



**Please ask for:** Matt Berry  
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30 June 2021

Dear Councillor,

**Cabinet**

**4:00pm on Thursday 8 July 2021**

**Meeting to be held in the Civic Centre, Beecroft Road, Cannock**

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

Yours sincerely,

**B. Kean**  
**Interim Managing Director**

To: Councillors:

Lyons, Miss O.	Leader of the Council
Jones, B.	Deputy Leader of the Council and Neighbourhood Safety & Partnerships Portfolio Leader
Jones, Mrs. V.	Community Engagement, Health & Wellbeing Portfolio Leader
Sutherland, M.	District Development Portfolio Leader
Johnson, J.P.	Environment & Climate Change Portfolio Leader
Fitzgerald, Mrs. A.A.	Housing, Heritage & Leisure Portfolio Leader
Hewitt, P.M.	Innovation and High Streets Portfolio Leader

# Agenda

## Part 1

**1. Apologies**

**2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members**

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

**3. Updates from Portfolio Leaders**

To receive and consider oral updates (if any), from the Leader of the Council, the Deputy Leader, and Portfolio Leaders.

**4. Minutes**

To approve the Minutes of the Meeting held on 10 June 2021 (enclosed).

**5. Forward Plan**

Forward Plan of Decisions to be taken by the Cabinet: July to September 2021 (Item 5.1 – 5.2).

**6. Enabling Digital / Paperless Meetings and Revised Start Times for Calendar of Meetings 2021-22**

Report of the Interim Managing Director (Item 6.1 – 6.8).

**7. Extension of Public Space Protection Order (Dog Control) 2018**

Report of the Head of Environment & Healthy Lifestyles (Item 7.1 – 7.23).

**8. Private Sector Housing – Mobile Home Site Licensing ‘Fit and Proper Person’ Implementation**

Report of the Head of Environment & Healthy Lifestyles (Item 8.1 – 8.24).

**9. Exclusion of the Public**

The Leader to move:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraph 3, Part 1, Schedule 12A of the Local Government Act 1972 (as amended).

# **Agenda**

## **Part 2**

### **10. Options for the Future Provision of the Council's Dry mixed Recycling (DMR) Service**

Not for Publication Report of the Head of Environment & Healthy Lifestyles (Item 10.1 – 10.11).

The Report is confidential due to the inclusion of information relating to the financial or business affairs of any particular person (including the Council).

No Representations have been received in respect of this matter.

## **Cannock Chase Council**

### **Minutes of the Meeting of the**

#### **Cabinet**

**Held on Thursday 10 June 2021 at 4:00 p.m.**

**In the Council Chamber, Civic Centre, Cannock**

#### **Part 1**

PRESENT: Councillors:

Lyons, Miss O.	Leader of the Council
Jones, B.	Deputy Leader of the Council and Neighbourhood Safety & Partnerships Portfolio Leader
Jones, Mrs. V.	Community Engagement, Health & Wellbeing Portfolio Leader
Sutherland, M	District Development Portfolio Leader
Johnson, J.P.	Environment & Climate Change Portfolio Leader
Fitzgerald, Mrs. A.A.	Housing, Heritage & Leisure Portfolio Leader
Hewitt, P.M.	Innovation and High Streets Portfolio Leader

#### **1. Apologies**

None received.

#### **2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members**

No other Declarations of Interest were made in addition to those already confirmed by Members in the Register of Members' Interests.

#### **3. Updates from Portfolio Leaders**

##### **(i) Leader of the Council**

The Leader updated in respect of the following:

- **Officers**

Tim Clegg was welcomed to his first Cabinet meeting as the Interim Joint Chief Executive for Stafford Borough and Cannock Chase District Councils, and Officers were thanked for helping Cabinet to settle into their roles, take stock, and improve their understanding of the work of the Council.

- **Covid-19**

In respect of Covid-19, it was a difficult and ever evolving situation. There had been an increase in cases overall, particularly the 'delta' variant in several areas. Locally, uptake of vaccines had been a great success, but Members were asked to support further calls to encourage vaccine take up.

- **Cabinet Priorities**

The new Cabinet intended to continue taking stock, move forward with priorities and focus on forward planning over the coming months.

(ii) **Environment & Climate Change**

The Portfolio Leader update in respect of the following:

- **Dry Recycling**

Such recycling collected by the Council was co-mingled at present, which was not a cost-effective position to be in. The aim was to remove paper and cardboard from dry recycling, and it be collected in separate bags. It would be necessary to pay capital costs for the purchase of bags etc. and educate residents on any changes. Staffordshire County Council had been asked to provide funding toward this, and a formal response was awaited. A report regarding the future dry recycling contract would be considered at the July Cabinet meeting.

**4. Forward Plan**

The Forward Plan of Decisions for the period June to August 2021 (Item 4.1 – 4.2 of the Official Minutes of the Council) was considered:

**Resolved**

That the Forward Plan of Decisions for the period June to August 2021 be noted.

**5. End of Year Performance Report 2020/21:**

**Priority Delivery Plans and Recovery Action Plans**

Consideration was given to the Report of the Head of Governance and Corporate Services (Item 5.1 – 5.72).

**Resolved:**

That:

- (A) The year-end performance information relating to Priority Delivery Plans, as detailed in report Appendices 1a-1d, be noted.
- (B) The year-end position relating to the Recovery Plans, as detailed in report Appendices 2a-2d, be noted.
- (C) The actions that had been flagged with a yellow circle or an amber triangle at year end, which would roll forward into the Priority Delivery Plans for 2021-22, be noted.

**Reasons for Decisions**

The performance information allowed Cabinet to monitor progress in delivery of:

- the Council's Corporate Priorities and the delivery of the Recovery Strategy; and
- the Recovery Actions essential for maintaining the delivery of critical services, restoring services and supporting the District with recovery from the impacts of lockdown and the pandemic.

## **6. Strategic Risk Register**

Consideration was given to the Report of the Head of Governance and Corporate Services (Item 6.1 – 6.26).

### **Resolved:**

That the Strategic Risk Register be approved, and the progress made in the identification and management of the strategic risks be noted.

### **Reason for Decision**

Cabinet was required to approve the Strategic Risk Register.

## **7. Representatives on Outside Bodies 2021-22**

Consideration was given to the Report of the Interim Managing Director (Item 7.1 – 7.5).

### **Resolved:**

That:

- (A) The appointment of representatives to outside bodies for 2021-22 be approved. (A copy of the agreed appointments is included as an Annex to these Minutes.)
- (B) The Managing Director, in consultation with the Leader of the Council, be authorised to make appointments to additional outside bodies and amendments to any existing outside bodies, as necessary, throughout the municipal year, that would otherwise be determined by Cabinet.

### **Reasons for Decisions**

To reflect the wishes of the Cabinet in regard to which Members it wished to appoint to those outside bodies as listed in Appendix 1 of the report.

For practical purposes, Cabinet was also requested to delegate authority to the Managing Director, in consultation with the Leader of the Council, to make appointments to any additional outside bodies, and amend existing appointments.

## **8. Commonwealth Games 2022 – Update**

Consideration was given to the Report of the Interim Head of Environment & Healthy Lifestyles (Item 8.1 – 8.9).

### **Resolved:**

That:

- (A) The update on the Commonwealth Games 2022 and the Council's preparations as a host authority be noted.
- (B) The legacy objectives for the Council as set out in report paragraph 5.35 be agreed.
- (C) The allocation of funding totalling £50k, in relation to opportunities related to hosting the Games, as identified in report paragraph 5.36 be agreed.
- (D) Authority be delegated to the Head of Environment & Healthy Lifestyles and Head of Economic Prosperity, in consultation with the Portfolio Leaders for Housing, Heritage & Leisure and District Development, to determine the actual

expenditure levels in line with the opportunities and projects identified in paragraph 5.36, up to the total £50k as agreed in decision (C), above.

- (E) Further update reports, and requests for additional funding for consideration be received, as more information became available on future opportunities and projects such as the Queens Baton Relay (QBR), Cultural Programme, and Live Sites etc.

### **Reasons for Decisions**

To seek confirmation of the legacy objectives and approval of the proposed allocation of funding identified to progress the opportunities set out in report paragraph 5.36.

## **9. Cannock Chase Wayfinding Demonstration Project**

Consideration was given to the Report of the Interim Head of Environment & Healthy Lifestyles (Item 9.1 – 9.5).

### **Resolved:**

That:

- (A) The successful partnership funding bid to Sport England be noted, and agreement to the Council's future involvement in this project be confirmed.
- (B) Authority be delegated to the Head of Environment & Healthy Lifestyles, in consultation with the Housing, Heritage & Leisure Portfolio Leader, to enter the Council into any agreements required to release the secured funding and to manage the Council's input into the delivery of the project.

### **Reasons for Decisions**

To enable to the Council to continue its involvement in the partnership project, led by Together Active, and to build on the Council's legacy objectives linked to hosting the Commonwealth Games mountain-biking event.

To enhance and improve the infrastructure in the District by providing new and improved accessible trails that would increase participation in walking and other activities.

To improve the health and wellbeing of our residents and engage and encourage community involvement and connectivity with our beautiful natural environment and open space.

## **10. Car Parking Payback – Pilot Initiative**

Consideration was given to the Report of the Head of Economic Prosperity (Item 10.1 – 10.5).

### **Resolved:**

That:

- (A) The proposal to launch a pilot initiative for 3 months to incentivise shoppers to visit Cannock and Rugeley Town Centres be supported, and the current Additional Restrictions Grant (ARG) policy be revised to allocate an element of the ARG funding to fund the costs associated with the project.

- (B) Authority be delegated to the Head of Economic Prosperity, in consultation with the Innovation and High Streets Portfolio Leader to implement all actions required to deliver the pilot initiative.
- (C) The Head of Economic Prosperity present a report to Cabinet at the end of the Pilot scheme to report outcomes and potential options going forward.

**Reason for Decisions**

To detail how a proportion of Additional Restrictions Grant monies could be spent on the Council's priorities around recovery of town centres.

**11. Exclusion of the Public**

**Resolved:**

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraph 3, Part 1, Schedule 12A of the Local Government Act 1972 (as amended).





**Cannock Chase Council**  
**Minutes of the Meeting of the**  
**Cabinet**

**Held on Thursday 10 June 2021 at 4:00 p.m.**

**In the Council Chamber, Civic Centre, Cannock**

**Part 2**

**12. First Homes – Early Delivery Programme 2021-23**

Consideration was given to the Not for Publication Report of the Head of Housing and Partnerships (Item 12.1 – 12.6).

**Resolved:**

That:

- (A) The proposals and implications of the Government's First Homes home ownership product be noted.
- (B) The Council's participation in the First Homes Early Delivery Programme 2021-23 be approved.
- (C) It be noted that the Council was required to give an "in principle" agreement immediately to the MHCLG (Ministry of Housing, Communities and Local Government), and that Group Leaders had confirmed that a decision in respect of recommendation (B), above would not be subject to call-in due to the adverse impact that a delay would have on the Council's interests.
- (D) Authority to enter into any legal agreements between Cannock Chase Council (CCDC) and other parties (including the developer and Homes England) that were required to facilitate the delivery of the proposed scheme be delegated to the Head of Housing and Partnerships in consultation with the Portfolio Leader.
- (E) The Head of Housing and Partnerships, following consultation with the Housing, Heritage & Leisure Portfolio Leader, be authorised to take forward all actions and make amendments to the scheme as necessary to implement any agreed decisions.
- (F) A further report on the outcome of the pilot be received, and a local scheme be approved, where necessary.

