some of whom may be in vulnerable groups.

12.2 The F&PP requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying caravans.

12.3 It is hoped that by using this determination policy we will raise the standard of management and ownership of relevant protected sites.

13 Environmental and Climate Change Implications

13.1 In this process no adverse impacts on the environment or climate have been identified.

14 Other Implications (where significant)

14.1 No other implications have been identified.

15 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Impact on authority if no determination policy in place due to legal challenges	Significant	Marginal	M
2	Impact on residents if statutory function not carried out	Significant	Marginal	M

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant		1 & 2		
	3 Low				
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	Policy will provide consistent approach to determination of Fit & Proper persons.
2	New regime of checks will ensure better living conditions

16 Background Papers

- 16.1 The Local Authority Caravan Site Licensing Officers' Forum which has over 200 local authority members, barrister advice has been obtained in the preparation of the fees policy.
- 16.2 Legislation and Guidance documents were used in the writing and setting up of this policy (See below).
- 16.3 [The Mobile Homes Act 2013](#)
- 16.4 [The Mobile Homes \(Requirement for Manager of Site to be Fit and Proper Person\) \(England\) Regulations 2020](#)
- 16.5 [Mobile homes a guide for local authorities on the fit and proper person test June 2021](#)

16.6 [A Best Practice Guide for Local authorities on Enforcement of the New Site Licensing Regime March 2015](#)

17 Appendices

17.1 Mobile Homes (Requirement for managers of site to be a Fit & Proper Person) (England) Regulations 2020 - Determination Policy

Report Author:	Simon Greensmith , Licensing and Compliance Officer
Report Author Contact Details:	01664 502384 Simon.Greensmith@melton.gov.uk
Chief Officer Responsible:	Pranali Parikh , Director for Growth and Regeneration
Chief Officer Contact Details:	01664 504321 PParikh@melton.gov.uk