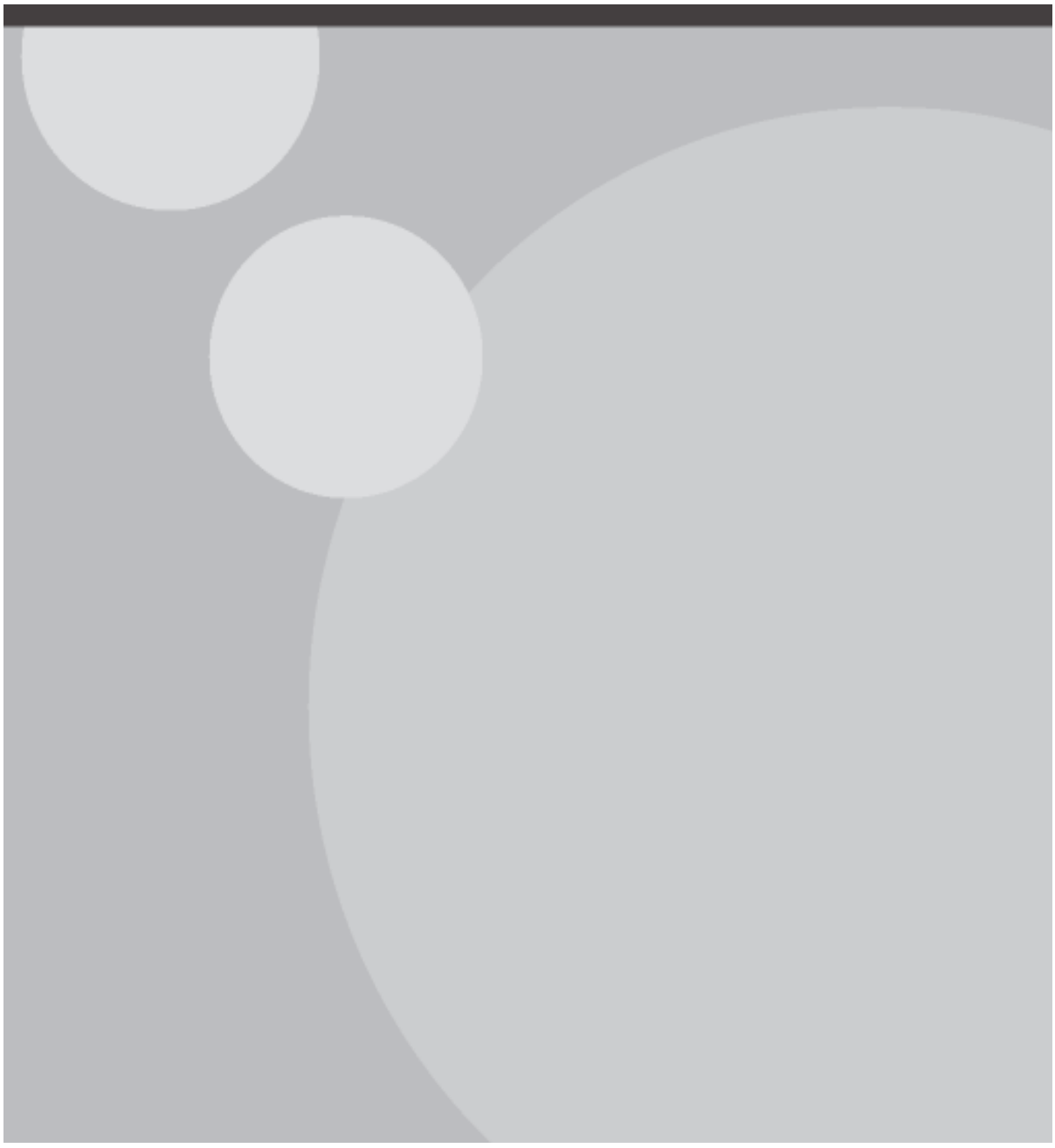
Communities and Local Government

A BETTER DEAL FOR MOBILE HOME OWNERS

Consultation



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A BETTER DEAL FOR MOBILE HOME OWNERS

A Consultation Paper

April 2012
Department for Communities and Local Government

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Ministerial Foreword

Park home living can be an attractive alternative to bricks and mortar housing. The opportunity to own a home on a quiet estate in the country or by the sea is seen by many as an idyllic way to spend their retirement. But sadly, for some, the reality is far from ideal.

