

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

8th January 2015

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Mobile Homes (Wales) Act 2013 – Fit and Proper Person Test

REPORT FOR: Approval

1. INTRODUCTION

1.1 Members will already be aware that residential caravan sites are now to be licensed under the Mobile Homes (Wales) Act 2013 and that this provides many new provisions that will give residents of such sites more rights and increased protections than the current regime. One of the features of the new licensing regime is the introduction of a 'fit and proper' test for either the site owner or proposed site manager.

2. APPLICATIONS

2.1 Applications to licence all the existing residential sites under the new regime will need to be made by 31st March 2015 using the attached application form (Annex A). The applicant for the licence will be the site owner he/she may also choose to nominate a proposed site manager. Where a site manager had been nominated then that person must be a fit and proper person, where there is no nominated site manager then the applicant must be a fit and proper person.

2.2 The application form contains a self-declaration form for the applicant or proposed site manager to list any convictions they may have. The Welsh Government have provided advice for local authority officer in respect of the fit and proper test (Annex B) and have advised against requiring a basic disclosure or Disclosure and Barring Service certificate as a matter of course; it is suggested that the authority must have 'good reasons' for asking applicants to provide one. Good reasons are listed as:

- The local authority has received a history of complaints or problems with the site owner
- There is reason to believe that an applicant has been evasive or untruthful in the application
- The applicant or site manager is known to the authority and has not demonstrated any history or competence in managing a site

- The local authority has reasonable grounds to suspect the applicant or proposed manager has committed an offence relevant to the determination of the application.

Where any of the above applies then the authority may request the applicant to obtain a basic disclosure certificate. This is in line with other Housing legislation, namely the regime for licensing HMOs.

3 FIT AND PROPER PERSON TEST

- 3.1 Licensing Officers and members are experienced in applying a fit and proper test to applicants for both personal licences issued under The Licensing Act 2003 and more commonly for Joint Hackney Carriage and Private Hire Driver Licences. Indeed the authority has adopted a policy for the consideration of such applications/licences. The policy provides guidance to members and ensures a consistency of approach. To that end and using the taxi driver convictions policy as a starting point a 'Fit and Proper Policy for Site Owners and Managers' has been drafted as a guidance document in the event that site owners and or managers are found to have any convictions (Annex C).
- 3.2 Decisions on such matters will be delegated to the Senior Licensing Officers, in the same way that HMO licensing decisions are delegated to Senior Housing Officers, and any decisions made are subject to a right of appeal at a Residential Property Tribunal. This policy therefore will be utilised by officers and will provide a useful guide and ensure the same consistency of approach that has been achieved when considering taxi driver licences/applications.
- 3.3 There are 21 sites in Powys with residential caravans, as such it is not expected that reference to the policy will be very frequent.

4 CONCLUSION

- 4.1 The committee is asked to approve the policy and escalate it to full Council for final approval.

Recommendation:	Reason for Recommendation:
To recommend to Full Council the Mobile Homes (Wales) Act 2013 – Fit and Proper Person Test.	To approve a 'Fit and Proper Policy for Site Owners and Managers'.

Contact Officer	Tel:	Fax:	Email:
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Relevant Portfolio Member(s):	Councillor W John T Powell		
Relevant Local Member(s):	N/A		



ANNEX A

MOBILE HOMES (WALES) ACT 2013
APPLICATION FOR A SITE LICENCE

[I] [We] hereby apply for a Licence to use the land described below and shown on the attached plan (see note below) as a site for mobile homes to be used and laid out as specified below.

Please complete and return your application, together with any additional documentation and a fee of £..... (Refer to table of fees)

Card payment is the preferred method of payment. However, cheques will be accepted, made payable to Powys County Council.

.....

Please complete the application form in BLOCK CAPITALS or tick in the box where appropriate

Address of Mobile Home Site to be licensed:

.....