**Reasons for Decisions**

Cannock Chase Council had been given an earlier opportunity to deliver First Homes by participating in a Pilot Scheme – Phase 1. Homes England had identified a suitable site to deliver 10 First Home properties. Following consultation with the Leader of the Council, Officers confirmed an "in principle" agreement to Homes England and were asking Cabinet to note and endorse that decision.

The scheme criteria would follow National Guidelines as set out in report paragraph 5.6. Discretion would not be used to amend the discount or income caps criteria in order to test the national scheme. It was also recommended that local connection

criteria were not amended and remained as the National Scheme, but that Cabinet agreed to receive a further report on the outcome of the pilot and to approve a future local scheme where necessary.

The meeting closed at 5:03 p.m.

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LEADER

## Cannock Chase Council

### Cabinet Appointed Representatives to Outside Bodies for 2021-22

## Notes:

- All of the below listed positions are appointed on an annual basis at the first Cabinet meeting after Annual Council.
- All bodies have one seat available unless otherwise stated.

Name of Body	Appointed Representative(s)
Cannock Chase AONB Joint Management Committee	Environment & Climate Change Leader Substitute – Housing, Heritage & Leisure Leader
Cannock Park Golf Club Committee	Housing, Heritage & Leisure Leader
Greater Birmingham & Solihull LEP Board	Deputy Leader of the Council
Greater Birmingham & Solihull LEP Supervisory Board	Deputy Leader of the Council Substitute – Leader of the Council
Greater Birmingham & Solihull LEP – ESIF Committee	District Development Leader
Local Government Association General Assembly	Deputy Leader of the Council
Local Strategic Partnership (Chase Community Partnership)	<ul style="list-style-type: none"> <li>• Leader of the Council</li> <li>• Deputy Leader of the Council</li> <li>• Community Engagement, Health &amp; Wellbeing Leader</li> <li>• Housing, Heritage &amp; Leisure Leader</li> <li>• Leader of the Opposition</li> </ul>
Norton Canes Community Partnership	Housing, Heritage & Leisure Leader
PATROL (Parking and Traffic Regulations Outside London) Joint Committee	Environment & Climate Change Leader Substitute – Innovation and High Streets Leader
Poplars Landfill Site Liaison Committee	Environment & Climate Change Leader
Staffordshire Destination Management Partnership	District Development Portfolio Leader (or Head of Economic Prosperity)
Staffordshire Police, Fire and Crime Panel	Neighbourhood Safety & Partnerships Leader Substitute – Cllr. P.G.C. Jones
Staffordshire and Stoke-on-Trent Joint Waste Management Board	Environment & Climate Change Leader Substitute – Housing, Heritage & Leisure Leader
Staffordshire Playing Fields Association	Housing, Heritage & Leisure Portfolio Leader
Stoke-On-Trent & Staffordshire LEP – ESIF Committee	District Development Leader
West Midlands Employers	Deputy Leader of the Council

### Forward Plan of Decisions to be taken by the Cabinet: July to September 2021

For Cannock Chase Council, a key decision is as an Executive decision that is likely to:

- Result in the Council incurring expenditure or making savings at or above a threshold of 0.5% of the gross turnover of the Council.
- Affect communities living or working in two or more Council Wards.

Further information about key decisions and the Forward Plan can be found in Sections 10 and 28 of the Council's Constitution.

Representations in respect of any of matters detailed below should be sent in writing to the contact officer indicated alongside each item c/o Democratic Services, Cannock Chase Council, PO Box 28, Beecroft Road, Cannock, WS11 1BG or via email at [membersservices@cannockchasedc.gov.uk](mailto:membersservices@cannockchasedc.gov.uk)

**Copies of non-confidential items will be published on the Council's website 5 clear working days prior to the relevant meeting date.**

Item	Contact Officer / Cabinet Member	Date of Cabinet	Key Decision	Confidential Item	Reasons for Confidentiality	Representation Received
Extension of Public Space Protection Order (Dog Control) 2018	Head of Environment & Healthy Lifestyles / Environment & Climate Change Portfolio Leader	08/07/21	Yes	No		N/A
Private Sector Housing – Mobile Home Site Licensing 'Fit and Proper Person' Implementation	Head of Environment and Healthy Lifestyles / Housing, Heritage & Leisure Portfolio Leader	08/07/21	No	No		N/A
Move to Digital Meetings and Change of Start Time of Meetings	Head of Governance and Corporate Services / Leader of the Council	08/07/21	No	No		N/A
Options for the Future Provision of the Council's Dry mixed Recycling Service	Head of Environment and Healthy Lifestyles / Environment & Climate Change Portfolio Leader	08/07/21	Yes	Yes	Information relating to the financial or business affairs of any particular person (including the Council).	
Statement of Common Ground between Cannock Chase DC and Solihull MBC	Head of Economic Prosperity / District Development Portfolio Leader	05/08/21	No	No		N/A

**Item No. 5.2**

<b>Item</b>	<b>Contact Officer / Cabinet Member</b>	<b>Date of Cabinet</b>	<b>Key Decision</b>	<b>Confidential Item</b>	<b>Reasons for Confidentiality</b>	<b>Representation Received</b>
Corporate Property Maintenance Plan	Head of Economic Prosperity / Innovation and High Streets Portfolio Leader	05/08/21	Yes	TBC		
Boardwalks and Bridges Plan	Head of Economic Prosperity / Innovation and High Streets Portfolio Leader	05/08/21	Yes	No		N/A
Public Space Protection Orders (Alcohol Restriction Zones)	Head of Housing and Partnerships / Neighbourhood Safety & Partnerships Portfolio Leader	05/08/21	Yes	No		N/A
UK Afghan Locally Employed Interpreter Relocation Scheme	Head of Housing and Partnerships / Housing, Heritage & Leisure Portfolio Leader	05/08/21	No	Yes	Information relating to any individual.  Information which is likely to reveal the identity of an individual.	
Cannock Town Centre Management Partnership Update	Head of Economic Prosperity / Innovation and High Streets Portfolio Leader	09/09/21	No	Yes		

<b>Report of:</b>	<b>Interim Managing Director</b>
<b>Contact Officer:</b>	<b>Steve Partridge</b>
<b>Contact Number:</b>	<b>01543 464 588</b>
<b>Portfolio Leader:</b>	<b>Leader of the Council</b>
<b>Report Track:</b>	<b>Cabinet: 08/07/21</b>

**Cabinet  
8 July 2021  
Enabling Digital / Paperless Meetings and  
Revised Start Times for Calendar of Meetings 2021-22**

**1 Purpose of Report**

- 1.1 To present for Members consideration, proposals to improve accessibility to meetings through accelerated adoption of digital means and moving formal meetings to later start times.

**2 Recommendation(s)**

Cabinet to recommend to Council that:

- 2.1 All Members be provided with a Council laptop or tablet device during the current municipal year. In future, new equipment will be provided upon election or re-election as a councillor.
- 2.2 On provision of a laptop or a tablet device, Members will cease to be entitled to receive a communications allowance.
- 2.3 An assessment is made of the ongoing costs and practicalities of live streaming meetings and reported back to Members for further consideration.
- 2.4 The start times of Cabinet, Scrutiny Committees, Audit & Governance Committee and Standards Committee meetings, as detailed in the Calendar of Meetings 2021-22 approved by Council on 21 April, 2021, be amended to 6.00p.m. with effect from the September/October cycle of meetings. The Chairs of these meetings to be authorised, in consultation with the Joint Chief Executive, to start a meeting earlier where it is necessary to invite external representatives to attend the meeting.
- 2.5 The Chairmen, officers and regular attendees at other Committees, such as Planning and Licensing be consulted on whether it is practicable to change the start time of these committee meetings.

- 2.6 The Joint Chief Executive, as appropriate, in consultation with the Chairman of the Council, relevant Chairmen of Committees and / or Leader of the Council, as appropriate, be authorised to amend the Calendar of Meetings, through convening additional meetings, or the postponement / cancellation of meetings, if required.

### **3 Key Issues and Reasons for Recommendations**

#### **Key Issues**

- 3.1 Approval was given as part of the General Fund Revenue Budget 2021-22 to 2023-24 to remove the Members' Communications Allowance (sometimes referred to as the 'Members' IT Consumables Allowance') on a phased basis over three years and instead provide a laptop or tablet device directly to Members. The phased approach was intended to reflect the Council's 'by thirds' electoral cycle, starting with the May, 2021 elections. However, the Leader has requested that this approach should be accelerated over a shorter period in order to support the move to paperless meetings.
- 3.2 The Council is required by statute to determine the date and time of any meetings of its Committees, Sub-Committees and Panels. While the Calendar of Meetings was agreed at the Council meeting on 21 April, 2021; this report brings forward amended start times for a number of the meetings, which need to be agreed by Council.

#### **Reasons for Recommendations**

##### **Digital / Paperless Meetings**

- 3.3 Proposal were submitted as part of the budget setting process, and through the alternative budget submission, in respect of the provision of technology to support digital working. It was subsequently agreed as part of the budget for 2021-22 onwards that new and re-elected Members would be provided with a laptop or tablet device, together with appropriate training and would not receive the communications allowance. Existing Members would have the option to continue to receive the communications allowance if they so wished or they could opt to receive a new laptop or tablet device and surrender their communications allowance. This provided for a phased approach to providing Members with technology to support their role and digital meetings.
- 3.4 The Leader has expressed a preference for accelerating the rollout of new devices to all Members, whether it be a laptop or tablet device, in the current municipal year as part of a move towards paperless meetings.

##### **Timing of Meetings**

- 3.5 The Council moved the start time of its full Council meetings to 6.00p.m. with effect from February, 2020. Members believe that this has improved accessibility for both Councillors and Members of the public, and want consideration to be given to moving the start times of other formal meetings, including Cabinet; Scrutiny Committees; Audit and Governance Committee; and Standards Committee similarly to 6.00p.m.



- 3.6 The Council is required by statute to determine the date and time of any meetings of its Committees, Sub-Committees and Panels. The Calendar of Meetings was agreed at the Council meeting on 21 April, 2021; and Council will also be required to agree the proposed amended start times.
- 3.7 The previous resolution in respect of delegated authority to convene additional meetings, as well as postpone or cancel meetings as required, has been amended slightly to reflect the position regarding the subsequent appointment of a Joint Chief Executive.

#### **4 Relationship to Corporate Priorities**

- 4.1 Each year the Council agrees its Calendar of Meetings for the forthcoming municipal year, thereby underpinning the administration of the Council's functions and supporting all its Corporate Priorities.

