



Ministry of Housing,  
Communities &  
Local Government

## Review of park homes legislation

### Call for evidence - Part 1 and 2

Government response



© Crown copyright, 2018

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

This document/publication is also available on our website at [www.gov.uk/mhclg](http://www.gov.uk/mhclg)

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Ministry of Housing, Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/mhclg>

October 2018

ISBN: 978-1-4098-5328-2

# Contents

Introduction	4
Government response - summary of proposals	5
Government response	6
Commission on sales	12

# Introduction

1. The Government is committed to giving better protection to park home owners whilst ensuring that honest professional site owners are not faced with unfair competition from rogue operators. 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 the land. The sector offers an attractive choice for some people, often older people downsizing from their family homes.
2. There are many good site owners in the industry who provide a professional service to their residents and respect their rights. Sadly their good work can be overshadowed by the unscrupulous operators within the sector. We want to create a level playing field where the good operator does not face unfair competition from those who ignore their obligations and the rights of residents.
3. In 2013, the Government introduced the Mobile Homes Act 2013 which made significant changes to the law on park homes. The Act introduced new procedures for selling mobile homes, reviewing pitch fees and making site rules on residential mobile home sites. The Act also introduced a new local authority site licensing regime which gave local authorities substantial enforcement powers.
4. Last year we carried out a two part review of the park homes legislation. We are very grateful to everyone who took the time to respond. The summaries of responses to both parts of the review are available at: <https://www.gov.uk/government/consultations/review-of-park-homes-legislation-call-for-evidence> and <https://www.gov.uk/government/consultations/review-of-park-homes-legislation-call-for-evidence-part-2>.
5. The review tells us that overall, the measures introduced by the Act have been effective in improving the sector. Changes to the contractual terms meant significant realignment of negotiating power between residents and site owners. However, some of the processes and procedures could be streamlined further and some residents still lacked awareness of their rights, statutory requirements and responsibilities, such as seeking legal advice. Local authorities welcomed the provision of new powers and the resources granted by the Act, but some had faced barriers in carrying out their enforcement duties. There are also good site owners in the sector, but some continue to take unfair advantage of residents, most of whom are elderly and on low incomes.
6. This document sets out the Government's response to both Part 1 and 2 of the review. It sets out proposals to strengthen the existing legislation to improve residents' rights and give local authorities more enforcement powers to tackle rogue site owners. We also propose to work with the sector to raise awareness of rights and responsibilities of residents and to develop and disseminate best practice amongst local authorities.

# Government response - summary of proposals

7. The Government is committed to ensuring that residents are better protected and that site owners who run a decent and honest business can flourish.
8. We have carefully considered the responses to the call for evidence. In this document, we set out the Government's proposals which are aimed at tackling on-going abuses identified in the review and raising awareness about rights and responsibilities of residents.
9. In summary, the Government will:
  - I. Bring forward legislation in due course when parliamentary time allows to:
    - a. amend and clarify the definition of a pitch fee and prevent the use of variable service charges in written agreements;
    - b. simplify the complex and opaque company structures used by some rogue site owners to limit a resident's security of tenure and avoid liability for any enforcement action;
    - c. introduce a fit and proper test for site owners; and
    - d. change the pitch fee review inflationary index from the Retail Price Index (RPI) to the Consumer Price Index (CPI).
  - II. Set up a working group of representatives from across the sector to explore how messages about rights and responsibilities can be disseminated more widely. The group will examine how the administrative processes for selling mobile homes, reviewing pitch fees and making site rules could be improved and streamlined further.
  - III. Engage with local authorities through the Chartered Institute of Environmental Health (CIEH) and the Site Licensing Officers' forum to support them in raising awareness among local authorities about their existing powers, developing and sharing best practice on enforcement and for dealing with harassment cases.
  - IV. Support good site owners by engaging with the trade bodies to set up a Primary Authority to work with the industry and provide expert advice to other local authorities on licensing issues.
10. The Government will commission research to gather relevant data to enable a detailed assessment of the likely impacts of a change to the 10% commission on sales, on residents and site owners.

# Government response

11. This section sets out the key themes we sought evidence on, a brief summary of the evidence provided and the Government's response.