SECTION A – PERSONAL DETAILS		
Part 1 – Applicant details – licence holder		
Name of applicant:		
Address of applicant:		
Post Code:	Tel No:	
Email Address:	Date of Birth:	
Has the applicant held a site licence which has been revoked in the last 3 years	Yes	No
Company Details if applicable		
Company name:		

Company address:		
Business Registration Number:		
VAT Number:		
Provide details of any additional mobile home sites (residential or holiday/touring, or mixed) owned by the applicant		
Part 2 – Site Manager		
Is the proposed licence holder also the proposed site manager? If no please complete this section	Yes	No
Name of site manager:		
Address of site manager:		
Post Code:	Tel No:	
Email Address:	Date of Birth:	
Relationship to the site licence holder:		
Has the site manager held a site licence which has been refused/revoked anytime in the past 3 years?	Yes	No
Company Details if applicable		
Company name:		
Company address:		
Business Registration Number:		
VAT Number:		

Provide details of any additional mobile home sites (residential or seasonal, or mixed) managed by the proposed site manager
Part 3 – Company / Partnership / Co-owner / Trust Please complete for any additional persons and/or companies involved with the site, please state name, address, relationship and involvement. Additional information can be attached on a separate sheet if necessary.

SECTION B – DETAILS OF THE SITE TO BE LICENCED		
Part 1 - Details of site ownership		
Freehold	Yes	No
Leasehold	Yes	No
Tenancy	Yes	No
Other – please give details		
Part 2 – Planning permission		
Has planning permission for the site been obtained from the relevant planning authority?	Yes	No
If not, has permission been applied for?	Yes	No
Date of permission & Reference Numbers:		
Issuing Authority:		

Part 3 – Details of site		
Grid Reference:		
Required duration of site licence (if less than 5 years):		
Total acreage of site:		
Total acreage suitable for mobile homes:		
Is the licence for a site containing residential mobile homes only or mixed residential and seasonal mobile homes? Tick one box and then complete section A or B below	A. Residential only	B. Residential & seasonal
A. residential only	What is the total number of residential mobile homes permitted on the site?	
	What is the current number of residential mobile homes on the site?	
B. Residential &Holiday/Touring	What is the total number of residential mobile homes permitted on the site?	
	What is the current number of residential mobile homes on the site?	
	What is the total number of holiday/touring caravans permitted on the site?	
	What is the current number of holiday/touring caravans on the site?	
Note: A lay-out of the site to a scale of no less than 1/500 should be attached showing the boundaries of the site, position of mobile home standings, and (where appropriate): *Roads and footpaths *Recreational spaces *Toilet blocks, stores and other buildings *Fire points *Foul and surface water drainage *parking spaces *water supply *Garages/storage sheds		
Part 4 – Services		
Please give details of the arrangements for the following:		
Water supply	MAINS / PRIVATE	
Storm water disposal		

Sewage disposal	
Refuse disposal	
Site lighting	
Gas – include a copy of gas safety certificate for the site in this application. (if applicable)	
Electric – include a copy electric safety certificate in this application. (If applicable)	
Do you have Site Rules in place?	<p style="text-align: center;">YES/NO</p> <p>If yes, please see separate application form with additional fee.</p>

Declaration

I/we declare that the information contained in this application is correct to the best of my/our knowledge. I/we understand that I/we commit an offence if I/we supply any information to the local authority in connection with any of their functions on relation to the Mobile Homes (Wales) Act 2013 which I/we know is false or misleading, or I/we am/are reckless as to whether it is false or misleading.

Name of site licence applicant	Signature
Date	
Name of Proposed site manager	Signature
Date	

SECTION 3 – FIT AND PROPER PERSON TEST

Under Part 2, Section 28 of the Mobile Homes (Wales) Act 2013 in order to grant a site licence the Local Authority must be satisfied that the site owner is a fit and proper person to manage the site, or where the site owner does not manage the site, the person appointed to manage the site meets the criteria of a fit and proper person. The information you supply will be treated in confidence and will only be taken into account in relation to your application.

