

Borough Council of  
**King's Lynn &  
West Norfolk**



# Caravan Sites Fit & Proper Person Report

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

Statutory Instrument No.1034 made 23<sup>rd</sup> September 2020



## **Introduction**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI No.1034) – ('the Regulations'), require that a local authority must be satisfied that the owner of a mobile home site is fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so. The local authority also has the power to appoint a fit and proper person to manage the site, with the owner's consent.

This requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes to which an application relates and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

These Regulations do not apply to non-commercial family-occupied sites which are not operated on a commercial basis in accordance with Regulation 3.

The timetable for these Regulations being implemented is as follows:

Local authorities in England have until 1st July 2021 to prepare to receive applications from site owners/licence holders, to establish the processes for making and issuing decisions, and establish a fit and proper person register for their local area.

Site owner's/licence holders will have 3 months from 1<sup>st</sup> July 2021 to submit completed applications to local authorities. The deadline for applications is 1st October 2021.

## **Matters to be Considered**

When considering whether a person is 'fit and proper' the local authority must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These include;

Whether the relevant person is able to secure the proper management of the site. This includes, but is not limited to;

- a) compliance with the site licence;
- b) the long term maintenance of the site;
- c) whether the relevant person has sufficient level of competence to manage the site;
- d) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- e) 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);
- f) 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;
- g) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- h) has harassed any person in, or in connection with, the carrying on of any business;
- i) is, or has been within the past 10 years, personally insolvent;
- j) is, or has been within the last 10 years, disqualified from acting as a company director;
- k) whether the relevant person has the right to work within the United Kingdom;
- l) whether any other local authority has rejected an application for the responsible person to be included in a register;

The local authority 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 relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be).

The authority can also consider any evidence as to any other relevant matters.

The 'responsible person' means a person in relation to whom the applicant is required to provide information under paragraph 10(2) or (5), 11 or 12 of Schedule 2 of the Regulations.

### **Application**

Once an application has been received the local authority may:

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

## **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;

- a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or;
- b) otherwise serve a preliminary decision notice on the applicant.

Once a full and completed application has been received by the authority, the nominated case officer will review the information and obtain any further information deemed relevant to the application.

The officer will then prepare a case file for review by the relevant nominated and authorised senior officer.

The nominated senior officer may authorise that an application be granted unconditionally or subject to relevant conditions.

Where an application is to be rejected the nominated senior officer will consult with the relevant Principal Officer, or equivalent, in advance of issuing the preliminary decision notice.

## **Appeals**

Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority.

Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

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.

The local authority 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

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- a) any decision to include the relevant person on the register for an effective period of less than 5 years;
- b) any decision to include the relevant person on the register subject to conditions and;
- c) any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- a) any decision to remove the relevant person from the register;
- b) any decision to impose a condition on the inclusion of the relevant person in the register and;
- c) any decision to vary a condition.

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.

## **Fees**

Regulation 10 permits the local authority to charge a fee for the processing of applications and this fee is contained within the Caravan Sites Fees Policy and as summarised in Appendix A. This is to cover the cost of processing applications and will be reviewed annually.

The authority may also decide the amount and frequency of any additional payments required by way of an annual fee. The authority does not intend to charge an annual fee at this time and this will be subject to review. Any fee that is applied will be done so in accordance with the extant fees policy and relevant guidance.

Where the authority has, with the occupier's consent, appointed a person to manage a site, the authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10.

## **Offences**

An owner (occupier) of land commits an offence if he causes or permits any part of the land to be used as a relevant protected site (which falls within the scope of the Regulations) without the manager of the site being registered with the local authority as a fit and proper person.

An applicant also commits an offence if he:

- a) withholds information from a registration application or;
- b) includes false or misleading information in a registration application
- c) fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1)

An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited).

Where an owner (occupier) of land who holds a site licence in respect of that land contravenes the relevant Regulations, the FTT may, on application by the authority, make an order revoking the site licence in question on the day specified in the order.