Many park home sites are well managed. Good site operators manage their sites professionally, respecting their residents' rights, providing a good quality service to residents and ensuring that their health, safety and welfare are protected. However, much of their good work is being overshadowed by the growing number of unscrupulous and criminal operators joining the industry.

These unethical site operators boost their profits by exploiting home owners and failing to meet their legal obligations and as a result I've seen standards in the park homes industry become increasingly polarised.

The reforms I've outlined here aim to prevent the exploitation of park home owners and give local authorities and the courts the power to hold bad site operators to account.

These are sensible, practical proposals, targeted at the worst practices and minimising the burden on those who do a good job for their residents. They aim to put the park home sector on a sustainable footing for the long-term – where site operators can run a good business, offering a decent service to residents, and residents can live peacefully in their homes knowing that the law protects them from abuse.

Rt Hon Grant Shapps MP
Minister for Housing and Local Government

The consultation process and how to respond

Scope of the consultation

Topic of this consultation:	This consultation paper concerns proposed reforms to mobile home and caravan law, including to contractual rights and obligations between the parties to an agreement, criminal sanctions and local authority site licensing.
Scope of this consultation:	Chapter one sets out options to reform the buying and selling process of mobile homes and in particular to combat unreasonable sale blocking. Chapter two contains a number of other proposed reforms to the Mobile Homes Act 1983 to improve home owners' rights and reduce the scope for abuse. Chapter three is concerned with criminal sanctions for those who harass, intimidate or illegally evict people living in a mobile home. Chapter four sets out a number of options to reform caravan site licensing under the Caravan Sites and Control of Development Act 1960, particularly to allow local authorities to charge for their services, to seek robust fines for breaches of licence conditions, do works in default and refuse to grant licences in certain circumstances.
Geographical scope:	This consultation applies to England only.
Impact Assessment:	Consultation stage Impact Assessments have been published as part of this consultation.

Basic Information

To:	This document is aimed at those that have an interest in the mobile homes and holiday caravan industry, including site operators and managers, local authorities and residents of mobile home and traveller sites.
Body/bodies responsible for the consultation:	Park Homes Team, The Department for Communities and Local Government (DCLG).
Duration:	From 16 April 2012 to 28 May 2012 We are consulting over six weeks, rather than the normal 12 week period. This is because the main issues have been the subject of much public debate over the last few years and will be familiar to mobile home owners, site operators and local authorities. Furthermore, as we publish, Parliament's Communities and Local Government Select Committee is holding an inquiry into the park home industry. We have received a considerable amount of written evidence submitted to the committee from the industry, home owners, local authorities and other bodies and will be taking these

	submissions into account as part of this consultation process.
Enquiries:	William Tandoh Parkhomes@communities.gsi.gov.uk
How to respond:	Preferably electronically to: Parkhomes@communities.gsi.gov.uk marking your response "Reforms to legislation Consultation". Or by post to: William Tandoh Park Homes Policy Team Department for Communities and Local Government 1/D1 Eland House Bressenden Place London SW1E 5DU
After the consultation:	Within three months of the consultation closing we will publish on our website (www.communities.gov.uk) a summary of the responses and the Government's response to them.
Compliance with the Code of Practice on Consultation:	This consultation complies with the Code of Practice on Consultation. Any new legislation which may arise from this consultation will be consistent with the Ministry of Justice / Department for Business Enterprise & Regulatory Reform guidance on creating new regulatory penalties and offences.

Background

Getting to this stage:	On 10 February 2011 the Minister for Housing, Grant Shapps, announced that he proposed to consult on a range of measures to improve the rights of owners of mobile homes and to give local authorities the powers to ensure mobile home sites are safe and secure. Since then the Department has been working up practical and simple proposals that will help improve the sector and better protect mobile home owners. We are very grateful for the contributions of the working group who have helped inform the consultation including national resident organisations, site operator organisations, holiday home owners, Justice Campaign Group and local authority practitioners.

INTRODUCTION

Approximately 85,000 households live on about 2000 mobile home sites in England. Mobile homes are commonly known as “park homes”, but in this paper we shall use their legal name in chapters 1, 2 and 3. In chapter 4 we will refer to “caravan” law, which includes mobile homes and other caravans.

