



Ministry of Housing,
Communities &
Local Government

Mobile homes

A fit and proper person test for park home sites consultation



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Contents

Scope of the consultation	4
Background	5
1 - Who will the “fit and proper person” test apply to?	7
2 - What local authorities must consider in assessing an application	8
3 - The fit and proper person application process	10
Contents of an application	10
New or transferred site licences	11
Transfer of a site licence on the death of licence holder	11
Fees and charges	12
4 - Local authority decisions, notification and appeal rights	13
Representation period	13
Final decision notice	14
Consent for local authority to appoint a site manager	15
Appeals	15
Procedure if the tribunal upholds the local authority’s decision	16
5 - Register of fit and proper persons	17
Length of time for a person to be included on the register	17
6 - Reviewing entries on the register	18
Varying conditions attached to a register entry	18
Removal from the register	18
Remaining on the register after the period of inclusion	19
7 – Management Orders	20
8 - Sanctions	21
Defence to fit and proper person offences	21
9 -Transition period and implementation	23
Glossary	25
Annex A: Proposed criteria local authorities must consider	27
Annex B: Content of the fit and proper person test application	29
About this consultation	31
Annex C	32

Scope of the consultation

Topic of this consultation:	A Fit and Proper person test for managers of park home sites.
Scope of this consultation:	This consultation seeks views on the introduction of a fit and proper person test for site licence holders and managers of relevant protected sites in England.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	n/a

Basic Information

To:	
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 8 weeks starting from 22 July 2019 and will close on 17 September 2019.
Enquiries:	For any enquiries about the consultation please contact parkhomes@communities.gov.uk .
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/Parkhomes</p> <p>Alternatively, you can download the response form at https://www.gov.uk/government/consultations/mobile-homes-a-fit-and-proper-person-test-for-park-home-sites and return the completed form:</p> <p>by email to parkhomes@communities.gov.uk</p> <p>Or by post to;</p> <p>Park Homes Team, Private Rented Sector Team, 3rd Floor Fry Building, 2 Marsham Street, London, SW1P 4DF</p> <p>When you reply it would be helpful if you could confirm whether you are replying as an individual or on behalf of an organisation and include:</p> <ul style="list-style-type: none"> - your name, - the name of organisation (if applicable), and - your email address

Background

1. This consultation seeks views on proposals to introduce a fit and proper person test (the test) for those managing park home (mobile home) sites. This follows the Government's commitment to introduce the test, subject to a technical consultation, in its response to the two-part review of park homes legislation¹.
2. There are around 2000 licensed park home sites in England. The Mobile Homes Act 2013 (MHA 2013) made significant changes to the local authority site licensing regime, providing local authorities with new enforcement powers.
3. Section 8 of the MHA 2013 (which will be brought into force before these proposed regulations are made) empowers the Secretary of State to introduce a requirement for 'relevant protected sites'² to be managed by a fit and proper person. Section 8 sets out an overarching framework for the operation of the test, the processes that local authorities will use and a register of fit and proper site managers.
4. The decision to bring section 8 and the test into force was dependant on an assessment of the effectiveness of the other provisions introduced by MHA 2013. In 2017, the Government carried out a two-part review of park homes legislation. The review provided evidence of continuing exploitation and abuse of park home residents by some site owners. In its response to the review published in October 2018, the Government committed to introduce a "fit and proper person" test, subject to a technical consultation.
5. This consultation is intended to ensure that the regulations will support effective operation of the test in practice. In this document, references to a "site licence holder" are used in place of the term "occupier"³. The term "park home site" is used to mean a "relevant protected site".

Principles, overview and summary of the test

6. The purpose of the test is to improve the standards of park home site management by introducing an assessment that the person responsible for managing the site is suitable and of good character. The requirement for the person responsible for managing the site to be a fit and proper person is in addition to the requirement for a site to be licensed. The responsibility for managing the site may be that of the site

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749770/Park_homes_Review_Government_response.pdf

² "Relevant protected site", as defined in section 5A(5) of the Caravan Sites and Control of Development Act 1960, means land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is--

(a) expressed to be granted for holiday use only, or

(b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).

³ An occupier is defined in section 1(3) of the Caravan Sites and Control of Development Act 1960. A person who holds a site licence issued under section 3(1) of the 1960 Act must be the occupier of the land under s3(1) of the 1960 Act, but an occupier may also be a site owner who does not, but should, hold a site licence.

licence holder or a person they appoint to manage the site. Where neither the site licence holder nor their appointed manager is a fit and proper person, no alternative fit and proper manager is appointed by the site licence holder, and an appointee cannot be agreed between the site licence holder and the local authority, enforcement action could be taken by the local authority.

