

Maidstone Borough Council

FIT AND PROPER PERSON DETERMINATION POLICY (MOBILE HOMES) 2021/2022

November 2021

Table of Contents

Introduction.....	3
The Evidence.....	4
1. Is the individual able to conduct effective management of the site.....	4
2. Personal information relating to the applicant concerned.	5
Items to take into consideration	6
1. Applications	7
2. Criminal record certificate/s.....	9
3. Determination of applications.....	11
4. Granting the application unconditionally.....	11
5. To include the applicant on the register subject to certain condition(s)..	11
6. Decisions not to include the applicant on the register	14
7. Right to make a representation.....	15
8. Final decision notice	15
9. Appeals.....	16
10. Withdrawal or amendment of notice	16
11. Removal from the register.....	17
12. Notice of action taken.....	17
13. Offences	18
14. Defences	18
15. Relevant periods in specific circumstances	19
16. The Fit and Proper Persons Register.....	20

Introduction

1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) require the manager of a site to be a Fit and Proper Person. Local authorities are accordingly required to introduce a fit and proper person assessment for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹.
2. The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners that hold a licence or have applied for a site licence within the local authority area from 1 July 2021 up to and including 30 September 2021. Owing to factors outside of their control, Maidstone Borough Council are allowing flexibility on that period and their decision process to the 31st December 2021 and will not act against Site Owners until that date has passed where dialogue indicates that an application will be submitted by the site owner.
3. A local authority must be satisfied that the site owner “is a fit and proper person to manage the site” or, if the owner does not manage the site, “that a person appointed” to do so by the site owner “is a fit and proper person to do so”.
4. Where a site owner or their manager fails the fit and proper person assessment and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.
5. Principally, the fit and proper person assessment applies to a “relevant protected site”. A relevant protected site is one that has a site licence and planning permission which is not granted for holiday use only, or does not prohibit the stationing of mobile homes/caravans for human habitation at certain times of the year. The fit and proper person 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 mobile homes on the site i.e. park home owners.
6. The determination of applications will be undertaken by Community Protection Team and will be overseen by the Head of Housing and Communities.

¹ *i.e. it is a non-commercial, family occupied site as defined under r.3 of the Regulations

The Evidence

When conducting the fit and proper person assessment, Maidstone Borough Council (“the local authority”) must consider the following points relevant to the application:

1. Is the individual able to conduct effective management of the site.

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. It follows that, the local authority must have regard to:

- a. whether the person has a sufficient level of competence to manage the site;
- b. the management structure and funding arrangements for the site; or
- c. the proposed management structure and funding arrangements.

a) Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

b) The management structure and funding arrangements for the site

Maidstone Borough Council will consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. Officers will need to ensure that the applicant has a robust management plan, this should also be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager’s contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal. The authority reserves the right to include other relevant matters as deemed appropriate for individual applications, this list is therefore not exhaustive.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may be complex issues as a result of this, such as needing the court’s permission to serve a claim in a foreign country. The applicant’s interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

c) The proposed management structure and funding arrangements in place for managing the site

Maidstone Borough Council must consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be readily available.

Third party (including an associated company) funding should be disclosed, as this will impact on the authority's ability to deem whether the application is financially viable.

2. Personal information relating to the applicant concerned.

Includes a criminal record check and should include whether the relevant person:

- a) has committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- b) has not 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.
- c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business.
- d) has not harassed any person in, or in connection with, the carrying on of any business.
- e) is not or has not been within the past 10 years, personally insolvent.
- f) is not or has not been within the past 10 years, disqualified from acting as a company director.
- g) has the right to work in the United Kingdom and,
- h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

Maidstone Borough Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints, these can still be taken into consideration in the fit and proper person assessment. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. Officers can address any underlying issues by attaching conditions to the individual's entry on the register.

Items to take into consideration

“The applicant” is defined at paragraph 2 of the Regulations as “the person who makes an application under regulation 6”.

The “relevant person” is also defined at paragraph 2 of the Regulations to mean “the subject of the fit and proper person assessment under Regulation 7”.

The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) is also an important factor to be considered in the fit and proper person assessment.

Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information is required elsewhere in the application.

It is not routinely required to provide information of all current or past associates of the site owner. However, it is advisable that, prior to making any final decisions, officers consider the conduct of past and current associates relevant to that individual’s application. The site owner can be asked to provide additional information during the application process.

Officers will be required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents’ rights, or the quiet enjoyment of their homes.

The Regulations are drafted widely giving the opportunity for local authorities to take into consideration other relevant matters. All conduct is relevant in relation to the person’s fitness to hold a licence and/or manage the particular mobile home site. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.

To be able to secure the proper management of the site, officers must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.

Officers are able to decide the specific matters they deem relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area. Additionally, the site owner’s conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters which are believed to be of relevance to the application should primarily focus on the relevant person’s conduct, competence and their suitability to manage the site.

Officers will consider any additional matters in light of the available evidence. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions. Allegations which have not been investigated or documented may be difficult to use as evidence to support the authority's decision.