Please give details if the person appointed to manage the site, or anyone associated with them has:

(a) 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),
YES/NO

(b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or
YES/NO

(c) contravened any provision of the law relating to housing (including mobile homes) or landlord and tenant.
YES/NO

Continue on a separate sheet if necessary

Name	Offence	Sentence	date	Court

Are you an owner/manager of another mobile home site ?

If so please provide details.....

Declaration

I/we declare that the person identified as the manager of the site is a fit and proper

person to manage the site and that the information contained in the application is correct to the best of my/our knowledge. I/we understand that it is committing an offence if I/we supply any information that is false or misleading and which I/we know is false and misleading and which may result in the site licence being revoked.

Signature of applicant _____

Print name of applicant _____

Date _____

Data Protection Act 1988

The data you provide will be used to process and determine your application for a Site licence under the provisions of the Mobile homes (Wales) Act 2013.

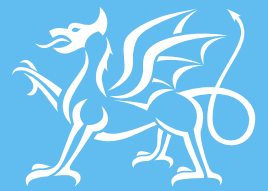
FURTHER INFORMATION

Neuadd Brycheniog licensingbrecon@powys.gov.uk
Ffordd Cambrian / Cambrian Way
Aberhonddu / Brecon
Powys
LD3 7HR

Gwalia licensingradnor@powys.gov.uk
Ithon Road
Llandrindod Wells
Powys
LD1 6AA

Neuadd Maldwyn licensingmont@powys.gov.uk
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Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Mobile Homes (Wales) Act 2013 – Information Sheet

Fit and Proper Person Test

Advice for Local Authority Officers

August 2014



This information is part of a series about the rights and obligations of mobile home owners, site owners and local authority officers in Wales.

This information gives some basic guidance to local authority officers about the 'fit and proper person' test which applies to mobile home licence holders under the Homes (Wales) Act 2013.

This factsheet does not give an authoritative interpretation of the law; only the courts can do that. Nor does it cover all cases. If further advice or information about legal rights or obligations is needed, a Citizen's Advice Bureau or a solicitor should be contacted.

Introduction

In deciding to grant a site licence for a regulated mobile home site under the Mobile Homes (Wales) Act 2013, a local authority must be satisfied that the site owner *“is a fit and proper person to manage the site or (if the owner does not manage the site) that a person appointed to do so by the owner is a fit and proper person to do so...”* or *“has, with the owner’s consent, itself appointed a person to manage the site.”*

This requirement is to ensure that those responsible for operating the site licence and managing the site are of sufficient integrity and good character to be involved in the management of a regulated site for mobile homes to which the application relates and as such they do not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

A licence should be refused if there is a finding that the licence holder and/or his manager is unfit, if there are doubts as to someone’s fitness these can be addressed through the setting of appropriate site licence conditions. However, the question of the person’s fitness must be in relation to the **management** of the mobile home site to which the application relates.

1. Evidence

When considering whether a person is 'fit and proper' the local authority must have regard to any 'wrong doings' of the person concerned. These are evidence that the person has:

(a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),

(b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or

(c) contravened any provision of the law relating to housing (including mobile homes) or landlord and tenant.

2. Items to Consider

A local authority must also consider evidence that anyone associated or formerly associated with the person has done any of the offences set out above and whether that evidence is relevant to the question of whether the person is a fit and proper person to manage the regulated site.

Local authorities should not consider poor management practices as wrong doings, unless they are in breach of the criminal or civil law. A person cannot be deemed unfit, simply because of poor management, although that is highly relevant to determining any question of suitability or competence (as discussed below).

The wrong doing has to be relevant to the person's fitness to hold a licence and/or manage the particular mobile home site to which the application for a licence relates and, in regard to criminal offences, the local authority must only have regard to unspent convictions.