## Variable service charges

12. Some site owners pass on their repair, maintenance and other ad hoc costs<sup>1</sup> to residents by requiring them to pay variable service charges in addition to the pitch fee.
13. We asked for evidence of separate service charges being levied on sites, what the impact of variable service charges was and whether the factors to be taken into account in a pitch fee review process should be restrictive.

### *Summary of responses*

14. Local authorities and residents provided evidence of the use of variable service charges and suggested that the effect can be likened to an increase in pitch fees of about 20% to 30% (or £1000 a year). Most site owners that responded did not support the use of variable service charges.

### *Government response*

15. The responses to the review suggest that the majority of site owners did not have variable service charges in addition to the agreed pitch fee. However, where it was used, it had a significant impact on residents' finances, their well being and their health. The Government wants to ensure that residents only pay for services that they are required to pay for through the pitch fee and **will bring forward legislation in due course to amend and clarify the definition of a pitch fee and prevent the use of variable service charges in written agreements, when parliamentary time allows.**
16. It was also evident that some residents do not seek independent advice before entering into written agreements and are later surprised and distressed to learn of charges they are liable for. There needs to be more awareness among both existing residents and prospective purchasers of a park home, about the statutory framework and rights and responsibilities that apply in the sector. **We will work with our stakeholders to explore how messages about residents' rights and responsibilities can be disseminated to existing and prospective residents more effectively.**

---

<sup>1</sup> Along with the agreed pitch fee some site owners include management, administrative and legal costs within the terms of the written agreements as a variable charge levied as and when required.

## Transparency of ownership

17. Some park home site owners manage their sites using complex ownership structures and management arrangements. These arrangements reduce a resident's security of tenure and enable a site licence holder to avoid liability for local authority enforcement action.
18. We asked for evidence of these complex arrangements and the impact they have on residents and on enforcement authorities.

### ***Summary of responses***

19. Examples were provided of different company ownership structures used by some site owners. Such structures made it difficult for local authorities to identify the responsible person to take enforcement action against. It also created problems for residents as they did not know who was responsible for the management of the site or who should deal with site issues. Most site owners did not support the use of complex management structures.

### ***Government response***

20. The Government acknowledges that there are circumstances where a park owner may not be the freehold owner of the land for genuine business reasons. However, from the review it was clearly evident that some ownership and management arrangements were being used to exploit vulnerable residents financially. For example, some site owners established complex ownership arrangements that confuse residents and leads them to pay additional charges. Other residents had been given written agreements by a subsidiary company with a short leasehold interest. This meant the residents' security of tenure was limited as their agreements would end when the company's leasehold interest expired. In one case, the site owner proposed to renew every agreement to increase security of tenure but at an additional cost to each resident of £40,000 per home.
21. These practices are unjustifiable and unacceptable, particularly where the majority of residents will be pensioners on low incomes and their park home will be the only asset they have. Such arrangements also mean that residents could find themselves in a position where they have to leave the site, but are unable to sell their home. All residents of park home sites should be confident that they have security of tenure and should not be worried about where to live or what unforeseen financial liabilities they may have in the future. The sector should not provide an opportunity for rogue site owners to extract ever-more cash from those who may already be on fixed or low incomes.
22. Looking at the responses to the call for evidence, action is clearly needed to protect residents from such abuses. **The Government will therefore bring forward legislation in due course to simplify the complex and opaque company structures used by some rogue site owners to limit a resident's security of tenure and avoid liability for any enforcement action, when parliamentary time allows.**

## Local authority site licensing regime

23. The Mobile Homes Act 2013 gave local authorities new enforcement powers including the power to charge fees for carrying out their licensing functions and issuing compliance notices. The Act also created a number of new offences including making it an offence to operate a park home site without a licence in force, or not complying with a compliance notice issued by the local authority. Both offences are subject to an unlimited fine (level 5).
24. We asked whether local authorities had introduced an annual licence fee and if this provided them with sufficient resources to enable them to carry out their functions more effectively. We also asked what the main barriers to local authority enforcement in the sector were and how Government could support greater enforcement action.

### ***Summary of responses***

25. The call for evidence revealed that local authorities welcomed these new powers, but they also faced a number of barriers when taking enforcement action including a lack of dedicated resource and legal expertise. Some local authorities found it difficult to bring prosecutions in harassment cases mostly because of difficulties with obtaining evidence. Overall, residents and site owners did not consider that local authorities had used their new powers sufficiently to tackle the rogues in the sector.