Where:

- a) an owner (occupier) of land who holds a site licence in respect of that land is convicted of an offence under Regulation 11 for a contravention of the fit and proper person requirement and;
- b) has been convicted on two or more previous occasions of the offence in relation to that land,

The court before which the occupier is convicted may, on application by the local authority, make an order revoking the site licence in question.

## **Application Form Important Notes for Applicants**

### **Statutory Requirements**

- An application must be made by the occupier.
- If the occupier is a company or a corporate body, the application form must be completed by an officer of the company (“appropriate person”).

The “appropriate person” means;

- (a) where the declarant is a company, an officer of the company;
- (b) where the declarant is a partnership, one of the partners;
- (c) where the declarant is a body corporate the conduct of the management of which is vested in its members, a member;
- (d) where the declarant is a body not falling within paragraph (a), (b) or (c), a member of the management committee;
- (e) where the declarant is an individual, that individual

- DBS certificates must be dated within six months of the date of the application.
- The council must keep and maintain a register of fit and proper persons. This means that some of the information you provide in your application will be entered into the register. The information that will be included are your name, business address and contact details, name of the site.

### **Data Protection**

- The Borough Council of King’s Lynn & West Norfolk manages personal data in accordance with the provisions of the Data Protection Act 1998. The information you provide on this form will be used by the Council for the purposes of the fit and proper assessment.
- We may share your information and make any other necessary enquiries with other departments within the council and other statutory organisations in relation to the application.
- Your personal information will be processed in line with Data Protection legislation and we will not disclose information about you to anyone outside the Council unless the law permits or requires us to. We will retain your data for as long as it is required for our administrative use, after which it will be securely disposed of.
- Where the application is being made on behalf of a person appointed or to be appointed to manage the site, you are strongly advised to ensure they are aware of the register and the information that will be entered into it. As the applicant, it is your responsibility to seek confirmation that the information they have provided is true and accurate.

- If you believe the data we process on you is incorrect you may request to see this information and, if necessary have it corrected or deleted. If you wish to raise a complaint you can contact our Data Protection Officer at (address below). If you believe we are not processing your data lawfully you can complain to the Information Commissioner's Office (<https://ico.org.uk/>). Further details are available on our website - [https://www.west-norfolk.gov.uk/info/20006/council\\_and\\_democracy/326/data\\_protection](https://www.west-norfolk.gov.uk/info/20006/council_and_democracy/326/data_protection) or from the Data Protection Officer at <https://www.data.protection@north-norfolk.gov.uk>
- Completed applications including the correct fee must be sent to Housing Standards, Borough Council of King's Lynn & West Norfolk, Chapel Street, King's Lynn PE301EX.
- You are strongly advised to retain a copy of the form for your records.

Note: The application form contents are being prepared in line with relevant advice and guidance.



## Appendix A

### Fees Summary

<b>Fit &amp; Proper Assessments</b>		<b>Total</b>
1	Pre application advice	16.15
2	Receipt of application and recording on Idox	4.01
3	Application form received; check it is a full and proper application, complete, signed, fee & create file	16.15
4	Process the fee and send out receipt to owner	8.02
5	Review application and make enquiries re FPP documents and declarations (inc management & finances)	64.58
6	Update Idox record	4.01
7	Application file review by SHSO	18.20
8	Grant of application (Final Notice) or serve Preliminary Notice (approved/signed by SHSO)	16.15
9	Establish any conditions applicable	16.15
10	HSO discuss condition with SHSO	17.17
11	Review appeal paperwork	10.76
12	HSO discuss appeal with SHSO & PO	13.68
13	HSO produce appeal response and relevant Notice	8.07
14	Issue Final Decision Notice following appeal (signed by SHSO)	5.38
15	Add Relevant Person details to Register	8.02
16	Update Idox record	4.01
		<b>214.35</b>