An unspent conviction will not necessarily prevent a fit and proper judgement by the local authority. A local authority should not adopt a blanket policy with respect to its treatment of wrong doings. Each case must be considered on its own merits and if a licence is to be refused on the ground that a person is unfit, the local authority must be able to defend that decision with cogent reasons. Upon refusal, the local authority must notify the person of the reasons for the decision and their right to appeal. The proposed licence holder then has 28 days to appeal to the Residential Property Tribunal against the decision.

3. Applications

In an application for a site licence the proposed licence holder must provide details of the following in relation to him/herself and the proposed manager (if the applicant is not to be the licence holder):

- details of any refusal to grant a licence, or details of the revocation of a licence in the past 3 years in respect of a regulated mobile home site under his/her management or ownership.
- the details of any offence involving fraud, violence, firearms or drugs or any offence listed in Schedule 3 of the Sexual Offences Act 2003. This should include the offence, the date of sentence and the court that passed sentence.
- any findings of a court/tribunal that the person has practised unlawful discrimination under Section 4 of the Equality Act 2010.
- any judgement entered against that person in relation to a contravention of housing (including mobile homes) or landlord and tenant law (and, in so far it relates to the housing or landlord and tenant law, any contravention of any enactment relating to public or environmental health)

Since an applicant for a licence must disclose his/her and any proposed manager's wrong doings, if any, a local authority should normally have sufficient information to decide a person's fitness based on the application. If the local authority is satisfied that it has sufficient information (being that supplied in connection with the application) to make a determination, it may require the applicant to provide further details. In some cases it may wish to invite the applicant and/or the manager to a meeting to discuss and clarify any issues arising.

If an applicant provides false or misleading information about any wrong doings, he commits an offence and can receive an unlimited fine upon summary conviction. If an applicant has provided false or misleading information (without reasonable excuse), that would be a clear indication of his unfitness. Local authorities should not routinely make police checks or request information on criminal convictions. This is particularly the case because any evidence relating to criminal convictions is only part of the picture in assessing a person's fitness.

Where a business or organisation is to be the licence holder or manager, a 'fit and proper person' declaration signed by the company secretary or other responsible person is needed on behalf of the company, partnership or trust. Any employee who is involved with the management of the mobile home site can be regarded as an 'associate'. Consequently, in signing the declaration the responsible people should be satisfied that these employees would be able to sign the declaration themselves, for example by requesting CRB or Disclosure Scotland checks.

4. Seeking further evidence

In some circumstances it may be appropriate for the local authority to seek further information on whether a person has relevant convictions. Currently this can be done through the basic disclosure service offered by Disclosure Scotland or the Disclosure Barring Service (DBS). A Disclosure Scotland Criminal Conviction Certificate costs around £25, a standard DBS check costs around £26 and an enhanced DBS check £44. These services will give details of all unspent convictions, if any. However, the service is only available to the person whose record is being sought and there is no requirement in the 2013 Act for that person to seek or provide the information to a local authority.

Consequently a local authority must have good reasons for asking that person to do so, especially if the local authority is to consider that a refusal to do so may indicate that the person in question is not a fit and proper person. Such reasons may include that:

- the local authority has had a history of complaints or problems with the site owner or manager (which in themselves might not amount to 'evidence' of unfitness to meet the test), but further investigation may be required,
- there is reason to believe that an applicant has been evasive or untruthful in his application for a licence,
- the applicant, or proposed manager, is unknown to the local authority and has not demonstrated any history or competence of managing a regulated mobile home site, or;
- the local authority has reasonable grounds to suspect that the applicant, or the proposed manager, has committed an offence which is relevant to the determination of any question of his/her fitness.

In deciding whether a wrong doing (including a criminal offence) is relevant to the determination of a person's fitness a local authority may wish to consider the following factors:

- the relevance of the wrong doing(s) in relation to the person's character and integrity to manage a regulated mobile home site,
- the seriousness of the wrong doing(s) in terms of impact, or potential impact, upon the site residents and the wider community, including if more than wrong doing has been carried out the cumulative impact of that,
- the length of time since any wrong doing,
- and any mitigating circumstances.