### ***Government response***

26. Alongside the substantial powers that we gave local authorities under the 2013 Act, we published guidance for local authorities to assist them with setting licensing fees, dealing with licence applications and carrying out licensing enforcement. While some local authorities have been proactive in using their powers, others have not.
27. Before charging fees, local authorities must publish their fee policy. Some authorities have yet to publish a licensing fee policy and so may not have set fee levels at a rate which enables their licensing functions to be carried out effectively. Also, where local authorities have been successful in their enforcement activities, there has been little or no sharing of good practice with other local authorities.
- Going forward the Government will engage more with local authorities, including through the Chartered Institute of Environmental Health (CIEH) and the Site Licensing Officers' forum<sup>2</sup> to support them in raising awareness among local authorities about their existing powers, developing and sharing best practice on enforcement and for dealing with harassment cases.**
28. A further barrier for local authorities was a lack of co-operation from some site owners. There is a need for greater professionalism and a better understanding of

---

<sup>2</sup> A forum of local authority officers from Environmental Health, Licensing, Trading Standards and Legal Services set up to develop good practice guidance for mobile homes licensing and enforcement.



the legislation even by site owners who belong to trade bodies. **We will support good site owners by engaging with the trade bodies and the Department for Business, Energy and Industrial Strategy (BEIS) to set up a Primary Authority<sup>3</sup> to work with the trade bodies and provide expert advice to local authorities on licensing issues.** This will help improve standards and practice among site owners, streamline and improve consistency of enforcement processes and enable local authorities to concentrate their resources on tackling the rogues in the sector.

## Fit and proper person test

29. The 2013 Act included an enabling power for the Secretary of State to introduce a “fit and proper” person test<sup>4</sup> for site owners.
30. In Part 2 of the call for evidence we sought views on whether such a test was necessary and whether it would help local authorities deal with the problems in the sector more effectively.

### ***Summary of responses***

31. Most residents supported the introduction of a fit and proper person test because in their view, the 2013 Act had not provided local authorities with sufficient powers and resources to tackle poor management of sites and abuse of residents. Most local authorities who responded to the review had some concerns about the practical aspects of operating a scheme. Site owners did not support the introduction of a fit and proper person test because they considered that authorities already have sufficient powers and resources available to them to ensure appropriate site management.

### ***Government response***

32. The policy intention behind the inclusion of an enabling power in the 2013 Act, rather than including the fit and proper person test in the primary legislation, was for it to act as a deterrent to the worst site owners and give the industry an opportunity to demonstrate significant improvements had been made.
33. We know that there are good site owners who continue to provide a suitable service to residents and respect their rights. We will support those site owners through regular engagement with the trade bodies to help improve standards further.
34. However, the call for evidence provided examples of site owners continuing to disregard the law, harass and financially exploit residents. These practices have a

---

<sup>3</sup> Primary Authority is a statutory scheme that allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its ‘primary authority’. It is a means for individual businesses or their trade body to receive assured and tailored advice through a single point of contact.

<sup>4</sup> If this provision is commenced, the Secretary of State would have a power to make regulations which will make it an offence to manage a site unless the local authority is satisfied that the person is a fit and proper person. Failure to comply will be an offence and could lead to the licence being revoked.

huge impact on the finances and health of the mostly elderly and vulnerable residents in the sector and who are on low incomes. This is unacceptable and the Government has concluded that a fit and proper person test would be a useful addition to local authorities' existing powers to help target the worst offenders in the sector. **We will legislate to introduce a fit and proper test in due course, when parliamentary time allows** subject to a technical consultation to ensure the proposals work effectively and remove unscrupulous and criminal site owners from the park homes sector.

## Contractual arrangements

35. Part 2 of the review tested the effectiveness of the new statutory processes and forms introduced by the 2013 Act for selling a park home, site rules and reviewing pitch fees.
36. We sought evidence of how well the new procedures had worked and on an appropriate inflationary index to be used when reviewing pitch fees.

