



Department for
Communities and
Local Government

Review of park homes legislation

Call for evidence - part 1



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Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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April 2017

ISBN: 978-1-4098-5051-9

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Introduction

1. There are around 85,000 park homes on 2,000 sites in England. Park home living is a unique tenure where the resident owns their home, but pays a pitch fee to the owner of the site for the right to station it on their land. The sector offers an attractive choice for some people, often older persons downsizing from conventional family homes. Sadly, not all sites are managed well and there is still evidence that some site owners do not fully comply with their responsibilities or respect the rights of residents.
2. The [Mobile Homes Act 2013](#) made significant changes to the law on park homes and marked the Government's commitment to giving better rights and protection to park homeowners, whilst ensuring that honest professional site owners are not faced with unfair competition from rogue operators.
3. The Act introduced new procedures for selling mobile homes, reviewing pitch fees and making site rules. The Act also introduced a new local authority site licensing regime which gave local authorities substantial new enforcement powers from 1 April 2014. The Government gave a commitment to review park homes law in 2017.
4. We are carrying out the review in two parts. Part 1 is concerned with wider practices in the park home sector for which we want to gather more information and evidence about. Part 2 is specifically concerned with gathering evidence around the effectiveness of the Mobile Homes Act 2013.
5. In this publication, Part 1, we call for evidence on fairness of charges, the transparency of site ownership and on experience of harassment.
6. In Part 2 we will call for evidence on how effective local authority licensing has been; how well the procedures for selling mobile homes, making site rules and pitch fee reviews, are working and whether "fit and proper" controls need to be applied in the sector. On pitch fees we will call for evidence on the appropriate index to be used when carrying out a review- the consumer price index or (as at present) the retail price index. We will also seek views on the Park Homes Working Group's¹ recommendations on how local authorities can be assisted further in their licensing functions. We will publish the recommendations in Part 2. We will publish Part 2 of this call for evidence in early May.

¹ In October 2014, the Housing Minister set up a working group to identify evidence of poor practice in the sector and investigate how best to raise standards further. In March 2015 the working group issued a call for evidence and received 261 responses from residents, site owners, trade associations, local authorities and MPs. The lack of enforcement action by local authorities was found to be a priority concern for most respondents.

Part 1 – Fairness of charges, transparency of ownership and harassment

Background

7. A site owner must give a buyer a written statement (pitch agreement) if they buy a home from them or bring their own home onto the site. If the buyer purchases the home from an existing resident, they will automatically take over the existing resident's agreement (an 'assignment'). The site owner does not have to give the buyer a new statement in this case.
8. The pitch agreement is notice of the terms that will apply and will include (among other things) details of the fee the site owner will charge for allowing the resident to keep their home on the pitch. This is called the pitch fee.
9. Under the Mobile Homes Act 1983, certain terms are "implied" into a pitch agreement. Those terms are set out in Chapter 2 of Schedule 1 of the Act². These terms are automatically included in the agreement and cannot be overridden by the express terms agreed between the parties when the contract is first entered into.
10. Paragraph 29 of the implied terms defines a pitch fee as:

"the amount which the occupier is required by the agreement to pay to the owner for the right to station the mobile home on the pitch and for use of the common areas of the protected site and their maintenance, but does not include amounts due in respect of gas, electricity, water and sewerage or other services, unless the agreement expressly provides that the pitch fee includes such amounts".

Fairness of charges

11. Some site owners pass on their repair and maintenance costs to residents by including clauses in the written agreement which require residents to pay variable charges (including for maintenance and management costs), in addition to the pitch fee.
12. We have also heard reports from local authorities and residents that some site owners have introduced express terms allowing them to collect administrative and legal charges in addition to a pitch fee (and sometimes variable service charges).

Q1. What is the impact of variable service charges? Are pitch fees generally lower where variable service charges apply to cover maintenance and/or management?

² <https://www.gov.uk/government/publications/consolidated-implied-terms-in-park-home-pitch-agreements>

Q2. Do you have evidence that there are separate charges being levied on sites for the provision of services and/ or for payment of administrative, legal or other charges? If so, please give details.

