

Hambleton District Council

Report To: Cabinet

Dates: 7 September 2021

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

Portfolio Holder Environmental Health, Waste and Street Scene
Councillor S Watson

Wards Affected: All Wards

1.0 Purpose and Background

- 1.1 The purpose of this report is to introduce the requirements of the Mobile Homes (Requirement for Manager of Site to be a Fit and Proper Person) (England) Regulations 2020 (the Regulations) and determine the Authority's approach to the enforcement of these Regulations.
- 1.2 The Regulations apply to 'relevant protected sites' which are caravan sites that require a licence, and which are not solely for holiday purposes or are otherwise not capable of being used all year round. These types of sites are commonly called park home sites and there are seven in Hambleton. Sites which are non-commercial, that is, are only occupied by members of the same family, are exempt from the Regulations.
- 1.3 The Regulations are made under the Caravan Sites and Control of Development Act 1960 following the power in the Mobile Homes Act 2013 to create a requirement for relevant protected sites to be owned or managed by a fit and proper person.
- 1.4 The aims of Regulations are to ensure that sites are managed by a person who has been deemed a fit and proper person by the local authority to ensure that the site owner or the site manager have integrity and follow best practice; and to provide a safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site, that is park homeowners.
- 1.5 The Regulations require that the Council sets up a fit and proper person register which must be available online and open to inspection at the Council's offices. It must contain details prescribed in the Regulations including those relating to the relevant site, the individual deemed as fit and proper to manage the site, the period of inclusion in the register and any conditions applied.
- 1.6 Site owners or managers can apply to be included in the Register and the Regulations also make provision for companies (or other corporate bodies) to appoint individuals as the site manager or for an individual to appoint a company (or other corporate body) which in turn would appoint a site manager. The Council can also appoint a fit and proper person to manage a site with the consent of the site owner.

- 1.7 Applications must be made to the Council to be included in the register by 31 October 2021. For applications to be valid the site must be licensed, and the applicant must pay the application fee.
- 1.8 As the Regulations allow cost recovery for enforcing the Regulations there is a requirement to produce a Fees Policy. The draft Fit and Proper Person Fees Policy is provided as an attachment with this report (see Appendix A) and provides details of the fees that will be applied.
- 1.9 Two types of fees can be applied as follows:
- Application Fee – this covers the costs required to process and assess standard applications and maintain the Register.
 - Annual Fees – these are used to cover additional costs such as assessing complex applications, monitoring the fit and proper person scheme and/or conditions attached to entries to the register and amending existing conditions or adding new conditions to an entry on the register.
- 1.10 When an application is received it will be assessed based on specific criteria in the Regulations which primarily relate to the following:
- That the individual (relevant person) can secure proper management of the site including complying with the site licence and long-term maintenance of the site.
 - That the individual (relevant person) is competent to manage the site and there is a suitable management structure and funding arrangements for the site.
 - Whether the individual (relevant person) or corporate body has not committed any offences prescribed in the Regulations.
- 1.11 Following the assessment of an application there are three outcomes:
- The applicant is accepted on to the Register unconditionally for a period of five years.
 - The applicant is accepted onto the Register with conditions which could be for five years or less.
 - The application is refused.
- 1.12 Where the outcome is one of the latter two options a Preliminary Decision Notice must be served on the applicant detailing the conditions to be applied or the reason for refusal. The applicant then has 28 days to make representations to the Council which must be duly considered. The Council will then issue a Final Decision Notice.
- 1.13 The Council can review inclusions in the register at any time if relevant new information comes to light. This may result in a person's removal from the register or to an addition, variation, or removal of a condition. As above the individual must be informed via a notice of the intended actions and allow 28 days for representations to be made. The Council must then serve a 'notice of action'.
- 1.14 Applicants/individuals can appeal against final decision and action notices to the First-Tier Tribunal (Property Chamber).

1.15 There are three offences which can occur within the Regulations as follows:

- Operating a site in contravention of the fit and proper person Regulations.
- Withholding information or including false or misleading information on the registration application.
- Failing to comply with a specified condition.

There are various penalties including fines on summary conviction and revocation of the site licence either by the First-Tier Tribunal or a Court.

1.16 The Environmental Health service will provide the enforcement of these Regulations by updating the Environment and Leisure Enforcement Policy, producing the required policies and procedures, and ensuring that suitably competent officers are authorised to enforce the Regulations in accordance with the Council's Scheme of Delegation and delegated powers.

2.0 Link to Council Priorities

2.1 Enforcing the requirements of the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 will contribute to the delivery of three of the Council's key priorities: Enhancing Health and Wellbeing, Providing a Special Place to Live and Caring for the Environment.

3.0 Risk Assessment

3.1 There are no risks in implementing the recommendations.

3.2 The key risk is in not approving the recommendations as shown below:

Risk	Implication	Prob*	Imp*	Total	Preventative action	Net Prob	Net Imp	Net Total
Failure to enforce the Regulations and not fulfil the Council's statutory duty.	Relevant sites are managed by unsuitable individuals posing risks to the health, safety and welfare of the occupants. Reputational risk to the Council for not fulfilling its statutory duty.	3	4	12	That the Regulations are enforced by competent officers, and suitable policies and procedures are in place.	1	2	2

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

4.0 Financial Implications

4.1 The intention is that enforcement of the Regulations will be carried out within the existing revenue budget for the Environmental Health service. The volume and impact upon the service of enforcing the Regulations will be monitored. The income from the application and annual fees will either be provided as a saving in the service budget or used to fund any unanticipated costs of enforcing these Regulations.

5.0 Legal Implications

5.1 The Regulations identify local authorities as the enforcing authority, providing powers to ensure compliance with the Regulations in respect of relevant protected sites within its area.

6.0 Equality/Diversity Issues

6.1 Equality and Diversity issues have been considered and there are no implications associated with this report.

7.0 Recommendation

7.1 That Cabinet approves and recommends to Council that:

- (1) the Environmental Health service enforces the requirements of the Regulations to ensure that the Council fulfils its statutory duty;
- (2) the implementation of the draft Fit and Proper Person Fees Policy 2021; and
- (3) that the Environment and Leisure Enforcement Policy be updated, and approval delegated to the Director of Environment.

Paul Staines
Director of Environment

Background papers: Fit and Proper Person Fees Policy August 2021

Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
<https://www.legislation.gov.uk/ukdsi/2020/9780348209556/contents>

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