7. When the fit and proper person requirement is in force, it will be an offence for a site licence holder to cause or permit land to be operated as a park home site unless they:
 - a) are a fit and proper person to manage the site; or
 - b) appoint a fit and proper person to manage the site; or
 - c) have agreed with the local authority to the appointment of a suitable person to manage the site.
8. The site licence holder would be required to apply to the local authority to be included on a register of fit and proper persons, or for their appointed site manager to be included.
9. The proposed regulations will set out the prescribed criteria a local authority must consider when determining a person's fitness to manage a site, in addition to discretionary matters (covered in section 2). The test criteria we propose to prescribe will build on, and be coherent with, the criteria local authorities must already consider when granting or transferring site licences in order to assess the capability and suitability to manage a site.
10. Where a site licence holder or manager fails a test, we are proposing that the site licence holder should be given the opportunity to identify and appoint a suitable alternative manager. If the site licence holder is not able to do this the local authority will consider whether it is possible to appoint a person to manage the site, with the site licence holder's consent.
11. If the site licence holder operates the site in breach of the fit and proper person requirement, the local authority will consider whether to apply to a residential property tribunal for an order revoking the site licence in question and/or to prosecute the site licence holder.
12. For breaches of the fit and proper person requirement, the proposed regulations will set out new offences and the level of fines to be imposed on conviction.

1 Who will the “fit and proper person” test apply to?

13. We propose that to meet the fit and proper person requirement a site licence holder would need to make an application to the local authority, to undergo the test in respect of each site in the local authority’s area for which they hold a licence, for inclusion on the authority’s register of fit and proper persons. The local authority would apply the test to the application in order to satisfy itself that the person responsible for managing the site was fit and proper and to add the person to the register.

14. We propose that the local authority may be satisfied that the requirement is met if *either*:

- a. the site licence holder *or*
- b. the person appointed by the site licence holder to manage the site

undergoes and passes the test, as the person responsible for managing the site.

15. A site licence holder or site manager who satisfies the local authority that they are a fit and proper person to manage the site, would be included on the local authority’s fit and proper person register.

16. A prospective site licence holder applying to the local authority for a new licence, or the transfer of an existing licence, on or after the regulations come into force would also have to satisfy the fit and proper person requirement. As for site licence holders, prospective licence holders would make an application to the local authority for themselves or their appointed (or prospective) site manager to be included on the fit and proper person register.

2 What local authorities must consider in assessing an application

17. The proposed regulations will set out the criteria that local authorities must consider in assessing an application for inclusion on a register of fit and proper persons. These are set out at **Annex A: Proposed criteria local authorities must consider**.
18. In addition to the mandatory criteria, local authorities will be able to take account of any other information they consider relevant to a person's fitness to manage a site. This could, for example, include, matters raised with the local authority by residents about the site.
19. We propose that the mandatory criteria to be considered will include:
 - a. A site licence holder's suitability to manage the site (financial and managerial). This aligns with the requirements local authorities must consider when dealing with an application for a transfer of or a new site licence⁴.
 - b. A site licence holder's or site manager's conduct. This would include;
 - i. Professional conduct - in meeting their obligations as a site licence holder /manager of the site and compliance with legislation; and
 - ii. Personal conduct – appropriate behaviour, in particular with regards to park home owners.
20. For site managers, local authorities will also need to consider whether the person has the necessary authority and independence for the effective day to day management of the site. This is so that a site manager's ability to take timely decisions and action in carrying out their responsibilities for residents' health and safety can be assessed.
21. Where a site licence holder applies to undergo the test themselves and has appointed a site manager, we propose that local authorities will consider the professional and personal conduct of the site manager in its assessment of the site licence holder.
22. Local authorities would have a duty to consider all the mandatory criteria to assess whether a person was suitable and of good character when deciding if an applicant is a fit and proper person to manage a site. The local authority at its discretion may also have regard to any information it considers relevant to assess the fitness of the applicant, ("discretionary criteria"). This may include residents' views in relation to the site licence holder or their manager's conduct or management of the site.
23. In relation to convictions, we propose that a local authority may require the applicant to provide a basic Disclosure and Barring Service certificate.

⁴ As set out in section 3(1) of the Mobile Homes (Site Licensing) (England) Regulations 2014 (S.I. 2014/442) At <http://www.legislation.gov.uk/uksi/2014/442/regulation/3/made>

24. In relation to park home or housing offences, local authorities would be able to check the First Tier Tribunal's database for information about the tribunal's decisions(<https://www.gov.uk/residential-property-tribunal-decisions>). Local authorities would also be able to confirm with Companies House whether an applicant has been disqualified as a company director.