1. Applications

The Regulations use various terms and these are outlined below:

As mentioned earlier **"Relevant person"** is defined in paragraph 2 of the Regulations and is "the subject of the fit and proper person assessment under Regulation 7". Please note that this could be the site owner or person appointed to manage the site by the site owner.

"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; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

"Required Information" is defined in paragraph 14 of Schedule 2 of the Regulations as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

The applicant and site details required

Details of the site and the applicant:

- 1) The applicant's name and business contact details.
- 2) Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - i. the person's name;
 - ii. details of the person's role (if any) in relation to the management of the site.

- 3) The name and address of the site.
- 4) Evidence of the applicant's legal estate or equitable interest in the site.
- 5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- 6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

The name and address of each other relevant protected sites:

- 1) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- 2) in which the applicant has a legal estate or equitable interest; or
- 3) that the applicant manages.

The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

Information relating to the site manager

In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager is not an individual required information would also include the individual ("A") that the site manager has appointed or intends to appoint to be responsible for the day-to-day management of the site. And where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site.

Additional information when the applicant is the relevant person and an individual

When the applicant is the relevant person and is an individual, and the applicant has appointed, or intends to appoint, someone else ("B") to be responsible for the day-to-day management of the site, required information would be needed in relation to B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual ("C") to do the day-to-day management, required information would be needed in relation to C. Where C is not a relevant officer of a company, details of the relevant officer to whom C is accountable for the day-to-day management of the site would also be required.

Additional information where applicant is relevant person and not an individual

When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else ("B") to be

responsible for the day-to-day management of the site, required information would be needed in relation to this person. Information would also be required relating to the following persons: if B is not a relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site ("C"); where B itself is not an individual, the individual ("D") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site; where D is not a Relevant officer of B, the relevant officer to whom D is accountable for the day-to-day management of the site.

It can be seen from the above that the Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the local authority as a fit and proper person to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

2. Criminal record certificate/s

Criminal Records Certificates must be issued under section 113A(1) of the Police Act 1997 and will be required where:

- a) the Relevant person is an individual and
- b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

The application will need to be accompanied by a basic DBS certificate.

The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

Declaration

A declaration made and signed by the “appropriate person”, which means:

- a) where the applicant is a company, a director or other officer of the company;
- b) where the applicant is a partnership, one of the partners;
- c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- e) where the applicant is an individual, that individual.

Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquires into the matters mentioned in paragraph 9 of Schedule 3 of the Regulations.

The declaration should also state that the information provided in the application is correct and complete to the best of the applicant’s knowledge and belief.

3. Determination of applications

The local authority must make a decision on the application in a timely and practicable manner and either:

- a) where the decision is to grant the application unconditionally and 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.

On receipt of an application the local authority may:

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

The determinations of applications will be undertaken by officers of the Community Protection Team who have been trained and have a full understanding of this policy. The process will be overseen by the Community Protection Manager on behalf of the Head of Housing and Communities.

Upon rejection of a person's application by Maidstone Borough Council this will be recorded on our system and include the details of the person involved and the reasons for the rejection. This will not be held on the published register.

4. Granting the application unconditionally

Where officers are satisfied that the applicant meets the fit and proper person assessment unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.

5. To include the applicant on the register subject to certain condition(s)

In some circumstances, the local authority can specify that the individual for the fit and proper person assessment will only be successful if certain conditions are met. If these conditions are satisfied, the local authority can grant an application subject to those condition(s). The local authority can also grant an application for less than 5 years.

It may be the case that officers decide to include the person on a register subject to 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. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative that officers have clear and justifiable reasons for attaching any condition(s) and that any conditions imposed can be enforced by Maidstone Borough Council.

Conditions will need to be clearly stated for the applicant's understanding and this will also allow for the local authority to ensure that they are enforceable.

An example of the requirements of any conditions are included in Table 1 below.

Table 1

Specific	The specific condition/s a site owner is being requested to address.
Measurable	The conditions required and the outcome(s) expected.
Achievable	The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company.
Realistic	The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors which would make the achievement of the outcome impossible or unlikely.
Timebound	A clear timescale in which the task/action must be completed.

What can a condition relate to?

The fit and proper person assessment is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person's ability to secure the proper management of the site.

Where a person has contravened legislation, or committed offences set out in above section, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.

In cases where the person has committed those listed offences or contravened legislation, these breaches should be considered, together with all the other information available, when reaching the preliminary decision.

A condition can also be set with respect to ensuring the relevant person has the ability to secure the proper management of the site. In summary, conditions can relate to any factors which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

Example 1 - The local authority has evidence of a site owner's failure over a certain period of time to address residents' complaints. This is an example of poor management which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to "implement an effective and accessible three stage complaints process for residents by xx date and provide the LA with quarterly reports of complaints and outcomes, from that date and for the first year".

