

Three Rivers District Council

Fit and Proper Person Assessment Policy

January 2023

CONTENTS

- 1. Introduction**
- 2. Fee Structure**
- 3. Information required by the Council**
- 4. Assessment of a 'Fit and Proper Person'**
- 5. Decision**
- 6. Appeal Process**
- 7. Register of Fit and Proper Persons**
- 8. Complaints**
- 9. Review Period**

1. Introduction

- 1.1 A relevant protected site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013.
- 1.2 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter the Regulations) introduce a fit and proper person assessment (FPPA) for mobile home site owners or the person appointed to manage the site (a relevant person).
- 1.3 All site owners must apply to the Council to be assessed as fit and proper persons, or the person they have appointed to manage the site assessed to be fit and proper persons, to be included on the register.
- 1.4 Where the site owner is not an individual (no relevant person), the application must be made by a relevant officer.
- 1.5 A relevant officer is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is:
 - a company, a relevant officer will be a director or other officer of the company
 - a partnership, a partner
 - a body corporate, a member of the management committee of that body
- 1.6 Fees may be charged for assessing applications to enable the Council to recover the costs of this activity. These fees are listed in the Council's Fit and Proper Person Fee Policy.
- 1.7 Any charges relating to the Fit and Proper Person function will be limited to recovering the costs of exercising that function. Both the level of fees and how they are charged are, subject to legal restrictions, at the discretion of the Council and are covered in the Council's Fit and Proper Person Fee Policy.
- 1.8 The exemptions from the requirement for the owner of a site to apply for a FPPA are as follows;
 - a site that is only occupied by members of the same family
 - a site that is not being run as a commercial residential site
 - a site occupied by and managed by the Council

2. Fees Structure

- 2.1 In setting the fees that the Council charge, the Council has had regard to the Regulations and the relevant guidance issued by the Government.
- 2.2 The structure of fees to be charged can be found in the Council's Fit and Proper Person Fee Policy.

3. Information required by the Council

3.1 As part of the application process, the site owner will be required to provide the following information to the Council;

- the name and business contact details of the site owner
- where the site owner is an organisation, the individual completing the form must provide for themselves and each relevant officer of the organisation, their name and details of their role (if any) in relation to the management of the site
- the name and address of the site
- evidence of the site owner's legal estate or equitable interest in the site
- confirmation that the site owner is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960
- the name and business contact details of any other person that has a legal estate or equitable interest in the site. An equitable interest entitles a person – such as the beneficiary of a trust - to the benefit from the land whether or not they are recorded as a legal owner. This information will help the Council to determine as part of its assessment whether the conduct of any of those persons is relevant to the question of whether the person subject to the assessment is a fit and proper person to manage the site
- the name and address of each other relevant protected site(s):
 - for which the site owner holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960
 - in which the site owner has a legal estate or equitable interest; or
 - that the site owner manages
- whether the application for inclusion in the register is made in respect of the site owner or a person that the site owner has appointed to manage the site and the status of that relevant person in relation to the relevant protected site
- a DBS check that has been issued no more than 6 months before the date of application.

4. Assessment of a 'Fit and Proper Person'

4.1 To confirm that the 'relevant person' is a fit and proper person to manage the site and to add them to the register, the Council will consider the following;

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

4.2 The Council will also consider whether the relevant person;

- has the right to work in the United Kingdom
- has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 of the Sexual Offences Act 2003 (offences attracting notification requirements)
- has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord or tenant law
- has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
- has harassed any person in, or connection with, the carrying on of any business
- has had an application rejected by another authority
- is, or has been within the past 10 years, personally insolvent
- is, or has been within the past 10 years, disqualified from acting as company director

4.3 The Council may also consider the conduct of any person associated or formally associated with the relevant person (whether on a personal, work or other basis), if it appears that person's conduct is relevant.

4.4 The Council reserve the right to consider any evidence on any other relevant matters.

5. Decision

5.1 Once an application has been received by the Council, the Council will consider the application and a decision will be made as soon as reasonably practicable. In making this decision, the Council will take into account all of the relevant considerations.

5.2 The weight given to each relevant consideration is a matter for the Council and after considering an application, the Council will be required to make one of three decisions;

- to include the relevant person on the register unconditionally for five years
- to include the relevant person on the register subject to certain conditions
- not to include the relevant person on the register

5.3 Where the Council is satisfied that the relevant person meets the fit and proper requirements, the relevant person will be added to the register. The entry on the register has effect for such period as the Council decides,

however this period may not exceed 5 years. The Council will issue a final decision notice to the site owner to inform them of its decision that sets out the following;

- the date the final decision notice is served
- the final decision
- the reasons for the decision

- when the decision takes effect
- information about the right of appeal to the First Tier Tribunal (FTT) and the period within which any appeal may be made

5.4 Where the Council makes the decision to include the relevant person on the register for less than 5 years or subject to conditions or not to include the relevant person on the register, the Council will issue a preliminary decision notice to the site owner.

5.5 This preliminary notice will set out the following;

- the date the preliminary decision notice is served
- the preliminary decision
- the reasons for it
- the date it is proposed that the final decision will have effect
- information about the right to make written representations
- where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations and
- where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any condition

5.6 Any site owner that receives a preliminary notice will have 28 days to make further representations to the Council. The Council will consider these representations before making a final decision.

5.7 Following the end of the 28-day period of representation, as soon as reasonably practicable the Council will issue a final decision and serve this final decision notice on the site owner.

6. Appeal Process

6.1 The person on whom the Council has served a final decision notice may appeal to the First Tier Tribunal against any decision to:

- include the relevant person on the register for an effective period of less than 5 years
- include the relevant person on the register subject to conditions
- reject the application

6.2 If the site owner decides to appeal the decision, this must be made to the First Tier Tribunal within 28 days.

7. Register of Fit and Proper Persons

- 7.1 As per legislative requirements, the Council will 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. The register will be open to inspection by members of the public at the Council Office during normal office hours and the register will be published on the Council's website.

8. Complaints

- 8.1 Any complaints to the Council about the service received throughout this application process should be made in line with the Council's Corporate Compliments and Complaints Policy that can be found [here](#).

9. Review Period

- 9.1 This policy will be reviewed in line with any significant change in legislation, guidance issued by government or significant case law. In any case, it will be reviewed every three years.