25. A local authority will be required to record details of applicants it is satisfied are fit and proper persons to manage a site on a publicly accessible register. Further details about the register are set out in section 5.

Q1: Do you agree that the list of mandatory criteria a local authority should consider set out in Annex A are the right ones?

3 The fit and proper person application process

26. We propose that a current or prospective site licence holder would be required to submit an application to the local authority for themselves or a person appointed by them as site manager to be assessed as fit and proper persons and added to the fit and proper person register. Full details of the required information are set out at **Annex B: Contents of the test application.**

Where the site licence is held by a company

27. Where a company is the site licence holder, an application must be made and signed by the company secretary or an officer of the company.

28. If the company is to undergo the test as the site licence holder, it would be required to provide details of offences committed by the company. It would also be required to provide a list of all the officers and directors of the company and whether any:

- (a) have owned or managed a site or held a site licence for a site in respect of which a local authority has applied to the court or tribunal to revoke the licence or has within the previous six months notified the site licence holder of its intention to apply for an order of revocation;
- (b) have been involved with any company that has been wound up and/or been disqualified as a director;
- (c) have been convicted of specified serious criminal offences or convicted of a breach of mobile homes, health and safety or housing legislation in respect of any site or property or breached discrimination law.

29. If a person appointed by the company as manager of the site is to undergo the test, the site licence holder would make the application on the manager's behalf but will not be required to provide a list of all officers and directors of the company or submit a signed declaration set out in paragraph 28.

Contents of an application

30. In order to provide local authorities with the information they need to carry out the test, we are proposing that an application for inclusion in a local authority's fit and proper register (the register) must include:

- the details of the site licence holder;
- certain convictions; and
- specified details of the site.

31. A site licence holder who applies to be assessed as a fit and proper person but who has appointed a site manager, would submit the information required for the test (Annex B,

paragraphs D – F) for the site manager in addition to their own test information. As mentioned in paragraph 21, the local authority will take the information provided about the site manager's suitability into account in reaching its decision about whether to include the site licence holder on the fit and proper persons register.

32. We also propose that the site licence holder should be required to certify that the information they have provided is correct. **It would be a criminal offence (subject to an unlimited fine) for an applicant to withhold information or provide false or misleading information in their application.**

New or transferred site licences

33. When a person applies for a new site licence or it is proposed to transfer a site licence to a new site licence holder, the prospective site licence holder will also need to make an application for a test.
34. Where a site licence is to be transferred, the site licence holder or the proposed licence holder must apply to the local authority for approval to transfer the licence, following the existing transfer process.
35. Where a new site licence is being issued for the first time, the prospective site licence holder must make an application to the local authority for a site licence.
36. When considering whether to grant a licence or consent to the transfer of a licence, we propose that the local authority must have regard to whether the fit and proper person requirement has been met in relation to the site (i.e. that either the occupier or their appointed site manager is a fit and proper person to manage the site). The local authority will consider the relevant mandatory and discretionary criteria for the test and the site licence.

Transfer of a site licence on the death of licence holder

37. Where a person becomes the deemed site licence holder as a result of the licence holder's death and there is no fit and proper site manager in place, they would need to make a fit and proper test application.
38. The application would need to be made within 28 days of the person becoming the licence holder or in an alternative time period at the discretion of the local authority where this may be necessary.

Q2. Is there any information that the site licence holder should be required to provide in their application to enable local authorities to reach their decision in addition to that in Annex B?

Fees and charges

39. The proposed regulations would give local authorities the power to set application fees and also to charge an annual fee (with payments at a frequency decided by the local authority) to cover their administrative costs. Payment of the annual fee may be required as a condition of inclusion in the register. Local authorities would be required to publish their fees, which must be transparent and reasonable, in their Fees Policy document.
40. We propose that a local authority may charge to recover costs it incurs in the appointment of a site manager in the exceptional circumstances outlined in paragraphs 58 - 60.
- Q3. How much do you consider would be an appropriate a) application fee and b) annual fee for a local authority to charge?**

4 Local authority decisions, notification and appeal rights

41. We propose that local authorities, after considering an application, will be required to make one of three possible decisions listed below and notify the applicant (and site licence holder where the applicant is the site manager) of the decision and when it takes effect.

a) Notification of decision to include applicant on the register

42. Where a local authority is satisfied that the applicant meets the fit and proper person test, it must issue a notice of its decision and enter the required details in the register within 7 working days of making the decision.

b) Notification of decision to include applicant on the register subject to certain conditions

43. A local authority may grant an application subject to certain condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. The conditions which may be imposed may also require the payment of the annual fee.