If the condition is met within the specified time frame, the local authority can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year. The site owner could also be expected to complete a relevant "CPD customer service/Dealing with complaints" course by a certain period. However, should the local authority consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

Example 2 - If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the local authority may wish to attach a condition to the entry on the register that the site owner "is to provide the authority by registered post, with the original xx document by xx date".

Example 3 - An associated person has been visiting the park and, through their action ('X'), has caused distress to the residents impacting their well-being and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

6. Decisions not to include the applicant on the register

Should Maidstone Borough Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, the authority can refuse to grant the application.

Where the authority makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant must be issued.

The preliminary decision notice must clearly state:

- a) the date the preliminary decision notice is served;
- b) the preliminary decision;
- c) the reasons for it;
- d) the date it is proposed that the final decision will have effect;
- e) information about the right to make written representations;
- f) 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
- g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

7. Right to make a representation

An applicant who receives a preliminary decision notice will have 28 days in which to make representations in writing to the local authority. The 28-day period begins with the day after the day on which the notice was served.

The local authority is obliged to consider and take any representations it receives into account before making a final decision.

8. Final decision notice

The local authority must, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.

The final decision notice must set out:

- a) the date the final decision notice is served;
- b) the final decision;
- c) the reasons for it;
- d) when the decision is to take effect;
- e) information about the right of appeal and the period within which an appeal may be made;
- f) where the 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
- g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

9. Appeals

The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the Authority. These could include:

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

Where an applicant accepts the authority’s decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

10. Withdrawal or amendment of notice

There may be circumstances where the local authority may decide to 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.

To withdraw or amend a notice, the authority will serve notice on the person on whom the original notice was served.

There are no requirements for notices to contain specific information, however, it is recommended that a withdrawal or amendment notice should state:

- a) That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference);
- b) the reasons for withdrawing the notice;
- c) the date it takes effect; and,
- d) the implications of the decisions in relation to the person’s entry on the register.

11. Removal from the register

If, after a person is included in the register, new evidence relevant to the person's inclusion becomes available, the authority may decide to:

- a) remove the person from the register;
- b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);
- c) vary a condition; or
- d) remove a condition.

Officers must use their judgement when determining whether to review an entry and consider any subsequent actions are required. Any such decision should be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the local authority decides to take any of the actions listed in paragraph 11 (a) to (d) above, the local authority must serve a notice of any proposed action on the occupier.

The notice of proposed action must clearly state:

- a) the date the notice of proposed action is served;
- b) the action the local authority proposes to take;
- c) the reasons for it;
- d) the date it is proposed that the local authority will take the action;
- e) information about the right to make written representations;
- f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.

A notice of proposed action is not required if the local authority decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice, the authority will make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

12. Notice of action taken

Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations. The local authority must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

Where the local authority decides to take the action, the local authority must serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

The notice of action must set out—

- a) the date the notice of action is served;
- b) the fact that they have taken the action;
- c) the reasons for doing so;
- d) the date the action was taken;
- e) information about the right of appeal and the period within which an appeal may be made;
- f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
- g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

13. Offences

There are 3 offences which can occur within the Regulations. They are as follows:

- Operating a site in contravention of the fit and proper person regulations - The site owner has certain defences under the Regulations in any proceedings brought against them.
- Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

Maidstone Borough Council is responsible for enforcing the regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

14. Defences

One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

15. Relevant periods in specific circumstances

The below table outlines limited circumstances where a site owner may have a defence.

Circumstance	Relevant period for making an application in the circumstance
1 the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2 the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a) (removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3 at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4 at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
5 a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
6 a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7 application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day

- | | | |
|----|--|---|
| 8 | the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above | within the period of 28 days beginning with the relevant day |
| 9 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 | within the period of 3 months beginning with the relevant day |
| 10 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above | within the period of 28 days beginning with the relevant day |

16. The Fit and Proper Persons Register

Maidstone Borough Council must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours. This register will also be published online.

The register will provide a record of the outcome of the fit and proper person assessments that the authority has carried out for sites. The register will include the following:

- a) the name and business contact details of the person;
- b) the name and address of the relevant protected site to which the application relates;
- c) the status of the person (site owner or manager of the site);
- d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- e) whether any condition is attached to the person's inclusion in the register; and
- f) where any condition is attached to the person's inclusion in the register—
 - i. the number of any such conditions;
 - ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - iii. the date any condition is varied or satisfied (if applicable).

Where a person has met the fit and proper person assessment, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.

In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

Where there are rejected applications, the following information will be included in the register:

- a) the name and address of the site to which the application relates;
- b) that an application in respect of the site has been rejected; and
- c) the date on which the application was rejected.

Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

The name of the rejected applicant will not be included on the register.

Where the local authority has, with the site owner's consent, appointed a person to manage the site, the local authority must include the following information:

- a) the name and business contact details of the person;
- b) the name and address of the site which the person has been appointed to manage;
- c) the status of the person;
- d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- e) whether any condition is attached to the person's inclusion in the register; and
- f) where any condition is attached to the person's inclusion in the register—
 - i. the number of any such conditions;
 - ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - iii. the date any condition is varied or satisfied (if applicable).