#### **5 Report Detail**

##### **Digital / Paperless Meetings**

- 5.1 The former Managing Director and the then 3 Group Leaders agreed that Member meetings would move to becoming paperless after the Annual Council meeting in May 2017. The following meetings were not included in this proposal:
- Council
  - Planning Control
  - Licensing
- Also:
- Leaders Budget Speeches / Statements
- 5.2 As part of the proposal it was agreed that:
- Members would use their own ICT devices and Council WiFi to access papers via the Members Portal for all other meetings.
  - If specific Members wanted to have paper copies they would be responsible for printing them themselves, using their existing monthly allowance.
  - IT training and support would be provided for Members in advance of the changes being made.
- 5.3 The move to paperless meetings has partially progressed. While Members use of technology for meetings has increased considerably during the pandemic with the temporary move to remote meetings, paradoxically this has also contributed to papers continuing to be produced for the meetings listed in 5.1 and for other meetings. In part this was because it was difficult to view agendas and reports, while trying to participate in the remote meeting. Another factor that has limited progress is the lack of a uniform approach to the provision of suitable IT equipment for Members. This has made it difficult to organise training and provide technical support for Members who are using a wide variety of devices and with varying degrees of ability.

- 5.4 In a move towards the provision of IT equipment for Members, approval was given as part of the General Fund Revenue Budget 2021-22 to 2023-24 to remove the Members' Communications Allowance (sometimes referred to as the 'Members' IT Consumables Allowance') on a phased basis over three years and instead provide a laptop or tablet device directly to Members. The phased approach was intended to reflect the Council's 'by thirds' electoral cycle, starting with the May, 2021 elections. However, the Leader has requested that this approach should be accelerated over a shorter period to support the move to paperless meetings.
- 5.5 The intention would be to supply all Members with a laptop or tablet device in the current municipal year. Assistance in setting up the devices and training in their use will be provided to Members. It should be noted that there may be a delay in the provision of the devices due to a national shortage of laptop and tablet devices.
- 5.6 In future, new equipment will be provided upon election or re-election as a councillor for their term of office. Any equipment supplied to Members this year, who are standing for re-election in the next year or two, will be taken back into the Council's stock of equipment and re-used as appropriate.
- 5.7 The move to provide all Members with equipment in the current year will increase the security when accessing Council information. The laptops will be configured to take advantage of the Council's security systems. These include e-mail filters, website filters, antivirus software and malware monitoring systems. It is expected that the type and number of such systems will change over the life of the devices.
- 5.8 Alongside the provision of a laptop or a tablet device, Members will cease to be provided automatically with papers for Committee meetings, as part of the Council's commitment to climate change. It is appreciated that accessibility issues may mean that some Members need a set of papers and they are still legally entitled to request a set to be sent to them; this will be done on request.
- 5.9 Whilst the provision of laptops and tablet devices is in itself fairly straightforward, the majority of the Council's meetings rooms are not currently configured with sufficient sockets for charging the devices during meetings. A survey will need to be undertaken to assess the practicalities and cost of installing power sockets.

### **Broadcasting of Meetings**

- 5.10 The Local Government Act, 1972 is the primary legislation governing how local authority business is conducted. Under this Act, meetings must be in person and open / accessible to the public, unless there is a legitimate reason to exclude them.
- 5.11 As a result of the coronavirus-led national lockdowns in 2020, the Government recognised the need for greater flexibility to enable local government to continue decision making throughout the crisis. Section 78 of the Coronavirus Act, 2020, and the subsequent Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the Flexibility Regulations"), which came into force on 4 April, 2020, permitted entirely remote meetings to take place until 6 May, 2021. Unfortunately, the Flexibility Regulations were not able to be extended as primary legislation would be required to continue holding meetings remotely. Consequently, since 7 May, 2021, the requirement to hold meetings 'in person' has returned.

- 5.12 While the temporary provisions for remote meetings no longer apply, Members and Officers have seen benefits in the alternative way of working. Although the Government is not making any commitments regarding primary legislation in the short term to permit remote or hybrid meetings, it is, nonetheless, keen that local authorities should continue to broadcast or live-stream meetings.
- 5.13 Although the Council has some audio-visual facilities in the Council Chamber and meeting rooms, these are intended for the purposes of presentations in person, rather than broadcasting or live-streaming. At the moment, meetings are being live-streamed where possible through temporary set-ups of camera and microphone; however, this is by no means an ideal situation.
- 5.14 Further investigation will need to be undertaken to establish the potential costs of a dedicated audio-visual installation for the purposes of web-casting / holding hybrid meetings in the Council Chamber and other meeting rooms. The costs and implications will be reported back in due course to Members.

### **Timing of Meetings**

- 5.15 The start time of Council meetings was changed to 6.00p.m. in February 2020 following a motion to Council on 8 January 2020. Alongside the change to Council meetings, officers were asked to look at the implications of moving other formal Council meetings, including Cabinet, Scrutiny Committees, Audit & Governance Committee and Standards Committee to a start time of 6.00p.m.
- 5.16 This work was put on hold during the pandemic and the move to meetings being held remotely. As meetings have now reverted to being held in person again, it is timely to now consider the wider change to the start time of formal committee meetings.
- 5.17 As detailed in the report to Council on 21 April, 2021, meetings of the Council and its Committees are called in accordance with the Council's Constitution and have been scheduled throughout the year. The purpose and timings of certain meetings is referenced in the previous report and in the Calendar of Meetings. Following requests from Members, it is proposed to move the majority of formal meetings to start at 6.00p.m., with some possible exceptions detailed below.
- 5.18 The Planning Control Committee meets generally every three weeks to determine planning applications within required deadlines. As this meeting may involve applicants / their agents / representatives and / or objectors, it is considered appropriate to keep this meeting during 'office hours', starting at 3.00p.m. until consultation has taken place with relevant parties to establish whether it is practicable to hold these meetings at a later start time.
- 5.19 The Trade Unions Consultative Forum has been scheduled to meet three times during the year. As these meetings include workforce representatives, it is considered appropriate to leave this meeting during 'office hours', starting at 2.00p.m.
- 5.20 Cabinet Briefing and Shadow Cabinet meetings have been scheduled to correspond with planned meetings of the Cabinet. These are informal meetings and the start time can be determined by the Leader of the Council and Leader of

the Opposition, respectively. Both have indicated that they would like to move these meetings to 6.00p.m.

- 5.21 It may also be necessary to convene other meetings throughout the year, such as the Licensing & Public Protection Committee; Licensing Sub-Committee; and the Appeals & Complaints Panel, to deal with relevant matters as and when they arise. Generally, these meetings take place during the day, as this is most convenient for the other parties involved.
- 5.22 Moving the start times of meetings to 6.00p.m. will have an impact on those employees that attend and support the meetings as well as ancillary employees such as ICT staff setting up equipment for live broadcasting and caretakers who are responsible for locking and securing the Civic Offices. Where practicable, employees will need to take compensatory time off through the flexi-time scheme or lieu time. In some instances, it may not be practicable for employees to work their hours flexibly or to take time off in lieu due to the need to maintain service cover and so it may be necessary to pay overtime. In a small number of instances, the change may have an impact on an employee's working pattern that they may find difficult to work to due to personal circumstances e.g. those with childcare or other caring commitments. All employees affected by the proposed changes will need to be consulted.
- 5.23 With the sharing of a Chief Executive and other services, it will be necessary to review the scheduling of some meetings in the current year to avoid clashes with Stafford Borough Council's meetings. Members and officers will be advised of any changes that are necessary. This will be accounted for in future years when preparing the calendar of meetings.

## **6 Implications**

### **6.1 Financial**

Provision for the move to more digital / paperless meetings, was made in the budget setting Council meetings of 10 and 24 February, 2021 phased over 3 years. The budget will need to be re-profiled to allow for the purchase of new equipment and software for all Members in the current year. The costs relating to security software such as antivirus will be met from the existing Shared Technology Service budget.

There may be a small additional financial cost arising from the proposal to amend the start times of meetings where overtime is paid rather than hours being accounted for via the flexi time scheme or through lieu time. It is difficult to quantify this at the current time but costs will be monitored and will be reported back to Members if they cannot be accommodated within existing budgets.

### **6.2 Legal**

Schedule 12, paragraph 4 of the Local Government Act 1972 states that any summons (including notice of the business to be conducted) must be sent by post unless the member give consent to receipt by electronic means. This would apply to all Council committees, as well as full Council (but not Cabinet).

Sch.12, Paragraph 4:

(1A) Five clear days at least before a meeting of a principal council in England—

- (a) notice of the time and place of the intended meeting shall be published at the council's offices and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting; and
- (b) a summons to attend the meeting, specifying the business proposed to be transacted at the meeting, and authenticated by the proper officer of the council, shall be sent to every member of the council by an appropriate method.

(1B) In sub-paragraph (1A)—

- (a) "*authenticated*" means signed or otherwise authenticated in such manner as the proper officer thinks fit; and
- (b) the reference to sending the summons to a member by an appropriate method is to—
  - (i) leaving it at, or sending it by post to the member's usual place of residence, or
  - (ii) where the member has specified an address other than the member's usual place of residence, leaving it at, or sending it by post to that different address, or
  - (iii) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn), sending it in electronic form to that address.]

Under Schedule 12 of the Local Government Act 1972, the Council is required to determine the date and time of any meetings of its Committees, Sub-Committees and Panels.

In accordance with the Local Government Act 2000 and subsidiary legislation, the date and time of Cabinet meetings shall be determined by the Leader of the Council.

### **6.3 Human Resources**

As highlighted in section 5 of the body of the report, employees affected by these proposals will need to be formally consulted accordingly as these proposals will represent a change to their terms and conditions.

Moving to evening meetings will have an impact upon a number of employees of the Council as follows:

Officers (Green Book):

The Council's flexi-time scheme should be used to account for all hours worked between 7.30a.m. and 7.00p.m. Outside of these hours, hours can be accounted for via lieu time or through the payment of overtime.

Contracts of employment state that normal hours for employees are 37 per week (days) and that overtime is payable once the basic 37 hours have been worked. Under the single status agreement, employees graded G or above would be entitled to overtime or compensatory time off at plain time rate for hours worked in excess of 37 per week. Employees graded at F or below would be entitled to payment at time and a half for any hours (in excess of 37) worked between 8.00p.m. and 8.00a.m. Monday to Sunday inclusive.

Heads of Service and Above:

Heads of Service and above are not entitled to overtime under the JNC Chief Officers amended terms agreement for this group of employees. In addition, the agreement says that any requirement for additional hours working beyond the standard 37 hours per week are reflected in the salary of the post and no further payments will be made. Consequently, moving to evening meetings means that any HOS or above will not receive any additional payment or compensatory time off if required to attend evening work on a more frequent basis. However, consideration would need to be given to limits to working hours as specified in the working time regulations which should not exceed an average of 48 per week.

Members

Whilst clearly consideration is being given to moving to evening meetings as a means of better accommodating attendance by those Members that are in paid employment, it is important to remember that for those who do work they have statutory rights to reasonable time off for public duties. These rights are enshrined within Section 50 of the Employment Rights Act 1996.