44. The local authority would issue an interim notice to the site licence holder and the site manager (if applicable) and include details of the condition(s), the reasons for its decision and how to make representations.

c) Notification of decision not to include person on the register

45. Where a local authority is not satisfied that a person meets the fit and proper test to be included on the register, it would issue an interim notice to the site licence holder and the site manager (if applicable) setting out the reasons for its decision and how to make representations.

Representation period

46. Where the local authority's decision is to b) *include the applicant on the register subject to certain conditions* or c) *not include an applicant on the register*, we propose that the local authority must issue an interim notice within 7 working days of making its decision, informing the parties of the reason(s) for their decision.

47. The notice must also give the applicant 28 days to make any representations to the local authority to challenge / seek clarification on the decision and include the end date for the receipt of a submission.

48. The local authority must consider any representations before issuing a notice setting out its final decision to the applicant within 28 days of receipt of the submission.

Final decision notice

49. The final decision notice must explain the effect of the decision, including that:

- the applicant will have a right to appeal against the decision to the First Tier Tribunal (Property Chamber) - (the Tribunal) within 28 days of receipt of the notice; and
- enforcement of the fit and proper requirement would not be taken while an appeal was proceeding.

50. When the site licence holder receives the local authority's decision, they will have two options:

- a. Accept the local authority's decision without appeal
- b. Appeal to the Tribunal.

51. If the site licence holder decides to appeal the decision, they must make an application and notify the local authority of their application within 28 days of the local authority's final decision notice.

Accepting the local authority decision

52. Where a site licence holder accepts a decision to be included on the register with conditions, they would confirm their agreement to comply with the conditions, in writing, within 28 days of the local authority's decision notice. The local authority must then add the site licence holder's details and the conditions to the register within 7 working days of receiving their agreement.

53. Where a site licence holder accepts a decision not to include on the register the person to whom their test application related, they will need to make alternative management arrangements to comply with the fit and proper person requirement.

54. Where the local authority is satisfied that there is a reasonable prospect that the site licence holder can themselves identify an alternative person who will satisfy the test we propose that the local authority may grant a grace period within which the licence holder must make a new application or seek the local authority's assistance in making an appointment.

55. We propose that there is no limit to the number of grace periods a local authority may grant within which a new application may be made provided that the local authority is satisfied that there is a reasonable prospect that an alternative person who will meet the test can be identified by the licence holder.

56. If the site licence holder cannot identify an alternative fit and proper person, then they must seek the local authority's assistance in appointing a site manager (see paragraphs 58 – 60).

57. During the grace period the site licence holder must submit a new application for an alternative person. Following receipt of this application the local authority will assess the application and issue its decision as set out paragraphs 41-45.

Consent for local authority to appoint a site manager

58. In exceptional circumstances where the site licence holder has been unable to find a fit and proper site manager to put forward, they should approach the local authority to discuss if it can appoint a suitable alternative person.

59. The local authority and site licence holder would agree the terms on which the local authority could assist in finding a suitable site manager and the scope of that person's authority. The agreement should include details of the site licence holder and the local authority's roles in the process, details of the level of decision making authority that the site manager may have on behalf of the site licence holder and payment of local authority costs related to the appointment.

60. Where the local authority is able to identify a suitable person, the site licence holder must agree to give the local authority appointee the necessary authority to manage the site on behalf of the licence holder.

Appeals

61. We propose to create a right of appeal against a local authority's decision to:

- Attach conditions to an entry on the fit and proper register;
- Reject an application for an entry on the register;
- Vary conditions for inclusion on the register; or
- Remove a person from the register.

62. The appeal would be a re-consideration of the local authority's decision and will be determined having regard to:

- any undertaking given to the tribunal; and
- any other matters that the tribunal thinks are relevant.

63. The tribunal would be able to take account of matters of which the local authority was unaware. This can, for example, include undertakings given to the tribunal.

64. On determining an appeal, the tribunal may:

- confirm the local authority's decision;
- quash the local authority's decision; or
- vary the local authority's decision.