Mobile homes offer an attractive and affordable option for many people, particularly in retirement. However, the legislation governing mobile homes is complex and poorly understood. Mobile home owners normally own their own homes but rent the land on which the home is stationed. The relationship between the site operator and the home owner is governed by the Mobile Homes Act 1983. It is clear from the experience of home owners that the Mobile Homes Act does not offer effective protection for home owners and that “rogue” or criminal site operators can prevent home owners from exercising their rights. Rogue site operators and poor quality sites have an unacceptable impact on both home owners and on reputable operators who are working hard to improve the reputation of the industry.

The Government is committed to improving protection for owners of mobile homes. This consultation document sets out our proposals. Chapter 1 addresses one of the most common complaints of home owners – that site operators block their attempts to sell their homes. Chapter 2 proposes a number of other improvements to the Mobile Homes Act, including making it easier for home owners to exercise their rights, amend unacceptable contract terms, and clarifying what happens when a home owner dies, and who is responsible for repairs. Chapter 3 discusses the provisions in the Caravan Sites Act 1968 about criminal offences. Chapter 4 proposes reforms which would modernise the caravan site licensing system, which has been largely unchanged since 1960.

These are major reforms which would require primary legislation to implement. However, the Government has already made some improvements by secondary legislation. In April last year an amendment to the Mobile Homes Act gave, for the first time, statutory security of tenure and other rights to some 6000 traveller caravans on local authority sites. At the same time Parliament approved the Government’s plan to transfer the mechanism for resolving most disputes under that Act from the courts to residential property tribunals and the tribunals have been hearing cases since 30 April 2011.

CHAPTER ONE:
SELLING AND GIFTING OF MOBILE HOMES

Background

1.1 Under the Mobile Homes Act 1983 the owner of a mobile home on a protected site, other than a local authority traveller site, has a right to sell or gift the home and to assign (pass on) the pitch agreement to the new owner.

1.2 Before a sale is completed, the seller must obtain the site operator's approval of the purchaser. This allows the site operator to check that they meet the site rules (for example on age). But approval must not be unreasonably withheld and cannot be given subject to conditions. If the seller believes that the site operator has unreasonably refused to approve a sale, or not responded in a reasonable time, they may apply to a residential property tribunal for it to approve the purchaser instead of the site operator.

1.3 The site operator is entitled to receive commission on completion of the sale of 10% of the price, but is not entitled to demand or receive any other payment in connection with the sale.

1.4 An owner can gift (give) the home to a member of his family, without payment. The site operator's approval of the proposed new owner must be sought and the rules that apply are the same for selling a home. The site operator is not entitled to receive any commission or other payment in connection with the transfer.

The problems

1.5 Home owners complain that site operators routinely block open market sales. Those experiences have been highlighted by the Park Homes Justice Campaign and through the work of the All Party Parliamentary Group on Mobile Homes, as well as debates in Parliament. There are widespread concerns that it may be seen by some in the industry as normal business practice.

1.6 Research carried out in 2001[1] questioned home owners on the practice of sale-blocking. 43% of home owners were aware of pressure being exerted by site operators on other home owners to sell their homes to the site operator. However, there is no evidence that blocking of sales is universal. According to the same report, 39% of purchasers bought their home from an existing home owner.

1.7 This research is now 10 years old and was based on a relatively small sample of the industry, so is not definitive. But it does lend weight to the individual complaints that sale blocking and forced sales remain a significant problem.

[1] Economics of the Park Home Industry Report (ODPM 2002)

Why do site operators block sales?

1.8 Blocking a sale can be profitable for the site operator. He can increase his income and profits by buying the home from the resident owner at a significantly discounted rate (because the home owner cannot sell in the open market) and either sell it himself or put a new home on the pitch and sell that in the open market. This is more profitable than simply taking the commission on the open market sale, and it also allows the site operator to issue a new agreement to the incoming home owners on terms perhaps more favourable to site operator.

How does sale blocking happen?

1.9 The most common complaint is that site operators make contact with prospective purchasers, through an interview process or by phone or e-mail. They then use that contact to deter the purchaser. Some site operators would argue that this contact is necessary to assess the suitability of the purchaser and explain more about mobile home living.

1.10 Home owners have also complained that some site operators will impose a blanket ban on the marketing of homes or will obstruct estate agents. Or they might refuse permission on the grounds of the condition or age of the home or because the site operator intends to redevelop the site.