#### **6.4 Risk Management**

None.

#### **6.5 Equality & Diversity**

None.

#### **6.6 Climate Change**

Reducing the amount of paper used for Committee meetings will contribute towards the Council's commitment to Climate Change. However, this may be offset by additional heating and lighting costs if meetings are moved to take place outside of normal office hours.

<b>7 Appendices to the Report</b>
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None.

<b>Report of:</b>	<b>Head of Environment &amp; Healthy Lifestyles</b>
<b>Contact Officer:</b>	<b>Jennifer Sheffield</b>
<b>Contact Number:</b>	<b>01543 464 488</b>
<b>Portfolio Leader:</b>	<b>Environment &amp; Climate Change</b>
<b>Key Decision:</b>	<b>Yes</b>
<b>Report Track:</b>	<b>Cabinet: 08/07/21</b>

**Cabinet**  
**8 July 2021**  
**Extension of Public Space Protection Order (Dog Control) 2018**

**1 Purpose of Report**

- 1.1 To seek Cabinet approval both to extend the existing Cannock Chase District Council Public Space Protection Order (Dog Control) 2018 ('the Dog Control Order') for a further three years and to approve consultation on a varied Order.

**2 Recommendation(s)**

- 2.1 To approve a three-year extension to the existing Dog Control Order (attached as Appendix A).
- 2.2 To instruct the Interim Head of Environment & Healthy lifestyles to carry out a further consultation on the varied Order (Attached as Appendix B) and to report back to Cabinet once this is completed.

**3 Key Issues and Reasons for Recommendations**

**Key Issues**

- 3.1 The Dog Control Order imposes various requirements on owners of dogs in relation to dog fouling, dogs on leads and dog exclusions (from childrens' play areas etc.). Since the Order came into effect in July 2018, the Council has received 250 complaints related to dog fouling and 199 in relation to stray dogs not on leads. Given these continuing complaints, it is considered important to have sanctions for offenders and it is therefore proposed to extend the Order for a further three-year period.

## Reasons for Recommendations

- 3.2 Unless it is extended, the current Order will cease to have effect after midnight on 26 July 2021.
- 3.3 As a result of the initial consultation, the existing Order has been amended to include fenced multi-use games areas and fenced tennis courts. The list of play areas has also been updated. Although these changes are relatively minor, legislation requires that any proposed variation to the existing Order must be consulted on. Therefore, Cabinet approval is sought for a further, 14 day, consultation on the varied Order.

## 4 Relationship to Corporate Priorities

- 4.1 This report supports the Council's Corporate Priorities as follows:

(i) Supporting Economic Recovery

Ensuring controls remain over anti-social dog ownership behaviour in our town centres and neighbourhoods will contribute to retaining and attracting customers and visitors;

(ii) Supporting Health & Wellbeing

The extension of the Dog Control Order will provide a continuing deterrent to offenders, ensure anti-social dog ownership in our parks and open spaces can be tackled and provide reassurance to residents and visitors they can use such spaces for exercise and recreation safely.

## 5 Report Detail

- 5.1 Public Space Protection Orders (PSPOs) were introduced under the Anti-social Behaviour, Crime and Policing Act 2014. PSPOs are intended to deal with a particular nuisance or a problem in a specific area that is detrimental to the local community's quality of life. By imposing conditions on the use of that area which apply to everyone, PSPOs allow people to enjoy public spaces, free from anti-social behaviour. Restrictions should focus on certain behaviours and be proportionate to the detrimental effect the behaviour can cause.
- 5.2 Local councils are responsible for making PSPOs on any public space within their own area. Public space includes any area to which the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 5.3 Whilst PSPOs cannot in isolation eliminate a particular problem, they are used in conjunction with awareness and educational measures to reduce incidence of Anti-social Behaviour and provide a means to impose sanctions on identified offenders.



#### 5.4 Legal tests

The legal tests focus on the impact of the anti-social behaviour. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space meets the following legal tests:

- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality.
- is, or is likely to be, persistent or continuing in nature.
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

#### 5.5 Controlling the presence of dogs

PSPOs can be used to tackle anti-social behaviour from irresponsible dog owners. When restricting the use of certain areas, Councils should take into account the requirements under the Animal Welfare Act 2006 where owners are required to provide for the welfare needs of their animals. This includes providing the necessary amount of exercise each day, so Councils should not attempt to exclude dogs from all open spaces.

5.6 On 14 June 2018, Cabinet declared the current Dog Control Order. This Order came into effect on 27 July 2018 and imposed the following requirements on owners / persons in control of dog(s):

- To pick up and remove dog faeces in the event of fouling;
- To keep dogs on leads when on roads / carriageways and adjoining footpath verges within 3 metres of the highway;
- To place dogs on leads when instructed to do so by authorised officer or police officer;
- To exclude dogs from fenced children's play areas;
- To be in control of no more than 6 (six) dogs at any one time

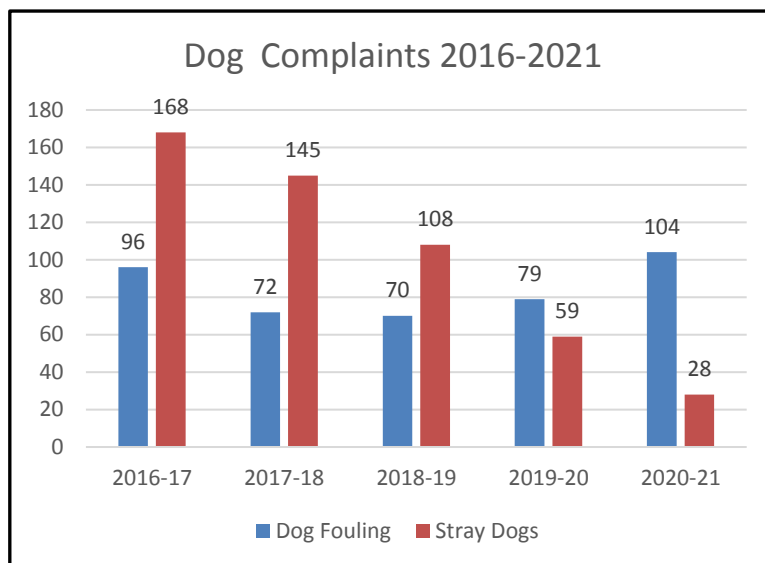
The above prohibitions and requirements do not apply to those in control of assistance dogs.

The current Order is due to expire after midnight on 26 July 2021, unless it is extended.

## Item No. 7.4

5.7 The table and graph below show numbers of dog fouling & straying complaints received by Environmental Health over each of the last 5 years, both before and after the introduction of the Order.

YEAR	COMPLAINT NUMBERS	
	FOULING	STRAY DOGS
2016-17	96	168
2017-18	72	145
2018-19	70	108
2019-20	79	59
2020-21	104	28



There has been a steady downward trend in complaints of stray dogs over this period from 168 in 2016-17 to just 28 in 2020-21 (though data for 2020-21 may clearly have been influenced by national lockdown, with households restricted in their movements and more likely to retain control of their animals). Dog fouling complaints have fluctuated over this period, averaging 84 per annum, with the highest number of 104 being received during 2020-21. Again, this increase could be due to lockdown, with a growing trend for dog ownership and individuals spending more time in their locality, so more likely to notice incidents of fouling.

## 5.8 Consultation and Key Outcomes

Where a local authority wishes to extend the period for which a PSPO has effect, or to vary an Order, Section 72 of the ASB Act imposes certain requirements in relation to consultation and notification, namely to consult:

- (i) the Chief Officer of Police and the Local Policing Body for the area;
- (ii) whatever community representatives the local authority thinks it appropriate to consult

and to notify:

- (i) the parish, town or community council for the area
- (ii) the County Council for the area if the authority is a district council;

Prior to the implementation of the current Dog Control Order an eight week public consultation exercise was conducted in July-August 2017, followed by a further six week consultation during November -December 2017.

In May 2021, a 14-day consultation and notification exercise was carried out in line with the above requirements to establish whether there were any significant issues requiring further consideration.

As part of the consultation disability interest groups were contacted direct. In addition, the consultation was published on the Council’s website and on social media.

A total of four responses were received from statutory consultees, and one from a member of the public, all of which overwhelmingly supported the extension of the Dog Control Order. A further, detailed response received from the Kennel Club made several comments including:

- concerns over the offence of not producing a receptacle for dog waste and responsible owners’ ability to comply
- support for the “on lead by direction” requirement
- Appropriateness of stipulating maximum number of dogs to be walked at one time
- Signage requirements
- Definition of “assistance dogs”.

All responses received are appended to this Report as Appendix C.

In addition, the Council’s Parks & Open Spaces Manager requested an update to the children’s play area locations in Schedule 1 and that the Order and Schedule 1 be amended to include fenced multi-use games areas and tennis courts to the areas from which dogs are excluded.

As the original Order has now been varied, the legislation requires that a further consultation exercise now be carried out, in line with the process above, this time on the Order as varied.

Therefore, this report seeks Cabinet approval both to extend the original Order and to consult for a further 14 day period on the Order as varied.

## **6 Implications**

### **6.1 Financial**

None.

### **6.2 Legal**

The requirement to undertake the necessary consultation in relation to the proposed extension of the Dog PSPO has been met and will not therefore pose a risk of legal challenge. However, since the original Order has now been varied, legal advice is that a further consultation must be carried out.

Remaining legal matters are covered in the main body of the report.

**6.3 Human Resources**

The enforcement of the requirements has been met for the last three years using the existing resources within the Environmental Protection Team. No additional resources are required.

**6.4 Risk Management**

None.

**6.5 Equality & Diversity**

An Equality Impact Assessment has been undertaken which identified that some vulnerable groups, for example those with a physical disability, wheelchair users and those with a learning difficulty, may be adversely impacted by the requirements of the Order. In response to these findings, the Order provides important safeguards for persons with disabilities in that, firstly, the Order does not apply at all to a person with a disability who is accompanied by an assistance dog and , secondly, the Order provides a defence of “reasonable excuse” in respect of any failure to comply with requirements. In applying the provisions of the Order, the extent to which an individual’s ability to comply is influenced or affected by a disability, will always form part of any decision on whether there is a defence of reasonable excuse.

**6.6 Climate Change**

None

<b>7 Appendices to the Report</b>
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Appendix A: Existing Dog PSPO

Appendix B: Varied Dog PSPO

Appendix C Consultation Responses received

**Previous Consideration**

Public Spaces Protection Order (Dog Control) Declaration Report – Cabinet – 14/06/18

**Background Papers**

None.

## **PUBLIC SPACES PROTECTION ORDER (DOG CONTROL) 2018**

### **The Cannock Chase District Council Public Spaces Protection Order (Dog Control) 2018**

This Order is made by Cannock District Council ("the Authority") under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, because it appears to the Authority that a Public Spaces Protection Order would reduce dog related anti-social behaviour taking place in the District.

This Order may be cited as the Cannock Chase District Council Public Spaces Protection Order (Dog Control) 2018.