Procedure if the tribunal upholds the local authority's decision

65. We propose that if the local authority's decision not to include a site owner or their appointed site manager on the register is upheld, the site owner should be given a grace period by the tribunal within which to comply with the fit and proper person requirement.
66. We propose that the local authority or the site licence holder should have discretion to apply to the tribunal to extend the grace period in limited circumstances eg where the applicant provides a good reason(s) why they cannot meet the requirement within the grace period.
67. If a site licence holder is unable to satisfy the fit and proper person requirement within the grace period and subsequently permits the site to be used as a park home site, the local authority can prosecute the site licence holder or apply to the tribunal for an order revoking the licence.

Q4. Do you agree the decision making and appeal process, including timescales for notification are reasonable?

5 Register of fit and proper persons

68. The proposed regulations would create a requirement for each local authority to record the details of fit and proper licence holders and site managers on a publicly accessible register. Local authorities would also be required to keep their registers up to date.
69. We expect that local authorities will expand the register of site licences which they are currently required to hold to contain the details of the test. However, it will be for each authority to decide on the format of their local register.
70. We propose that the register would hold details of:
- (a) the name and business contact details for the fit and proper person in respect of the management of the site;
 - (b) the address of the site;
 - (c) the start and end dates of the period of inclusion on the register;
 - (d) any conditions/undertakings attached to the applicant's inclusion in the register;
 - (e) start and end dates of the conditions/undertaking; and
 - (f) date the conditions are fulfilled, extended or varied.

Q5. Do you agree with the proposed content of the fit and proper person register?

Q6. Should local authorities make the register available online?

Length of time for a person to be included on the register

71. The proposed regulations would prescribe the maximum length of time a person can remain on the fit and proper person register and give local authorities discretion to set the length of inclusion on the register. We propose that the maximum period of inclusion should be five years from the date of the entry on the register. All licence holders will have to re-apply for the test before the relevant period of inclusion ends.
72. A local authority would be expected to use its discretion to assess the period of inclusion based on the likelihood of changes in circumstances which may have an impact on the fitness of the site licence holder or their appointed site manager. The length of inclusion should be proportionate with the maximum 5 year period being applied unless reasons for concern had been identified. However, it would be able to remove a person from the register or vary an existing condition attached to an entry in the register during the period of inclusion if circumstances changed.

Q7. Do you agree that local authorities should have flexibility to set the period for inclusion on the register up to a maximum of 5 years? Should the maximum period be longer?

6 Reviewing entries on the register

73. We propose that the regulations allow a local authority to review an entry on the register at any time, for example where they are informed of a change in circumstances or new information comes to light that may affect a decision. As a result, a condition may be added, varied or removed in respect of an entry on the register.

74. It is intended that local authorities would use their judgement in reaching a decision on whether to review an entry and any subsequent action. This may include responding to matters raised by residents.

Varying conditions attached to a register entry

75. If the applicant does not meet a condition(s) attached to an entry in the register, by the agreed date, the local authority may:

- (a) extend the date (with or without additional conditions);
- (b) vary the condition(s) and extend the date; or
- (c) remove the condition from the register.

76. If before the end of the agreed date the local authority decides to extend the date, vary a condition or vary a condition and extend the date, it must send the applicant a notice of its intention. The applicant will have 28 days to make a representation which the local authority must consider before making its final decision. The local authority must then make its final decision and serve the notice on the applicant within 28 days of receiving the representation.

Removal from the register

77. The proposed regulations will provide that a local authority may remove a person from the register if it receives new information regarding the fitness of the person to manage a site and the local authority is no longer satisfied that the person is a fit and proper person to manage a site. If the local authority decides to remove the person from the register, they must follow the notification of decision procedure set out in paragraphs 46-48.

Q8. Should it be mandatory for local authorities to review a person's inclusion on the register of fit and proper people in certain circumstances? What would the circumstances be?

Remaining on the register after the period of inclusion

78. A licence holder will need to make a new test application before the end of the period of inclusion.

79. We propose that the local authority will consider the same mandatory criteria as for a first application and other relevant information which may include matters relating to the management of the site during the period of inclusion on the register.

Q9. Do you agree that in order to remain on the register an applicant should undergo the same test as for the first application? If no, what should the test include?

7 Management Orders

80. In order to avoid the closure of a park home site and thereby protect the tenure of park home residents, we consider that provision should be made to give local authorities powers to apply to the tribunal to install an interim site manager to take over management of a site where a site licence has to be revoked or because a fit and proper person cannot be found. Such Management Orders would enable the local authority to exercise the same rights and obligations that the licence holder could have exercised if the order was not in force.

81. A management order would be intended to secure the long-term and effective management of a site where in the foreseeable future a suitable fit and proper person cannot be appointed to manage the site, or a licence cannot be granted. They would enable the interim site manager to receive pitch fees and pay for the cost of essential works. Provisions could also be introduced that ensure that key services and utilities will continue to be available to park home residents.