1.11 Some home owners complain that some site operators will deliberately rent neighbouring homes to anti social tenants, to drive home owners from their homes. In the most extreme cases, home owners have reported direct intimidation, harassment and even violence being used to prevent them from selling their home in the open market or to simply encourage them to leave.

We are interested to hear the experiences of all consultees on the open market sale of mobile homes.

Q1: Are you aware of sales being blocked on mobile home sites? If so, how?

Q2: Alternatively are you aware of open market sales proceeding smoothly?

Options for Reform

1.12 Home owners should be able to sell their homes in the open market for a price that properly reflects its value. We propose to introduce new legislative measures to prevent the blocking of open market sales. We want to find a better balance between the interests of the home owner, the purchaser and the site operator. We also want to ensure that the system is as simple as possible.

1.13 We are not proposing a requirement that interviews between site operators and prospective purchasers be conducted in the presence of an independent third party, such as a solicitor- as some campaigners have called for. In our view this would unnecessarily formalise a process which is not, in fact, a necessary part of

the sales process. We also have significant concerns as to whether in practice it would make any difference to how a site operator may conduct himself. If an unscrupulous site operator is prepared to mislead a prospective purchaser, then it seems likely that he would be willing to do so in front of a witness. It is also unclear who would meet the costs of the third party and exactly what his or her role in the process would be.

1.14 Instead we have, developed three alternative options.

- A - the requirement to obtain the site operator's approval of a purchaser would be abolished.
- B - the purchaser would be deemed to be approved unless, on application of the site operator, a residential property tribunal declares him unsuitable.
- C - the approval requirement would remain in place, but where there is evidence of abuse, the home owner could apply to a residential property tribunal for the tribunal to exercise that role instead of the site operator.

We propose that whatever option is adopted it will apply to all pitch agreements irrespective of whether they were entered into before or after the coming into force of the new rule.

Option A: No approval of purchaser required

1.15 Under this option the seller would not need to seek any approval from the site operator. Instead the seller and purchaser would agree the date of completion of the sale and the agreement would automatically be assigned to the purchaser from that date, provided that the site operator's commission was paid.

1.16 The seller would be required to supply to the potential purchaser all relevant and up to date information on the pitch, including a copy of the agreement, site rules, details of the pitch fee and other charges made by the site operator in order for him to decide whether to proceed with the purchase. If the seller failed to supply the relevant information or supplied misleading information he would be liable to be sued by the purchaser. This would be in line with the arrangements that apply to sales of bricks and mortar homes.

1.17 This option would largely prevent the potential for sale blocking because there would be no need for the site operator to be aware of the proposed sale. It is the quickest, simplest and least bureaucratic option.

1.18 A particular risk with this option is that the purchaser might end up through no fault of his own, falling foul of site rules (e.g. on age) which were not explained to him and the possibility of having the pitch agreement terminated as a result. It would be up to the purchaser to ensure, through due diligence in the sale process, that the site requirements were appropriate although this is already the case to a large extent under the current system.

Option B: Deemed approval of home owners' sales

1.19 Under this option, the site operator would be informed of a potential purchase, but the purchaser would be deemed suitable and the sale would proceed, unless the site operator made an application to a residential property tribunal, asking the tribunal to find that the purchaser was not suitable. This has several key differences from the current system:

- It removes the opportunity for the site operator to simply delay, and deter purchasers by not responding to requests;
- It puts the onus on a site operator to object to a purchaser, and to provide evidence for their objection and
- Because the site operator would not have the contact details of the purchaser, it would prevent them contacting them to deter them from proceeding.

1.20 The seller would need to confirm to the site operator that the purchaser met the site rules and answer any questions he might reasonably have.

1.21 If the seller received no response at all from the site operator within one month, the purchaser would be deemed approved and the sale could proceed. If the site operator raised concerns, the seller would have an opportunity to respond to those before an application to the tribunal could be made. If no application was made to the tribunal within two months of the original request to approve, again, the purchaser would be deemed to be approved.

1.22 If an application was made to a residential property tribunal the sale could not go ahead unless it was approved by the tribunal, or the site owner's application was dismissed, for example because the tribunal found it to be frivolous or vexatious, or otherwise without merit.

1.23 In order to deter vexatious applications, the site operator would not usually be entitled to receive commission if his application to the tribunal to prevent the sale going ahead is dismissed.