The Council is satisfied that the conditions required for the introduction of a Public Spaces Protection Order have been met, in that:

(a) activities carried on in the relevant areas as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect;

(b) the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order.

#### **BY THIS ORDER**

The effect of the Order is to impose the following requirements at all times:-

#### **1 Dog Fouling**

1.1 This Article applies to any land within the District of Cannock Chase which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order land which is open to the air on at least one side is to be treated as land which is open to the air. The order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.

1.2 If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence, unless-

(a) that person has a reasonable excuse for not doing so; or

- (b) the owner, occupier or other person or authority having control of the land has consented (generally and specifically) to his/her failure to do so.
- 1.3 If a person who is in charge of a dog does not have or produce when requested by an authorised person, a receptacle for picking up dog faeces, that person shall be guilty of an offence.
- 1.4 A receptacle is defined as any object capable of holding faeces pending its proper disposal.
- 1.5 For the avoidance of doubt if the person in charge of the dog fails to dispose of the faeces in a suitable bin provided for this specific purpose, or generally for the disposal of waste that person is guilty of an offence.
- 1.6 For the purpose of this Article –
  - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
  - (b) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;

## **2 Dogs on Leads**

- 2.1 This Article applies to all carriageways and adjoining footpath verges within 3 metres of such carriageways within the District of Cannock Chase. The Order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.
- 2.2 Any person in charge of a dog, at any time, who -
  - (i) fails to keep the dog on a lead in the specified areas, or
  - (ii) fails to put the dog on a lead when instructed to do so by an authorised person,shall be guilty of an offence unless—
  - (a) he has a reasonable excuse for failing to do so; or
  - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- 2.3 For the purposes of this Article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
- 2.4 For the purposes of this Article a lead shall be no more than 2 (two) metres in length.

**3 Dog Exclusion**

- 3.1 This Article applies to all children's play areas specified in Schedule 1 of this Order.
- 3.2 A person in charge of a dog shall be guilty of an offence if that person takes the dog onto, or permits the dog to enter or to remain within a fenced children's play area specified in Schedule 1 to this Order unless –
- a) the person has a reasonable excuse for doing so; or
  - b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- 3.3 For the purposes of this Article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

**4 Maximum Number of dogs**

- 4.1 This Article applies to any land within the District of Cannock Chase which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order land which is open to the air on at least one side is to be treated as land which is open to the air. The Order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.
- 4.2 The maximum number of dogs a person is permitted to be in control of on land to which this Order applies is 6 (six).
- 4.3 Any person in charge of more than one dog shall be guilty of an offence, if, at any time, that person takes more than the number of dogs specified in Article 4.2 on to land to which this Order applies unless –
- a) the person has a reasonable excuse for doing so; or
  - b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- 4.4 For the purposes of this Article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
5. The provisions of this Order shall not apply to a person with a disability who is accompanied by an assistance dog.
- 5.1 A person with a disability is defined under section 6(1) of the Equality Act 2010 (as amended) as a person with –
- (a) a physical or mental impairment, and

- (b) the impairment has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.

5.2 An assistance dog is defined under section 173(1) of the Equality Act 2010 (as amended) as –

- (a) a dog which has been trained to guide a blind person;
- (b) a dog which has been trained to assist a deaf person;
- (c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects; or
- (d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind.

**PENALTIES**

- 6.1 A person who is guilty of an offence of failing to comply with a requirement of this Order will be liable on summary conviction to a fine not exceeding Level 3 on the Standard Scale (currently £1,000) or if in receipt of a Fixed Penalty Notice to a penalty of £100.
- 6.2 A person commits an offence if he fails to give his name and address when required to do so by an authorised person, or gives a false or inaccurate name or address to a person so authorised, when the authorised person proposes to give a person a Fixed Penalty Notice for failing to comply with a requirement of this Order. On summary conviction a person will be liable to a fine not exceeding Level 3 on the Standard Scale (currently £1,000).

Given under the Common Seal of Cannock Chase District Council

this 27th day of July 2018

The **COMMON SEAL** of  
**CANNOCK CHASE DISTRICT COUNCIL**  
was hereunto affixed in the presence of:-

S. Baddley  
Authorised Officer





## Schedule 1

Fenced children's play areas and other areas from which dogs are to be excluded:

Arthur Street	Wimblebury
Bettys Lane	Norton Canes
Boston Close	Heath Hayes
Brownhills Road	Norton Canes
Chapel Street	Norton Canes
Hayes Way	Heath Hayes
Heath Hayes Park	Heath Hayes
Hednesford Park	Hednesford
Lingfield Road	Norton Canes
Meadow Way	Heath Hayes
St. Thomas Drive	Rawnsley
West Gate	Rawnsley
Williamson Avenue	Prospect Village
Bond Way	Pye Green
Bracken Close	Brindley Heath
Chester Road	Cannock
Cotswold Road	Pye Green
Elizabeth Way	Cannock
Elmore Park	Rugeley
Flaxley Road	Rugeley
Fortesque Drive	Rugeley
Green Lane	Rugeley
Hagley Skate Board Area	Rugeley
Hillary Crest	Rugeley
Jeffery Close	Rugeley
Ravenhill Park	Brereton
Rugeley Leisure Centre	Rugeley
Swallow Close	Rugeley
Barnard Way	Cannock
Bevan Lee Road	Cannock
Bunyan Place	Cannock
Cannock Park	Cannock
Monarch Park	Cannock
Oxford Green	Cannock
The Stadium	Cannock
Laburnum Ave	Cannock
Oxford Road	Cannock
Union Street	Bridgetown
Wellington Drive	Cannock
Wrights Avenue	Cannock

## **Public Space Protection Order (Dog Control) 2018 (as varied)**

### **Cannock Chase District Council Public Space Protection Order (Dog Control) 2018**

This Order is made by Cannock Chase District Council (“the Authority”) under Section 59 of the Antisocial Behaviour Crime and Policing Act 2014, because it appears to the Authority that a Public Space Protection Order would reduce dog related anti-social behaviour taking place in the District.

The Council is satisfied that the conditions required for the introduction of a Public Space Protection Order have been met, in that :

(a) activities carried on in the relevant areas as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect;

(b) the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order..

### **BY THIS ORDER**

The effect of the Order is to impose the following requirements at all times:-

#### **1 Dog Fouling**

1.1 This Article applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order land which is open to the air on at least one side is to be treated as land which is open to the air. The Order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.

1.2 If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence, unless-

(a) that person has a reasonable excuse for not doing so; or

(b) the owner, occupier or other person or authority having control of the land has consented (generally and specifically) to his/her failure to do so.

1.3 If a person who is in charge of a dog does not have or produce when requested by an authorised person, a receptacle for picking up dog faeces, that person shall be guilty of an offence.

- 1.4 A receptacle is defined as any object capable of holding faeces pending its proper disposal.
- 1.5 For the avoidance of doubt if the person in charge of the dog fails to dispose of the faeces in a suitable bin provided for this specific purpose, or generally for the disposal of waste that person is guilty of an offence
- 1.6 For the purpose of this article –
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
  - (b) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;

## **2 Dogs on leads**

2.1 This article applies to all carriageways and adjoining footpath verges within 3 metres of such carriageways within the District of Cannock Chase. The Order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.

2.2 Any person in charge of a dog, at any time, who

- (i) fails to keep the dog on a lead in the specified areas, or
- (ii) fails to put the dog on a lead when instructed to do so by an authorised person,

shall be guilty of an offence unless–

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

2.3 For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

2.4 For the purpose of this clause a lead shall be no more than 2 (two) metres in length

## **3 Dog Exclusion**

3.1 This article applies to all children's play areas, tennis courts and multi-use games areas specified on Schedule 1 of this Order.

3.2 A person in charge of a dog shall be guilty of an offence if that person takes the dog onto, or permits the dog to enter or to remain within a fenced children's play

area, tennis court or multi-use games area specified detailed in the Schedule to this Order unless –

- a) the person has a reasonable excuse for doing so; or
- b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

#### **4 Maximum Number of dogs**

4.1 This article applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order land which is open to the air on at least one side is to be treated as land which is open to the air. The order does not apply to land put at the disposal of the Forestry Commissioners under Section 39 of the Forestry Act 1967.

4.2 The maximum number of dogs a person is permitted to be in control of on land to which this Order applies is **(6) (six)**

4.3 Any person in charge of more than one dog shall be guilty of an offence, if, at any time, that person takes more than the number of dogs specified in article 4.2 on to land to which this Order applies unless –

- a) the person has a reasonable excuse for doing so; or
- b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

#### **5. Exemptions**

5.1 The provisions of this order shall not apply to a person with a disability who is accompanied by an assistance dog.

5.2 A person with a disability is defined under section 6(1) of the Equality Act 2010 (as amended) as a person with –

- (a) a physical or mental impairment, and
- (b) the impairment has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.

5.3 An assistance dog is defined under section 173(1) of the Equality Act 2010 (as amended) as –

- (a) a dog which has been trained to guide a blind person;
- (b) a dog which has been trained to assist a deaf person;
- (c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects; or

(d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind.

**6 Penalties**

- 6.1 A person who is guilty of an offence of failing to comply with a requirement of this Order will be liable, on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000) or if in receipt of a Fixed Penalty Notice to a penalty of £100.
- 6.2 A person commits an offence if he fails to give his name and address when required to do so by an authorised person, or gives a false or inaccurate name or address to a person so authorised, when the authorised person proposes to give a person a Fixed Penalty Notice for failing to comply with a requirement of this Order. On summary conviction a person will be liable to a fine not exceeding Level 3 on the standard scale (currently £1,000).

Given under the Common Seal of Cannock Chase District Council on the.....day of.....2021

**The COMMON SEAL of  
CANNOCK DISTRICT COUNCIL**  
was hereunto affixed in the presence of:-

.....  
Authorised Signatory

## Schedule 1

**Fenced Children`s play areas and multi-use games areas / tennis courts from which dogs are to be excluded.**

Arthur Street	Wimblebury
Barnard Way	Heath Hayes
Bettys Lane	Norton Canes
Bevan Lee Road	Cannock
Bond Way	Pye Green
Bonney Drive	Rugeley
Boston Close	Heath Hayes
Bracken Close	Brindley Heath
Brownhills Road	Norton Canes
Bunyan Place	Cannock
Burnthill Lane	Rugeley
Cannock Park	Cannock
Cannock Stadium X2	Cannock
Chapel Street	Norton Canes
Chester Road	Hagley
Cotswold Road	Pye Green
Curlew Hill	Cannock
Elizabeth Road	Cannock
Elmore Park	Rugeley
Flaxley Road	Rugeley
Green Lane	Rugeley
Hagley Skate Board Area	Rugeley
Hayes Way	Heath Hayes
Heath Hayes Park	Heath Hayes
Hednesford Park	Hednesford
Laburnum Ave	Cannock
Lingfield Road	Norton Canes
Meadow Way	Heath Hayes
Northend Park	Rugeley
Oxford Green	Cannock
Oxford Road	Cannock
Patterdale Road	Cannock
Ravenhill Park	Rugeley
Rugeley Leisure Centre	Rugeley
St. Thomas Drive	Rawnsley
Union Street	Bridgtown
Wellington Drive	Cannock
West Gate	Rawnsley
Williamson Avenue	Prospect Village
Winstanley Close	Rugeley
Wrights Avenue	Cannock



## The Kennel Club's Response to Cannock Chase District Council Public Spaces Protection Order Consultation

Submitted on 20<sup>th</sup> May 2021 by: The Kennel Club, Clarges Street, Piccadilly, London W1J 8AB, email: [kcdog@thekennelclub.org.uk](mailto:kcdog@thekennelclub.org.uk)

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare, and training. Our objective is to ensure that dogs live healthy, happy lives with responsible owners. We campaign for and advocate on behalf of dogs and their owners and, as part of our external affairs activities, engage with local authorities on issues such as Public Spaces Protection Orders (PSPOs). We also run KC Dog, the UK's largest dog owners group, which was established to campaign against unreasonable access restrictions for dog owners and to monitor emerging access-related issues.