82. As Management Orders are outside the scope of powers provided under Section 8 of the Mobile Homes Act 2013, implementation of such a provision would require primary legislation, when parliamentary time allows.

Q10. Do you agree that making management orders available to local authorities should be considered to help protect residents in the extreme circumstances when a licence needs to be revoked or a fit and proper person cannot be found?

8 Sanctions

83. We propose to make the requirement for a site licence holder or the manager of a site to be a fit and proper person to be enforceable by local authorities by:

1. An application to the First Tier tribunal for an order revoking the site licence; and/or
2. A prosecution in the magistrates' court for a fine (summary offences).

84. We propose to create the following summary offences, for which a person convicted would face an unlimited fine (level 5).

a) Operating a site in contravention of the fit and proper person regulations⁵

- i. Where the site licence holder has been convicted twice for this offence, the local authority may apply to the magistrates for an order to revoke the site licence.

b) Providing false or misleading information or failing to provide information in an application for inclusion of the register of fit and proper site managers⁶

c) Failing to comply with a requirement set as a condition of the local authority's decision to⁷:

- i. include a person on the register of fit and proper persons to manage a site, or
- ii. continue to include a person on the register of fit and proper persons to manage a site.

This would cover a failure to meet a requirement set as part of the assessment/decision process for inclusion on the register and also, where a requirement has been set or varied after a site manager is on the register, as a condition of continuing inclusion.

Defence to fit and proper person offences

85. We propose that the site licence holder will have a defence to the offences at paragraphs 84 a) above where:

⁵ The power to make this offence is in section 12A(3), allows for an offence 'relating to a contravention of a requirement imposed by virtue of 12A(1) – the overarching requirement that a park home site must not be operated unless the local authority is satisfied that the licence holder or their manager is fit and proper to manage the site or the local authority has appointed a person to manage the site.

⁶ The creation of this offence is provided for in section 12C(9) as inserted in the Caravan Sites and Control of Development Act 1960 by the Mobile Homes Act 2013. The primary legislation allows for the creation of an offence specifically relating to '(a) the withholding of information from, or the inclusion of false or misleading information in, a registration application' and '(b) a failure to comply with a condition subject to which a registration application is granted.'

⁷ The power to make this offence is in section 12D(6) allows for an offence relating to a failure to comply with a condition imposed by virtue of this section.

- a. an application for a test has been made and not yet determined (including where any grace period granted has not yet expired);
or
- b. where any subsequent appeal process is continuing.

86. In these circumstances, a local authority may consider prosecuting the site licence holder for a breach of the fit and proper requirements or taking other enforcement action.

87. Where a site manager resigns, or their contract is terminated unexpectedly leaving the site without a fit and proper person in place, we propose the site licence holder will have a defence to the offences at a) and c) provided that they:

- a. inform the local authority within 5 working days that the site manager has left;
and
- b. make a new application for a test within 28 days of the date that the fit and proper person site manager stopped managing the site.

Q11. Are any additional sanctions needed to provide local authorities with effective tools to enforce the fit and proper person requirements?

9 Transition period and implementation

88. We propose to bring the requirement for the licence holder or an appointed site manager to be a fit and proper person into force no less than six months after the regulations are made (“the implementation date”). This is to provide time for local authorities to prepare for the changes and site licence holders to apply for themselves or their site manager to be included on the fit and proper register.
89. During this transition period site licence holders will need to make an application before the implementation date.
90. In the six month transition period local authorities will need to:
- i. Contact all existing operating sites – and new sites applying for a licence – advising them of the new requirement and what information they will need to supply in order for their site to continue operating.
 - ii. Provide an opportunity for applications to be received from existing operating sites and new sites applying for a licence
91. Local authorities will be expected to issue timely decisions in relation to the date that an application is received. We anticipate that applications will be submitted throughout the transition period and it is not expected that local authorities will complete all assessments and issue decisions before the implementation date.
92. In line with their licensing duties, we expect local authorities to promote licensing in their area. We propose that local authorities would adapt and use the framework they have in place in place to process the applications for inclusion on the fit and proper person register in advance of the implementation date. Local authorities should encourage early applications for the test.
93. Local authorities have their own processes and policies in relation to communications and advertising. This may include advertising in the local press or having dedicated pages on their own website.
94. We propose that local authorities would issue decision and interim notices (paragraphs 42, 44, 45) in respect of all applications received during the transition period within 3 months of the implementation date. This is to allow for sufficient time for processing if there is an influx of applications close to the implementation date deadline.
95. We propose to publish guidance for local authorities and site owners on the test to help them implement and understand the requirements. We also expect local authorities to provide advice to site owners on the new fit and proper person requirements.