In the case of an applicant who has a relevant conviction which was correctly declared, a judgement must still be made taking account of other information available about the applicant and if necessary by interview to assess whether he or she is able and willing to operate in a manner regarded by the local authority as fit and proper. In considering past actions of the applicant and the conviction, the local authority should consider whether any problems are likely to occur again

and whether they are likely to affect the applicant's management and conduct on the site. In particular, the nature of any agency arrangement should be taken into account.

It is quite possible to conclude that if the applicant represents a low risk, registration is appropriate. It should be noted however that future actions may result in an applicant failing the fit and proper person test in the future, leaving the applicant open to an unlimited fine and the revocation of the licence.

Local authorities will need to establish a decision-making process for applications which do not allow for a clear cut decision, but are encouraged to delegate routine decision making functions to officers.

5. Completion

Where a licence holder under the Mobile Homes (Wales) Act 2013 contravenes the fit and proper person test during the period of the licence, a local authority may apply to the Residential Property Tribunal Wales for an order revoking the site licence. A person guilty of an offence is liable on conviction to an unlimited fine.

Similarly, the fit and proper person status can be removed from managers and anyone else involved in the management of the site. It would then be a breach of a licence condition if that person continues in that capacity.

If the local authority is however satisfied that the applicant is a fit and proper person to manage the site then Section 3 of the application for a site licence is completed.



**MOBILE HOMES (WALES) ACT
FIT AND PROPER POLICY FOR SITE OWNERS AND
MANAGERS**

ENVIORNMENTAL HEALTH SERVICE

Council Offices Neuadd Brycheiniog Cambrian Way Brecon Powys LD3 7HR	Council Offices Y Gwalia Ithon Road Llandrindod Wells Powys LD1 6AA	Council Offices Neuadd Maldwyn Severn Road Welshpool Powys SY21 7AS
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Amendment Record

ISSUE	DATE	APPROVED	SUMMARY OF CHANGE
1			
Prepared by: S. Jones		Approved by: Licensing Committee & Full Council	
			Issue No

MOBILE HOME (WALES) ACT 2013 POLICY ON FIT AND PROPER TEST

1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether a site licence applicant or proposed site manager or an existing site licence holder or existing appointed site manager is considered to be a fit and proper person in relation to the Mobile Homes (Wales) Act 2013.
- 1.2 The aim of this policy is to ensure:
- That a person, either the site licence holder/applicant or the appointed site manager is a fit and proper person;
- 1.3 This policy aims to provide guidance to any person with an interest in mobile home licensing in Wales. In particular, but not exclusively:
- Applicants & Proposed Site Managers
 - Existing Licence Holders and Appointed Site Managers of Mobile Home Sites
 - Licensing Officers and Police
 - Residential Property Tribunals hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. Whilst officers will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits** and, where the circumstances demand, the officer may depart from the guidelines.
- 1.5 A serious view is taken where applicants fail to disclose any previous convictions; cautions; warnings; penalty notices, orders or reprimands on their application form including any pending court proceedings.
- 1.6 In some circumstances it may be appropriate for the authority to seek further information on whether a person has relevant convictions. This can be undertaken in a number of ways:
- a. PNC check carried out by the police licensing officer
 - b. Basic Disclosure applied for by the applicant/site manager via Disclosure Scotland
 - c. Standard Disclosure and Barring Check carried out by the local authority

The local authority must have good reasons for seeking further information these may include:

- a. A history of complaints or problems with the site owner or manager
- b. There is a reason to believe that the applicant has been evasive or untruthful in his application
- c. If the applicant or proposed manager is unknown to the authority and is not able to demonstrate a history or competence in managing a regulated site
- d. If the authority has reasonable grounds to suspect the applicant or proposed manager has committed a relevant offence

2.0 General policy

2.1 Each case will be decided on its own merits.

2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence/becoming the site manager, but would normally be expected to:

- a. Remain free of conviction for an appropriate period (as set out below); and
- b. Show evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

2.3 For the purposes of this Policy, “other matters to be considered” may include but are not limited to the following:

- a) Criminal Convictions;
- b) Court Martial;
- c) Cautions;
- d) Fixed penalty notices or other penalty notices;
- e) Anti-social behaviour orders or other similar orders;
- f) Breach of licensing conditions;
- g) Breach of any Housing Law
- h) Formal Warnings or Reprimands;
- i) Charges or matters awaiting trial;
- j) Fitness and propriety.

2.4 Where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the council cannot review the merits of the conviction or other matter.

2.5 Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal matters specified in this guidance, they will be considered relevant for the substantive matter.

3.0 Appeals

3.1 Any applicant who has been refused a Mobile Home (Wales) Licence has a right to appeal to the Residential Property Tribunal within 28 days of receipt of the notice.

4.0 Powers

4.1 The Mobile Homes (Wales) Act section 28 requires that the local authority is satisfied that the 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 owner is a fit and proper person to do so. In addition at section 29 where the owner of land who holds a site licence in respect of the land the local authority in whose area the land is situated may apply to a residential property tribunal for an order revoking the site licence where it is satisfied that the owner or appointed site manager is no longer fit and proper.

5.0 Consideration of disclosed criminal history

5.1 Under the provisions of Section 28 the Act, the Licensing Authority is required to ensure that an applicant or proposed site manager is a ‘fit and proper’ person to hold such a licence. However, if an applicant / proposed site manager has any matters to be considered, the Licensing Authority may take into account:

- the relevance of the wrong doing(s) in relation to the person's character and integrity to manage a regulated mobile home site,
- the seriousness of the wrong doing(s) in terms of impact, or potential impact, upon the site residents and the wider community, including if more than wrong doing has been carried out the cumulative impact of that,
- the length of time since any wrong doing,
- and any mitigating circumstances.

6.0 Violence

6.1 A serious view will be taken with those who have a conviction(s) or other matter(s) to be considered involving violence. An application will normally be refused or an order to revoke an existing licence may be made if the applicant / licence holder / appointed site manager has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition is unlikely to be licensed until **at least 3 years** free of such conviction(s) or other matter(s) to be considered. However, given the range of the offences that involve violence, consideration must be given to the nature of the offence.

6.3 Unless there are exceptional circumstances, an application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder / appointed site manager has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Or any similar offences or offences which replace the above.

6.4 An application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder / appointed site manager has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 10 years** prior to the date of application:

- Actual bodily harm which is racially / religiously aggravated;
- Arson;
- Assault Police;
- Common assault which is racially / religiously aggravated;
- Criminal damage which is racially / religiously aggravated;
- Grievous bodily harm with intent;
- Malicious wounding or grievous bodily harm which is racially aggravated;
- Possession of firearm;
- Resisting arrest;
- Riot;
- Robbery;
- Violent disorder;
- Similar offences or offences which replace the above.

6.5 An application will normally be refused or an order to revoke an existing licence where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 3 years** prior to the date of application:

- Affray;
- Assault occasioning actual bodily harm;
- Common assault;
- Criminal damage;
- Obstruction;
- Possession of a weapon (or imitation weapon) or any other weapon related offence other than a firearm;
- S5 Public Order Act 1986 offence (harassment, alarm or distress);
- S.4 Public Order Act 1986 offence (fear of provocation of violence);
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);
- Similar offences or offences which replace the above.

6.6 An application will normally be refused if an applicant / appointed site manager has more than one conviction or other matter to be considered in the last **10 years** for an offence of a violent nature.

7.0 Sex and indecency offences

7.1 An application will normally be refused or an order to revoke the licence may be made for convictions or other matters to be considered for the more serious sexual offences. For other offences, applicants / appointed site managers will be expected to show a substantial period free of conviction or other matter to be considered for such offences before an application will be approved.