The Kennel Club is the only national organisation named by the UK Government as a body that local authorities should consult prior to introducing restrictions on dog walkers and is considered the leading canine authority on dog access. As such, we would like to highlight the importance of ensuring that PSPOs are necessary and proportionate responses to problems caused by dogs and irresponsible owners. We also believe that it is essential for authorities to balance the interests of dog owners with the interests of other access users.

### **Response to proposed measures**

#### **Dog fouling**

The Kennel Club strongly promotes responsible dog ownership, and believes that dog owners should always pick up after their dogs wherever they are, including fields and woods in the wider countryside, and especially where farm animals graze to reduce the risk of passing Neospora and Sarcocystosis to cattle and sheep respectively.

We would like to take this opportunity to encourage the local authority to employ further proactive measures to help promote responsible dog ownership throughout the local area in addition to introducing Orders in this respect.

These proactive measures can include: increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog faeces can be disposed of in normal litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog.

#### **Means to pick up**

Whilst we support proactive efforts on behalf of local authorities to encourage responsible dog ownership, measures to require owners to pick up after their dogs must be fair and proportionate. We would not like to see responsible dog owners penalised unfairly.

The Kennel Club has concerns regarding the proposal to introduce an offence of not having the means to pick up. Responsible owners will usually have dog waste bags or other means to clear up after their pets. However, if dog owners are approached at the end of a walk they may have already used the bags that they have taken out or given a spare bag to someone who has run out, for example. Such behaviour is encouraged by Green Dog Walker schemes.



## THE KENNEL CLUB

It is also plausible that such proposals could, in certain circumstances, perversely incentivise dog walkers to not pick up after their dog. Dog walkers could be made to decide between using their final waste bag and risk being caught without means to pick up, or risk not picking up in order to have a means to pick up should they be stopped later on their walk. It is reasonable to assume a proportion of dog walkers would choose the second option if they believed this was the least likely route to being caught, especially if the penalty for not picking up was the same as not being in possession of a means to pick up. Local authorities may wish to consider introducing a clause which provides an exemption for those who have run out of bags but are able to prove that they were in possession of and made use of these during their walk.

It is essential that an effective communication campaign is launched in the local area to ensure that people are aware of the plans and have an excess supply of dog waste bags with them. Additionally, appropriate signage should be erected to inform that those who are not familiar with the local rules are not unfairly caught out.

The most effective spot checks that the local authority could carry out are those which catch offenders in the act of not picking up, rather than guessing behaviour on the basis of what dog owners are or are not carrying with them. For example, in the absence of waste bags, owners trying to flout the measures could theoretically point to any number of items on their person that they intend to use. This is likely to be a problem with the 'receptable', as defined in article 1.4 of the PSPO. This gives rise to concerns about the ease with which local authorities could successfully enforce this law when trying to define whether or not dog owners have a means of picking up. Alternatively, an irresponsible owner looking to avoid a fine could simply tie one bag to their dog's lead or collar but not actually use it.

Cornwall Council considered introducing a similar means to pick up measure, but subsequently decided against doing so as they deemed it to be disproportionate and concluded that the requirement would be 'toothless', as it would be highly unlikely to be enforceable in a magistrates court.

If the Council proceeds to introduce such a measure, it is essential it provides greater clarity to dog walkers on how to comply with the Order.

### Exclusion

The Kennel Club does not typically oppose Orders to exclude dogs from playgrounds or enclosed recreational grounds, such as skate parks, tennis courts, or beaches and promenades, as long as alternative provisions are made for dog walkers in the vicinity. Children and dogs should be able to socialise together quite safely under adult supervision, with having a child in the home the biggest predictor for a family owning a dog.

We can support reasonable 'dogs on lead' Orders which can, when used in a proportionate and evidence-based way, include areas such as cemeteries, picnic areas, or on pavements in proximity to cars and other road traffic.

However, we will oppose PSPOs which introduce blanket restrictions on dog walkers accessing public open spaces without specific and reasonable justification. Dog owners are required to provide their dogs with appropriate daily exercise, including "regular opportunities to walk and run", which in most cases will be off lead while still under control.





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Their ability to meet this requirement is greatly affected by the amount of publicly accessible parks and other public places such as beaches and promenades in their area where dogs can exercise without restrictions. This section of the Animal Welfare Act was included in the statutory guidance produced for local authorities by the Home Office on the use of PSPOs.

Accordingly, the underlying principle we seek to see applied is that dog controls should be the least restrictive to achieve a given defined and measurable outcome; this is the approach used by Natural England. In many cases, a seasonal or time of day restriction will be effective and the least restrictive approach, rather than a blanket year-round restriction. For instance, a “dogs on lead” order for a picnic area is unlikely to be necessary in mid-winter.

The Government provided clear instructions to local authorities that they must provide restriction free sites for dog walkers to exercise their dogs. This message was contained in the guidance document for DCOs, and has been retained in both the Defra/Welsh Government and Home Office PSPO guidance documents, with the Defra guidance for PSPOs stating ‘local authorities should ensure there are suitable alternatives for dogs to be exercised without restrictions’.

### **On lead by direction**

The Kennel Club strongly welcomes ‘On lead by direction’ Orders. These allow responsible dog owners to exercise their dogs off lead without restriction providing their dogs are under control, whilst simultaneously giving the local authority powers to restrict dogs not under control.

We recommend that the authorised officer enforcing the Order is familiar with dog behaviour in order to determine whether restraint is necessary. There exists the possibility that a dog, through no fault of its own, could be considered a ‘nuisance’ or ‘annoyance’ to someone who simply does not like dogs.

We encourage local authorities to make use of more flexible and targeted measures at their disposal, including Acceptable Behavioural Contracts and Community Protection Notices. Kennel Club Good Citizen Training Clubs and our accredited trainers can assist owners whose dogs run out of control due to them not having the ability to train a reliable recall.

### **Maximum number of dogs a person can walk**

We feel that an arbitrary maximum number of dogs a person can walk is an inappropriate approach to dog control that can result in displacement and subsequently intensify problems in other areas. The maximum number of dogs a person can walk in a controlled manner is dependent on a number of other factors relating to the walker, the dogs being walked, whether leads are used, and the location where the walking is taking place. An arbitrary maximum number can also legitimise and encourage people to walk dogs up to the specified limit, even if at a given time or circumstance they cannot control that number of dogs.

We thus suggest instead that defined outcomes are used to influence people walking one or more dogs – domestically or commercially – such as dogs always being under control or on lead in certain areas. An experienced dog walker, for example, may be able to keep a large number of dogs under control during a walk whilst an inexperienced private dog owner may struggle to keep one dog under control. Equally, the size and training of dogs are key factors,



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hence why an arbitrary maximum number is inappropriate. The Kennel Club would recommend the local authority instead uses the 'dogs on lead by direction' measures and other targeted approaches – including Acceptable Behaviour Contracts and Community Protection Orders – to address those who do not have control of the dogs that they are walking.

A further limitation of this proposed measure is that it does not prevent people with multiple dogs walking together at a given time, while not exceeding the maximum number of dogs per person. Limits may also encourage some commercial dog walkers to leave excess dogs in their vehicles, causing severe animal welfare concerns.

If the proposed measure is being considered as a result of issues arising from commercial dog walkers, we suggest councils instead look at accreditation schemes that have worked successfully in places like East Lothian. These can be far more effective than numerical limits as they can promote good practice rather than simply curbing the excesses of just one aspect of dog walking. Accreditation can also ensure dog walkers are properly insured and act as advocates for good behaviour by other dog owners.

### Appropriate signage

It is important to note that in relation to PSPOs, The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 makes it a legal requirement for local authorities to –

“cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to -

- (i) the fact that the order has been made, extended or varied (as the case may be); and
- (ii) the effect of that order being made, extended or varied (as the case may be).”

### Assistance dogs

The Kennel Club welcomes the exemptions proposed in this Order for assistance dogs. We urge the Council to review the Equality and Human Rights Commission's guidance for businesses and service providers when providing any exemptions for those who rely on assistance dogs. The guidance can be viewed here:

<https://www.equalityhumanrights.com/sites/default/files/assistance-dogs-a-guide-for-all-businesses.pdf>

However, we would suggest further consideration of the wording contained within the Order, specifically with reference to 'prescribed charity' and 'prescribed category'. While a proportion of assistance dogs relied upon by disabled people are trained by charities, many are not. A number of reputable assistance dog providers are members of Assistance Dogs UK. This umbrella group currently has eight member organisations, which can be viewed here: <http://www.assistancedogs.org.uk/>. It is important to note that the membership of Assistance Dogs UK is not a definitive list of all UK assistance dog organisations and may change during the currency of the PSPO. It also does not provide for owner trained assistance dogs.



We therefore encourage the Council to allow for some flexibility when considering whether a disabled person's dog is acting as an assistance dog. The Council could consider adopting the definitions of assistance dogs used by Mole Valley District Council, which can be found here:

[https://www.molevalley.gov.uk/media/pdf/1/b/83072 - Completed PSPO.pdf](https://www.molevalley.gov.uk/media/pdf/1/b/83072_-_Completed_PSPO.pdf)

or that of Northumberland County Council:

"(4) The term "Assistance Dog" shall mean a dog which has been trained to assist a person with a disability.

(5) The expression "disability" shall have the meaning prescribed in section 6 of the Equality Act 2010 or as may be defined in any subsequent amendment or re-enactment of that legislation".

**Subject:** FW: DOG CONTROL ORDER

**From:**

**Sent:** 20 May 2021 10:51

**To:** Environmental Health CCDC

**Subject:** DOG CONTROL ORDER

Hi

Heath Hayes & Wimblebury Parish Council support the extension of the following Order:

Anti-social Behaviour, Crime and Policing Act 2014

Cannock Chase District Council, Extension of Public Space Protection Order (Dog Control) 2018

The Council would like to ask how can the order be enforced further? What is the best way for a member of the public to raise or report issues within their area?