Q12. Do you agree that six months is long enough for site licence holders to submit applications for inclusion on the fit and proper person register?

Q13. Local authorities only – How many relevant protected sites do you have in your area?

Q14. Local authorities only – Do you agree that decision and interim notices can be issued to all applicants who apply during the transition period within three months of the implementation date?

Making an application within the transition period

96. Where a local authority has considered an application and has deemed the fit and proper requirement to be met during the transition period, the applicant's inclusion on the register will start from the day of implementation.

97. If an existing or a prospective site licence holder makes an application during the transition period and is subsequently determined not to be a fit and proper person, the local authority would have to issue an interim notice within 7 working days of making its decision, to the site licence holder and the site manager (if applicable) setting out the reasons for its decision and how to make representations.

98. If an existing site owner makes an application before the implementation date (and has proof that they have) but their application has not been processed, they will not be in breach of the legislation.

99. If a site licence holder applies to transfer a licence before the implementation date, they or the proposed site owner will not be in breach of the legislation if the local authority has not made a decision on the application by the implementation date.

100. A site licence holder who has not submitted an application by the implementation date will be liable to prosecution for operating a site while failing to comply with the fit and proper person requirement. In these circumstances a local authority should consider prosecution.

Q15. Do you have any other comments on the proposals for the fit and proper person test for park homes sites?

Glossary

discretionary criteria	Information which is relevant to a fit and proper assessment which local authorities can choose to take into account to be satisfied that a person is fit and proper to manage a park home site.
final decision notice	Notice issued by the local authority following any representations received from the applicant in respect of the local authority's decision to include an applicant on the fit and proper person register. The applicant has a right to appeal a final decision (to the First Tier tribunal)
mandatory criteria	A prescribed list of information which local authorities must consider in the fit and proper person test.
park home site	A mobile home site with planning permission for residential use.
occupier	An occupier is defined in section 1(3) of the Caravan Sites and Control of Development Act 1960. A person who holds a site licence issued under section 3(1) of the 1960 Act must be the occupier of the land under s3(1) of the 1960 Act, but an occupier may also be a site owner who does not, but should, hold a site licence.
prospective site licence holder	An owner or prospective owner of a park home site who may intend to apply for a site licence.
relevant protected site	Relevant protected site", as defined in section 5A (5) of the Caravan Sites and Control of Development Act 1960, means land in respect of which a site licence is required under Part 1 of that Act, other than land in respect of which the relevant planning permission under Part 3 of the Town and Country Planning Act 1990 or the site licence is – (a) expressed to be granted for holiday use only, or (b) otherwise so expressed or subject to such conditions that there are times of the year when no caravan may be

	stationed on the land for human habitation (subject to exceptions for year-round occupation by the occupier and persons employed by him).
register	The fit and proper person register which will contain details of those who have been assessed as meeting the fit and proper person test.
representation period	28 day period after an interim decision has been issued during which a site licence holder can provide additional information for a local authority to take into account before it reaches a final decision on the fit and proper person test and inclusion on the fit and proper person register.
section 8	Section 8 of the MHA 2013 prospectively inserts section 12A to 12E in the Caravan Sites and Control of Development Act 1960. When commenced it will empower the Secretary of State to introduce a requirement for 'relevant protected sites' to be managed by a fit and proper person. Sections 12A to 12E set out an overarching framework for the operation of a fit and proper person test, the processes that local authorities will use and a register of fit and proper site managers.
site licence holder	In this document means an "occupier" to ease understanding. The fit and proper person requirements apply to occupiers (see above). All site licence holders are occupiers.
transition period	The length of time between the making of the fit and proper person test regulations by Parliament and the date they come into force.
Tribunal	The First Tier Tribunal (Property Chamber)

Annex A: Proposed criteria local authorities must consider

The purpose of the fit and proper person test is to improve the standards of park home site management by introducing an assessment that the person responsible for managing the site is suitable and of good character. The mandatory criteria provides the evidence for the test. Local authorities may include their own discretionary criteria in the test to take account of additional evidence which is relevant to an assessment.

1. Matters local authorities must take into consideration where applicant is the site licence holder (A and B align with the requirements when deciding whether to grant or approve a transfer of a licence).

A) The suitability of the site licence holder to manage the site under the terms and conditions of the licence.