### ***Summary of responses***

37. Most respondents agreed that the new procedures for selling mobile homes had reduced or eliminated the ability of site owners to block sales by residents of their park home. However, respondents provided evidence that some site owners were still interfering in the sales process and that there was a lack of understanding by residents, estate agents and solicitors of the sales process. The process for making site rules had also been a success overall, however banned site rules were still being deposited<sup>5</sup> with local authorities who have no power to reject or revise them.
38. The use of the pitch fee review form had made the process more open and transparent. In relation to the pitch fee review inflationary index, residents and local authorities favoured the use of the Consumer Price Index (CPI) in pitch fee reviews but site owners favoured the continued use of the Retail Price Index (RPI).

### ***Government response***

39. The main purpose of the new processes for selling mobile homes, reviewing pitch fees and making site rules was to ensure transparency. We introduced a number of statutory forms which set out the requirements and necessary information to enable residents to make informed decisions. Where there are disputes, the parties involved are able to apply to the First Tier Tribunal for a determination on the matter.

---

<sup>5</sup> New site rules have to be deposited with the local authority and if accepted, must be published on the local authority's website.

40. It is important that residents, most of whom are elderly, understand their rights and responsibilities and are able to seek advice when necessary. To address this, the Government set up a free independent advisory service, LEASE, to provide advice by telephone, through its website and engagement activities. Most respondents to the call for evidence said they were aware of LEASE and had found their advice on the legislation very helpful.
41. There was however evidence that some residents, site owners, estate agents and solicitors did not fully understand the procedures and their responsibilities. Concerns were also raised about the length of some forms and processes. We want to ensure that the system we have put in place continues to work effectively for both residents and site owners. **We will therefore set up a working group of representatives from across the sector to explore how messages about the legislation can be disseminated more widely and examine how the administrative processes for selling mobile homes, reviewing pitch fees and making site rules could be improved further.**
42. On the pitch fee review inflationary index, the Government has considered all the arguments put forward including concerns about affordability for both residents and site owners. We also considered the merits of using CPI or RPI as the pitch fee review inflationary index and have concluded that CPI is the most appropriate inflationary index as the designation of RPI as a national statistic has been cancelled by the UK Statistics Authority.<sup>6</sup> **The Government will introduce legislation in due course to change the pitch fee review inflationary index from RPI to CPI, when parliamentary time allows.**

---

<sup>6</sup> <https://www.statisticsauthority.gov.uk/archive/assessment/assessment/assessment-reports/assessment-report-246---the-retail-prices-index.pdf>

# Commission on sales

43. During the review we received submissions from residents on the maximum 10% commission paid to a site owner on the sale of a mobile home. The issue was outside scope and has not been considered as part of this review. The issue about the payment of commission however continues to raise concerns and create uncertainty for residents and site owners and that is why the Government is setting out its initial views on this issue as part of this document.

## ***Background***

44. Under the implied terms of a written agreement under the mobile Homes Act 1983 (as amended), a site owner is entitled to a commission of up to 10% of the sale price of the home. There has been considerable debate over the years about this issue with residents calling for the rate to be reduced or abolished and site owners arguing for the commission payment to be maintained.

45. The Government has previously commissioned research and consulted on this issue. Research<sup>7</sup> commissioned in 2002 outlined three potential avenues for reform but also noted the implementation issues and difficulty in making retrospective changes for existing residents. In 2006, the Government consulted on the appropriate rate of commission but decided that the maximum rate of commission should remain at 10%. In 2012, the independent Communities and Local Government Select Committee held an inquiry into the park homes sector and considered the issue of commission. The Committee concluded that the site owner's right to a commission should remain in place. The park homes working group set up by the Government in 2015 also considered the issue but was unable to reach agreement.

## ***Government response***

46. The issue of commission is complex and there are strongly held conflicting views amongst park owners and residents. This is unlikely to change. It is also clear that there are likely to be impacts on both residents and site owners if changes are made to the rate of commission payable. There is however no data available which accurately measures any of the impacts. It is important that any on-going discussions, debates or decisions are based on facts and an accurate assessment of any impacts on the sector. **The Government will therefore undertake research to gather relevant data to enable a detailed assessment of the likely impacts of a change to the 10% commission on residents and site owners.** The research will be a separate strand of work to the proposals we have outlined in this response. We will make a further announcement in due course setting out a timetable for the research.

---

<sup>7</sup> [Berkley Hanover Consulting, Economics of the Park Homes Industry - summary, 2002.](#)