Kind Regards

Laurie Bowman  
Parish Clerk & RFO



Hayes Green Community Centre  
11 Hawks Green District Centre  
Heath Way  
Heath Hayes  
Staffs  
WS12 3XP

**Subject:** FW: Dog Control Orders

**From:**

**Sent:** 18 May 2021 16:25

**To:** Environmental Health CCDC

**Subject:** Dog Control Orders

**Further to your letter regarding the above issue and your intention to renew the Dog Control Order, Bridgtown Parish Council support this proposal**

**Kind regards**

**Janine Arm**  
**Clerk to Bridgtown Parish Council**

**Subject:** FW: Dog Control Order

**From:**

**Sent:** 27 May 2021 10:55

**To:** Environmental Health CCDC

**Subject:** Dog Control Order

Hi David,

I write on behalf of Ben Adams, Police, Fire and Crime Commissioner for Staffordshire in response to your proposal to extend the Cannock Chase Public Space Protection Order (Dog Control) 2018.

Based upon the data provided in your letter we received and the desire of Staffordshire Police to have this Order remain in place we are happy to support these continuing measures.

Kind Regards,  
Laura

**Laura Price**  
Policy and Research Officer



 [www.staffordshire-pfcc.gov.uk](http://www.staffordshire-pfcc.gov.uk)

 Staffordshire Police HQ, Block 9, Weston Road, Stafford, ST18 0YY

**Subject:** FW: Dog Control Order

**From:**

**Sent:** 20 May 2021 16:30

**To:** Environmental Health CCDC

**Subject:** Dog Control Order

Please renew this order then enforce it!

<b>Report of:</b>	<b>Head of Environment &amp; Healthy Lifestyles</b>
<b>Contact Officer:</b>	<b>David Prosser-Davies</b>
<b>Contact Number:</b>	<b>01543 464 202</b>
<b>Portfolio Leader:</b>	<b>Housing, Heritage &amp; Leisure</b>
<b>Key Decision:</b>	<b>No</b>
<b>Report Track:</b>	<b>Cabinet: 08/07/21</b>

**Cabinet**  
**8 July 2021**  
**Private Sector Housing – Mobile Home Site Licensing**  
**Fit and Proper Person Implementation**

**1 Purpose of Report**

- 1.1 To inform Cabinet of the introduction of the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, (“the Regulations”) which implement a fit and proper person test for licence holders of relevant protected permanent mobile home sites.
- 1.2 To seek Cabinet endorsement of the Fit and Proper Person Fees Policy prepared by Officers;
- 1.3 To seek Cabinet approval and adoption of the Fit and Proper Person Determination Policy;

**2 Recommendation(s)**

- 2.1 That Cabinet endorses the Fit and Proper Person Fees Policy set out in Appendix A.
- 2.2 That Cabinet adopts the Fit and Proper Person Determination Policy set out in Appendix B;
- 2.3 That Cabinet instructs the Interim Head of Environment & Healthy lifestyles to implement all arrangements necessary to receive and determine applications and to create the Fit & Proper Person public register.
- 2.4 That the Interim Head of Environment & Healthy Lifestyles be authorised to review and make any amendments to these arrangements in the interests of operational efficiency and / or due to changes in legislation or government guidance.

### 3 Key Issues and Reasons for Recommendations

#### Key Issues

- 3.1 On 01 July 2021 new Regulations, the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, (“the Regulations”) came into force. The Regulations require owners and managers of most residential caravan parks in England to be registered as a ‘fit and proper’ person.
- 3.2 The Council are accordingly required to introduce a fit and proper person test for site owners, or managers (unless they are eligible for an exemption under the Regulations) and to set up and maintain a public register of such persons. The Council will have to set up an application process, determine fees and adopt a ‘fit and proper’ determination policy.
- 3.3 The Regulations come into force in two parts. The first part (enabling applications to be made) came into effect on 01 July 2021 and allows until 30 September 2021 (3 months) for owners and managers to submit applications and for local authorities to determine these and set up a ‘fit and proper persons’ register. Given the number of sites in the District there are no anticipated difficulties in ensuring all applications are received and determined by the September deadline.
- 3.4 The second part comes into effect on 01 October 2021 and makes it a criminal offence from that date to operate a site unless registered by the local authority as a fit and proper person. There are potentially serious sanctions for non-compliance.

#### Reasons for Recommendations

- 3.5 Approval of the recommendations in this report will provide Officers with the necessary framework for administration of these new statutory requirements. Should Cabinet approve the recommendations, Officers will contact with all site owners in the District to advise on the process for making and determining applications and for inclusion in the register.

### 4 Relationship to Corporate Priorities

- 4.1 This report supports the Council’s Corporate Priorities as follows:

- (i) Supporting Economic Recovery

Unsuitable persons are not permitted to operate mobile home sites, so ensuring legitimate operators are protected and that criminals or those deemed otherwise unsuitable do not gain an unfair competitive business advantage.

- (ii) Supporting Health & Wellbeing

The health, safety and wellbeing of individuals living in mobile homes, many of whom are vulnerable, is protected from illegal or corrupt practices,

including harassment and illegal eviction, forced sale, disconnection of utilities etc.

(iii) Financially Resilient Council

The costs of administering the regime are recovered through application fees, so are not subsidised by local Council Tax payers or the local authority;

<b>5 Report Detail</b>
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### **Background**

- 5.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, (“the Regulations”) came into force on 01 July 2021. The Regulations require owners and managers of most residential caravan parks in England to be registered as a ‘fit and proper’ person. All local authorities will be required to keep a register of persons deemed ‘fit and proper’ to operate such sites within their District.
- 5.2 This legislation has been enacted to ensure that occupiers of homes on such sites are protected and that sites are not operated by criminals, or otherwise unsuitable individuals.
- 5.3 The Council are accordingly required to introduce a fit and proper person test for site owners, or managers (unless they are eligible for an exemption under the Regulations) and to set up and maintain a public register of such persons.

### **Fit and Proper Test**

- 5.4 The Council must be satisfied that the site owner “*is a fit and proper person to manage the site*” or, if the owner is not the manager, “*that a person appointed*” to do so by the site owner “*is a fit and proper person to do so*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”
- 5.5 Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site which requires a licence, and which is not solely for holiday purposes or is otherwise not capable of being used all year round. 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.
- 5.6 When conducting the fit and proper person assessment, The Council must consider points relevant to the application such as:
  - *Is the individual able to conduct effective management of the site.*
  - *Competence to manage the site*
  - *The management structure and funding arrangements for the site*
  - *Personal information relating to the applicant concerned including a criminal record check or self-declaration statement*



A proposed fit and proper determination policy is attached as Appendix B

- 5.7 Operators of holiday parks and those residential parks which are defined as ‘non-commercial family occupied sites’ (i.e. occupied only by members of the owner’s family and not operated on a commercial basis) are exempt.
- 5.8 The number of known sites within the District is relatively small, with four commercial sites, three family owned and occupied sites and one unregulated site.

### **Applications and Fees**

- 5.9 The Regulations come into force in two parts. The first part (enabling applications to be made) came into effect on 01 July 2021 and allows until 30 September 2021 for owners and managers to submit applications and for local authorities to determine these and set up a ‘fit and proper persons’ register.
- 5.10 The second part comes into effect on 01 October 2021 from which date it will be criminal offence to operate a relevant mobile home site unless registered as a fit and proper person with the local authority. There are potentially serious sanctions for non-compliance.
- 5.11 A site owner under the Regulations must apply to their local authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area (“the register”).
- 5.12 The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. The Regulations permit the Council to determine the fee for an application or registration for someone to be added to the register. It is imperative that the fee is included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.
- 5.13 Charges will be limited to recovering the costs of exercising the fit and proper person test function only, including the items in 5.6 above and setting up and maintaining the register. The Council is not able to recover other costs that have already been charged for by other service areas. Details of the proposed charges are contained in Appendix A.
- 5.14 An application must be accompanied by the relevant application fee. If a fee is required and is not included with the application, the application is not valid. Unless a valid application is made before the fit and proper person requirements come fully into force a site owner that continues to operate the site will commit an offence and could be prosecuted.
- 5.15 All fees must be published in an authority’s Fees Policy and must be transparent and reasonable. A local authority can revise their fees policy at any time but where they do so they must publish the revised policy.
- 5.16 The items that can be included in calculating both fees are set out in published [fee policy guidance](#), to which officers have had regard in compiling the information in Appendix A.

- 5.17 In certain exceptional circumstances a local authority may, with the site owner's consent, appoint a site manager. The local authority would be able to recover from the site owner, the costs they incurred in making the appointment.

## **6 Implications**

### **6.1 Financial**

It is not anticipated that there will be a significant income received by the Council for the administration of this duty given the low number of relevant protected sites to which this requirement will apply. However, there will be some minor administration costs involved in maintaining the public register and should any appeals to the First Tier Tribunal (Property Chamber) be made these will need to be defended, which may incur costs.

### **6.2 Legal**

The Council has a statutory duty as a local housing authority to make the necessary arrangements to administer and enforce these requirements.

There is no requirement to enter formal public consultation, however discussion has taken place with neighbouring authorities as to the level of their fees.

Advice will be sought from Legal Services and statutory guidance will be taken into account when determining the course of action when a relevant offence has been committed.

### **6.3 Human Resources**

None

### **6.4 Section 17 (Crime Prevention)**

The introduction of the fit and proper person test will provide another measure in the toolkit for tackling criminal or otherwise unsuitable site operators.

### **6.4 Risk Management**

None

### **6.5 Equality & Diversity**

None

### **6.6 Climate Change**

None

## **7 Appendices to the Report**

Appendix A: Fit and Proper Person Fees Policy

Appendix B: Fit and Proper Person Determination Policy

**Previous Consideration**

No

**Background Papers**

None.

## Cannock Chase District Council – Proposed Fees Policy

### Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

#### Key Principles

- Time is considered in blocks of 15 minutes taking into account natural breaks between tasks.
- Fixed costs are added in addition to the time taken to complete the task
- Overall cost of management of the application and registration process, including defending decisions, is borne by the fee structure.
- Hourly rate includes salary and associated support service costs (HR, ICT, finance, building, utilities, software, consumables etc.)