The local authority must take into account whether or not:

- The applicant has a sufficient interest or estate in the site;
- The funding arrangements in place for managing the site and complying with the licence are appropriate;
- The structure for the management of the site is appropriate;
- The licence holder has the ability to comply with licence conditions and to provide for the long-term maintenance of the site.

B) The Conduct of the licence holder.

The local authority must take into account whether the site licence holder:

- has been convicted for failing to comply with a compliance notice relating to the site
- has been or is being investigated in relation to the offence of failing to comply with a compliance notice in relation to the site or is in the process of being prosecuted for such an offence
- has failed to pay money owed to the local authority (annual licence fees, demands for enforcement)

C) Other considerations

The local authority must take account of:

- all the factors in A) and B) in relation to any other sites the site licence holder is or has been involved in.
- whether the applicant has owned, managed or held the licence of a site where a local authority has applied to a court or a tribunal to revoke the licence or has within

the previous six months notified the site owner of its intention to apply for an order of revocation.

2. Where the application relates to a person appointed to manage the site, the local authority must consider whether:
 - a. the proposed structure for the management of the site supports and does not obstruct the applicant in discharging the obligations of the licence-holder.
 - b. the applicant has owned, managed or held the licence of a site where a local authority has applied to a court or a tribunal to revoke the licence or has within the previous six months notified the site owner of its intention to apply for an order of revocation.
3. Other criteria the local authority must consider in relation to a site licence holder or a person appointed to manage the site:
 - Convictions for fraud, theft, violence and sexual offences
 - Breach of the law in relation to discrimination in the course of business
 - Contravention of housing, park home or consumer, public health, planning and environmental health law
 - Right to work in the country
 - Whether the applicant has been insolvent or has held a position connected to financial responsibility or responsibility in a company or organisation that has been insolvent
 - Association with persons who have committed offences within the test criteria.
 - Failure of the test in another local authority
 - Membership of a redress scheme or other body

Discretionary criteria local authorities may choose to consider

- In addition to the mandatory criteria, local authorities may take account of any information they consider relevant to an assessment of the suitability and good character of a site licence holder or their appointed manager as a fit and proper person. For example, this may include data that the local authority holds and information received from park home residents.

Annex B: Content of the fit and proper person test application

- A. The name, address, telephone number and e-mail address of:
- the applicant and the person appointed to manage the site (if any);
 - any other person or company (including a holding company) who has an interest in the site; and
- B. The name and address of the site for which the application is being made and the type of relevant protected site for which the application is being made (residential or mixed use);
- C. The total number of pitches broken down by type (owner occupied, holiday use, rented for residential use, vacant pitch or caravan);
- D. Details of the suitability of the site licence holder to manage the site under the terms and conditions of the licence: sufficient interest or estate in the site; appropriate funding arrangements; structure for the management of the site; ability to comply with licence conditions and to provide for the long-term maintenance of the site.
- E. Details of the other relevant protected sites that:
- the applicant owns/has an interest in or holds the site licence for
 - the site manager is the manager of,

whether in the area of the local housing authority to which the application is made or in the area of any other local housing authority;

- F. Details of (as may apply to an individual or company);
- i. any unspent convictions that may be relevant to the applicant's fitness to manage the site and in particular any such convictions in respect of any offence involving fraud, violence, arson, sex offences, deception, other dishonesty or drugs;
 - ii. findings by a court or tribunal that the applicant has unlawfully discriminated against any person on grounds of sex, colour, race, ethnic or national origins, disability or sexuality in, or in connection with, carrying out any business activities;
 - iii. whether the applicant or site manager has been disqualified as a company director;
 - iv. any information requested by the local authority to assess whether a person is of good character
- G. Whether the applicant or appointed site manager has;
- i. been convicted of an offence under section 3 of the Caravan Sites Act 1968;

- ii. been determined by a court or tribunal to have harassed any person in connection with any business activity;
- iii. failed to comply with any obligation or requirement under the Mobile Homes Act 1983;
- iv. failed to comply with any requirement imposed upon him under any Health and Safety or Fire Safety legislation;
- v. failed to comply with any obligation or requirement imposed on him under the 1960 Act (as amended);
- vi. contravened any enactment relating to housing, public health, planning, environmental health which led to civil or criminal proceedings resulting in a judgment being made against them;
- vii. owns or has managed any other site which has been subject of any enforcement action under the 1960 Act or any other enactment;
- viii. owns or has managed any other site where the local authority has refused a licence;

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex C

Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

We do not anticipate sharing your personal data with any third party.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. The Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

7. Your personal data will not be used for any automated decision making.

8. After the consultation period has ended your personal data will be stored in a secure government IT system.