7.2 Unless there are exceptional circumstances, an application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence such as:

- Assault by penetration;
- Exploitation of prostitution;
- Indecent assault;
- Offences involving children or vulnerable adults;
- Possession of indecent photographs, child pornography etc;
- Rape;
- Sexual assault;
- Trafficking for sexual or other exploitation;
- Similar offences or offences that replace the above.

7.3 An application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder / appointed site manager has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 7 years** prior to the date of application:

- Indecent exposure;
- Soliciting (kerb crawling);
- Similar offences or offences which replace the above.

- 7.4 In addition to the above the Licensing Authority is unlikely to grant a licence to any applicant / appointed site manager who is currently on the Sex Offenders Register.
- 7.5 An application will normally be refused if an applicant / appointed site manager has more than one conviction or other matter to be considered for a sexual offence.

8.0 Dishonesty

An application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder / appointed site manager has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction or other matter to be considered is **less than 3 years** prior to the date of application:

- Benefit fraud;
- Burglary;
- Conspiracy to defraud;
- Forgery;
- Fraud;
- Handling or receiving stolen goods;
- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent;
- Theft;
- Similar offences or offences which replace the above.

9.0 Drugs

- 9.1 A serious view is taken of any drug related offence. The Licensing Authority will consider the nature and quantity of the drugs involved within the following offences:

- Cultivation of a controlled drug;
- Importation of a controlled drug;
- Production of a controlled drug;
- Supply of a controlled drug;
- Or similar offences.

- 9.2 An application will normally be refused or an order to revoke an existing licence may be made where the applicant / licence holder / appointed site manager has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for **at least 5 years**.

- 9.3 An application will normally be refused or an order may be made to revoke an existing licence where the applicant/appointed site manager has more than one conviction or other matter to be considered for offences related to the possession of drugs and has not been free of conviction or other matter to be considered for **at least 5 years**.

- 9.4 An application will normally be refused or an order may be made to revoke an existing licence where the applicant / licence holder/ appointed site manager has an isolated conviction or other matter to be considered for an offence related to the possession of drugs within **the last 3 years**. Consideration should be given to the nature and quantity of the drugs involved.

10. Unlawful Discrimination

Where an applicant / proposed site manager has practiced unlawful discrimination on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 in, or in connection with the carrying on of any business they would not usually be considered suitable to hold a site licence/be the nominated site manager unless at least **3 years has passed since the conviction.**

11.0 Outstanding charges or summonses

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but in the interest of public safety the matter will be considered and may be deferred for determination until proceedings are concluded.

12.0 Non-conviction information

If an applicant / existing licence holder / appointed or proposed site manager has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing the licence or making an order to revoke the licence.

13.0 Repeat offending

While it is possible that an applicant / appointed site manager may have a number of convictions or other matters to be considered that individually meet the above guidelines, an application will normally be refused or an order may be made to revoke the licence where an applicant / appointed site manager has a record of repeat offending which shows a lack of regard for the well-being of others or for property, unless a period of **at least 10 years** has elapsed since the most recent conviction or other matters to be considered.

14.0 Breach of Legislation, Byelaw or Licence Condition, Contravention of Provisions Contained in Housing Law

- 14.1 An applicant / proposed site manager who has a conviction or other matters to be considered for a breach of legislation, byelaw, licence condition or who has contravened any provision of housing law is unlikely to be granted a licence unless a period of **at least 12 months** has elapsed since the most recent breach.
- 14.2 An existing licence / appointed site manager holder found to be in breach of legislation, byelaw, licence condition or who has contravened and provision of housing law is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise public safety.
- 14.3 Where an existing holder / appointed site manager is found to have more than one breach of licensing legislation, byelaw, licence condition or contravention of any provision of housing law, or a single serious breach, the local authority may make an order to revoke the site licence.
- 14.4 The above is irrespective of any legal proceedings which may be pending or have been taken.