	Officer time (hrs)	Fixed costs incurred (£)
<b>(a) Initial enquiries;</b> This includes informal discussion, explanation and liaison prior to applications being made. It is suggested that there will be a significant requirement at this stage	1	
<b>(b) Letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;</b> Initial letters requesting application, acknowledgement letters, memos to internal teams, internet searches plus allowance for one additional letter to applicant to request more information/clarification of application. Costs assume internal memos by email, contact with applicant is by post.	2	
<b>(c) Sending out forms</b>	0.25	
<b>(d) Updating files / computer systems and websites</b> FLARE database updates, storage and linking of documents.	0.75	
<b>(e) Processing the application fee</b> Assumed telephone payment via contact centre - different charge out cost?	0.25	
<b>(f) Land Registry searches</b> Most sites will require one search, a minority will require two where there is a leasehold. A few will require no search as they were purchased prior to the requirement to register land. Overall consider one search at £4 + time.	0.25	4
<b>(g) Time for reviewing necessary documents and certificates</b> Assuming review of DBS and returns from consultation, financial and management arrangements provided with application, including such checks as necessary to determine validity of the stated management of financial position.	1.5	

**Item No. 8.8**

	<b>Officer time (hrs)</b>	<b>Fixed costs incurred (£)</b>
<b>(h) Preparing preliminary and final decision notices</b> Assuming that majority of applications require no preliminary or final decision notices, with 1:5 applications requiring imposition of conditions that will take several officer hours.	0.5	
<b>(i) Review by manager or lawyers; review any representations made by applicants or responses from third parties</b> Assuming that majority of applications require no such review with 1:5 applications requiring conditions that necessitate review of representations etc that will take several officer hours	0.5	
<b>(j) Updating the public register</b> It is assumed that the majority of applications will be accepted without conditions or the need for the local authority to appoint a manager, with 1 in 10 applications requiring greater information to be recorded on the register.	0.25	
<b>(k) Carrying out any risk assessment process considered necessary</b> Assessment of application to decide whether to unconditionally grant, refuse, or grant with conditions.	0.5	
<b>(l) Review of decisions or in defending appeals</b> It is assumed that the majority of applications will be accepted without a requirement to review decisions or to defend appeals, but when these occur they are significantly time consuming	1	
Total hours	8.75	
Officer rate (£/hour)	45	
Total officer cost	393.75	
Total Fixed costs		4
Total Application costs	397.75	
Suggested Fee rounded to nearest £10	<b>400</b>	

**Inspection of Sites to Assist in Determination of Fit and Proper Person**

Where a site has been subject to inspection within the last 12 months as part of site licensing requirements then a further inspection will not normally be carried out as part of the fit and proper person determination. However, the Council reserves the right to carry out a site inspection where either: a) the site is no longer to be operated by the person named on the licence at the time of last inspection; b) significant compliance issues were raised on the last site inspection; c) any other reasonable purpose (for example, in response to receipt of complaints from site occupiers). **In such circumstances an inspection will be charged at £45 per hour up to a maximum of £180.00**

**The following elements in the Fees guidance have been considered:**

<p>In addition, a local authority will need to make such inquiries as are necessary in connection with the application, such as those relating to the applicant's management and financial standing.</p>	<p>Included in <b>(g)</b></p>
<p>All time taken in establishing the information required to make an informed decision will be allowed to be included in the application fee, whether or not the entry on the register is granted.</p>	<p>Included</p>
<p>Where an applicant contacts the local authority before making an application to ascertain the likelihood of the success of that application, the authority is expected to give such informal advice, including on likely conditions that may be attached to an entry, so the applicant can make an informed judgement on how to proceed with the application.</p>	<p>Included in <b>(a)</b></p>
<p>The local authority cannot charge separately for its advice or work in advance of receipt of the application. However, it can build into its fee structure for such applications the costs (or likely costs) it incurs as a result of such pre-application advice, including where no formal application is subsequently submitted.</p>	<p>Included in <b>(a)</b></p>

## Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

### Fit and Proper Person Determination Policy

#### Introduction

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. The Council are required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations<sup>1</sup>.

The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.

The Council 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*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”

Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the Council can instead appoint a person to manage the site, but only with the consent of the site owner.

Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. 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.

#### The Evidence

When conducting the fit and proper person assessment, The Council will consider:

#### **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 Council must have regard to:

- (i) whether the person has a sufficient level of competence to manage the site;

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<sup>1</sup> \*i.e. it is a non-commercial, family occupied site under Regulation 3

- (ii) the management structure and funding arrangements for the site or
- (iii) 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.

*The management structure and funding arrangements for the site*

Whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The Council should try and 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.

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 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*

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 made available on request by the Council if required.

Another consideration is if funding is through a third party (including an associated company), the Council should be wary if this is not disclosed as this will impact on the Council's ability to deem whether the application is financially viable.

**Personal information relating to the applicant concerned.**

This would include a self-declaration to evidence that the applicant:

- (a) has not 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);



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- (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 live and 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).

The Council in addition will carry out necessary checks and require appropriate documentary evidence in respect of right to live and work status, criminal record history and insolvency / disqualifications.

The Council have a duty to investigate any conduct which could amount to harassment and any evidence obtained should be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Rely on convictions by the courts as evidence of harassing behaviour which would reduce the risk of the Council being successfully challenged on any refusal to approve an applicant on this basis.

The 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 it is still advisable that these be taken into consideration in the fit and proper person determination.

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. The Council may address this by attaching conditions to the individual's entry on the register.

Upon rejection of a person's application this should be centrally recorded and include the details of the person involved and the reasons for the rejection.

### Items to take into consideration

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

3. 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.
4. 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 would have already needed to have been provided in their own application forms.
5. 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, the Council considers 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.
6. The Council need 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.
7. The Regulations are drafted widely giving the opportunity to take into consideration other relevant matters. However, the Council should be cognisant that poor management practices do not affect a person's conduct, unless they are also a breach of the criminal or civil law.

A person cannot be deemed unfit due to conduct, simply because of poor management, although that factor is highly relevant to determining any question of suitability or competence. However, all conduct is relevant in relation to the person's fitness to hold a licence and/or manage the particular mobile home site.

8. The Council 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 the Council believe to be of relevance to the application should primarily focus on the relevant person's conduct, competence, and their suitability to manage the site.

9. Allegations which have not been investigated or documented may be difficult to use as evidence to support an authority's decision. Therefore, evidence must be obtained to support any additional matters taken into consideration for the application. This is to mitigate any risks should they face being challenged at a tribunal because of their final decision. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions.

## Applications

The Regulations use various terms in the application process, 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 (even though the Regulations incorrectly state that this information is contained in paragraph 13) 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**

10. 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.

11. The name and address of any and all 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.

12. 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**

13. 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 (the relevant 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 has appointed or intends to appoint a further individual (“A”), ‘Required Information’ would also be needed from A. 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, should be the one to provide the Required Information.

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

14. 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 from 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 from C. Where C is not a Relevant officer of a company, the relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required information.

#### **Additional information where applicant is relevant person and not an individual**

15. 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 from this person. 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”) would also need to provide the Required Information. 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 would also need to provide the Required Information. 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 would also need to provide the Required Information.
16. 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 Council 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.

### **Criminal record certificates /status checks / self-certification**

17. The Council will seek basic Disclosure and Barring Service (DBS) Check and documentary evidence of right to live and work in the UK in respect of applicants' compliance with paragraph 2 (a)-(h) and will in addition carry out checks in relation to insolvency. This will be in addition to and in support of any self declaration.

A DBS check will be required:

- (a) where the relevant person is an individual; and
- (b) for each individual in relation to whom the site owner is required to provide information.

The certificate must have been issued no more than 6 months before the date of the application. It is for the site owner to ensure that any certificate they provide with an application meets 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.

18. 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 the Regulations and considerations relevant to the fit and proper person assessment as set out below.

19. 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.

### **Considerations relevant to fit and proper person assessment**

20. 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.

21. To be able to secure the proper management of the site, the Council 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.

### **Decisions, notification and rights of appeal**

22. The Council must decide 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.

23. On receipt of an application the Council may:

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

### **Granting the application unconditionally**

24. Where the Council is satisfied that the applicant meets the fit and proper person test 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.

25. The final decision notice must clearly state:

- (a) the date the final decision notice is served;
- (b) the final decision;
- (c) the reasons for the decision;
- (d) when the decision is to take effect;
- (e) information about:
  - (i) the right of appeal to the First Tier Tribunal; and
  - (ii) the period within which an appeal may be made.

### **To include the applicant on the register subject to certain condition(s)**

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

27. It may be the case that the Council decides 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 the reasons are clear and justifiable for attaching any condition(s) and that any conditions imposed can be enforced.

### **What can a condition relate to?**

28. The fit and proper person test 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.

29. Where a person has contravened legislation, or committed offences set out in paragraph 2 above, it is not recommended that conditions are set in relation to those matters. 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.

30. Where the person has committed those listed offences or contravened legislation, these breaches will be considered, together with all the other information available, when reaching a preliminary decision.
31. 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 Conditions (not exhaustive List)**

32. **Example 1** - The Council 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 Council 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 Council consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

33. **Example 2** – If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the Council 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".
34. **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.

**Decisions not to include the applicant on the register**

35. Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, the Council can refuse to grant the application.
36. Where the Council 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.
37. 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.

### **Right to make a representation**

38. An applicant who receives a preliminary decision notice will have 28 days in which to make representations to the Council. The 28-day period begins with the day after the day on which the notice was served.
39. The Council is obliged to consider and take any representations it receives into account before making a final decision.

### **Final decision notice**

40. The Council 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.
41. 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.

### **Appeals**

42. 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 Council. 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.
43. Where an applicant accepts the Council'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.



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

**Withdrawal or amendment of notice**

45. The Council may decide not to continue or to withdraw a previously agreed action such as after serving:

- (a) a preliminary decision notice but before service of the final decision notice;
- (b) a final decision notice but before the decision to which it relates takes effect;  
or
- (c) a notice of proposed action but before the proposed action is taken.

46. To withdraw or amend a notice, the Council must serve notice to the person on whom the original notice was served.

47. There are no requirements for notices to contain specific information, however 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.

**Removal from the register**

48. If, after a person is included in the register, and new evidence relevant to the person's inclusion becomes available, the Council 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.

49. The Council will use their judgement when determining whether to review an entry and consider if any subsequent actions are required. It is recommended that 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 Council decides to take any of the actions listed in paragraph 51 (a) to (c) above, the Council must serve a notice of any proposed action on the occupier.

50. The notice of proposed action must clearly state:

- (a) the date the notice of proposed action is served;
- (b) the action the Council proposes to take;
- (c) the reasons for it;
- (d) the date it is proposed that the Council 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.

51. A notice of proposed action is not required if the Council decides to remove a condition attached to an entry. The Council will make the site owner or their manager aware of the decision in writing and ensure the register is updated.

### **Notice of action taken**

52. 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.

53. The Council must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

54. Where the Council decides to take the action, the Council 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.

55. 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.

### **Offences**

56. 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 will have 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.

57. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

### Defences

58. 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.

### Relevant periods in specific circumstances

Row	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 <sup>st</sup> 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 Council 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

Row	Circumstance	Relevant period for making an application in the circumstance
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	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the Council has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the Council's decision the occupier notifies the relevant local authority of its intention to make a new 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 Council 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 Council 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 Council 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

### The Fit and Proper Persons Register

59. This register must be open to inspection by the public during normal office hours. This register will also be published online. Template found in the Government Guidance will be used.
60. The register will provide a record of the outcome of the fit and proper person tests the Council have carried out for sites. The register must 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).

61. Where a person has met the fit and proper person test, 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.

62. 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.

63. Where there are rejected applications, the following information must 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.

It must be noted that the name of the rejected applicant will not be included on the register. The Council will however be able to consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any additional information, on a case by case basis and in accordance with data protection legislation.

64. Where the Council has, with the site owner's consent, appointed a person to manage the site, the Council 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).