Q3. What experience is there of administrative and legal charges? What is claimed for under these charges?

13. Paragraphs 16 to 20 of Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 imply terms relating to pitch fee reviews into mobile home pitch agreements. The term implied by paragraph 16 provides that pitch fees may only be changed with the agreement of the occupier or, if the Tribunal considers it reasonable, by order of the Tribunal (upon application).
14. The implied terms include the presumption that pitch fees will only increase or decrease in accordance with RPI unless that would be unreasonable having particular regard to certain other matters set out at paragraph 18(1) (see paragraph 20). These include: any improvements to the site (subject to certain conditions); any deterioration in the condition, or decrease in the amenity, of the site or any adjoining land occupied or controlled by the site owner; any reduction in services or deterioration in the quality of services provided by the site owner; and any increase in management or maintenance costs incurred by the site owner as a result of changes in legislation brought in since the last review. Paragraph 19 and paragraph 18(1A) imply terms about matters which must not be taken into account.
15. Recent rulings by the Upper Tribunal (Property Chamber) clarify that although the starting point for a pitch fee review is the presumption in paragraph 20 that any change will be in line with the change in RPI, unless that would be unreasonable having particular regard to the factors in paragraph 18(1), other considerations can be taken into account. This means that pitch fees could go up or down on review by more than RPI because of factors outside of paragraph 18 (1). So, for example, if the site owner incurred additional costs in management of the site, not connected with a change of legislation and it was considered reasonable to do so; those costs could be recovered through a higher increase in the pitch fee.
16. We want to know whether you are happy with this broad approach or whether you think that the matters which should be taken into account in the review process should be restricted to those set out in paragraphs 18 to 20.

Q4. Do you think that the factors to be taken into account in a pitch fee review process should be restrictive?

Transparency of ownership

17. We have received reports that some park home site owners have complex ownership and management structures where the site is leased to a number of companies. For example, we have heard of owners of a site creating short leases to companies (in which they have a controlling interest) of individual pitches with the implication that the resident's security of tenure is limited to the duration of the lease. We have similarly been made aware of other cases where ownership of parts of the land on a licensed site have been transferred to "third parties" so the licence holder can avoid liability when it comes to enforcement action by the local authority for breach of the licence conditions.
18. These arrangements can be quite complex, sometimes involving numerous different companies and different lengths of lease. This has led to concern that these arrangements are designed to "hide" the real owner who has ultimate control of the site. This might be to avoid their liabilities and responsibilities.

Q5. Do you have evidence of complex arrangements appertaining to site ownership? What is the impact on residents and on enforcement authorities?

Q6. Do you have evidence of sites where the licence holder is not the same person or organisation who is the owner of the pitch under the Mobile Homes Act agreement?

Q7. What is the impact of these complex arrangements on residents and on enforcement authorities?

Q8. Are there circumstances where such arrangements are legitimate?

Harassment

19. Harassment is a complex area and we have received reports that some park home residents feel they are experiencing harassment by site owners and people acting for them. For instance, some residents have complained about repeated inspections of their pitches.
20. A request to inspect a pitch is not harassment (indeed it is a legal right) but repeated demands and visits to a pitch on a regular basis might constitute harassment. We therefore, want to hear what you think could constitute acts of harassment and what would not.
21. We also have heard that local authorities have found it difficult to prosecute in harassment cases under the existing law. We want to understand why and what could be done to make a successful prosecution more achievable.

Q9. What evidence do you have of “harassment” by an owner of a site or someone acting on their behalf?

Q10. What are the challenges for local authorities seeking to prosecute harassment cases and how could they be addressed?

How to respond

22. The call for evidence on Part 1 will end on 27 May 2017.

23. You may respond by emailing your response to the questions in this document to parkhomes@communities.gsi.gov.uk.

24. When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include the name of organisation (if applicable).

25. For any enquiries about the consultation, please contact Connor Power by email: (connor.power@communities.gsi.gov.uk)