1.24 If no application is made to the tribunal within the two month period the site operator could not subsequently terminate the pitch agreement or take other action against the home owner, for a breach of site rules which the site operator could have objected to at the time of the sale.

Option C: Residential Property Tribunal determines approval in default of the site operator

1.25 This option is the most similar to the existing system, in that the home owner would need to seek approval of the purchaser, in the first instance, from the site operator. If approval was withheld or no response was received within the time limit, then an application could be made to a tribunal for approval. However, under the current rules this does not help home owners where the site operator repeatedly persuades potential purchasers to withdraw from the transaction.

1.26 We, therefore, propose that the seller could apply to a tribunal for a declaration that the site operator had acted unreasonably in connection with the proposed sale or where there is evidence to suggest that the site operator has previously unreasonably blocked sales on the site or other sites in his ownership. A tribunal or court finding to that effect would be conclusive evidence.

1.27 If the tribunal made a declaration, the site operator's right to approve a future purchaser of the seller's home would be suspended for two years. The home owner would instead make an application for approval of the purchaser to a residential property tribunal which would decide whether to approve the sale, taking into account the site rules.

1.28 If a purchaser was approved by the residential property tribunal then the site operator would not usually be entitled to receive commission on the sale of the home to that person**.**

1.29 This option retains the main elements of the current system and in particular the roles of buyer, seller and site operator in the process. It aims, however, to give additional protection to home owners who have previously suffered from sale blocking. However, it is the most administratively complex, with the potential for tribunals to be involved in a large number of sales. It also only provides a remedy for the blocking of subsequent sales – it does not prevent an initial sale being blocked. Finally, it relies on the ability of the tribunal to assess whether previous sales were blocked. This might be difficult to do if previous purchasers have walked away and no longer wish to be involved in the process. It would also entail a cost burden for applications to the tribunal, an issue over which the tribunal could exercise some element of discretion, and which could be a matter for negotiation between the buyer and the seller.

1.30 We are also considering introducing a requirement that site rules are deposited with the local authority. This would be particularly important should option 1 be adopted. Our proposals relating to site rules are discussed in more detail in chapter 2.

Q3: Do you agree that the law should be reformed to prevent sale blocking?

Q4: Which of the three options do you prefer and why?

Q5: Do you agree that the new scheme should also apply to gifting of homes? If not, why not?

CHAPTER 2
OTHER CHANGES TO THE MOBILE HOMES ACT 1983

Introduction

2.1 We also propose to make other changes to the Mobile Homes Act 1983 to improve the selling process or to improve and clarify relationships between site operators and home owners. These changes will apply to all pitch agreements irrespective of whether they were entered into before or after the new rules are enacted.

Express and Additional terms in agreements

2.2 Many terms in a pitch agreement are implied as a matter of law –they form part of the agreement whether or not they are written down. Chapters 2 and 4 of schedule 1 of the Act set out the implied terms that apply to agreements for pitches on residential mobile home site (including local authority traveller sites). Other terms in the agreement are called “express terms” and are those that are agreed between the parties when the contract is first entered into.

2.3 At present, if either party wishes to delete, vary or add an express term then they can apply to a residential property tribunal within the first six months of the agreement. This provides a short window of opportunity for the parties to correct anything which might be considered unreasonable or unclear. However, it only applies between the original parties and not at all if the agreement is transferred when a home owner sells his home. It can therefore be difficult for either side to challenge an agreement which is unclear or unreasonable.

2.4 Home owners also complain that the express terms in agreements are varied when an agreement is assigned, sometimes as a condition of sale – most commonly to increase the pitch fee. This is against the law – the purchaser is entitled to take on the agreement on the same terms enjoyed by the seller. In any case a pitch fee can only be changed in accordance with the review mechanism in the implied terms so a change imposed or made otherwise can have no effect.

2.5 We propose, therefore, to apply the six months rule to agreements that are assigned through a resident’s sale to a third party as well as a new agreement between the home owner and the site operator. In this way the parties will have six months from the start of the home owner’s occupation to ask the tribunal to change, add or delete the term.

Q6: Do you agree the time limit of six months should also apply to agreements that are assigned to new home owners?

Site Rules

2.6 Some sites will have specific rules. Many will include a minimum age requirement, and most will set out general management rules, for example, on keeping pets, car parking arrangements, refuse collection etc. Good site rules ensure that expectations are clear on all sides and disputes can be more easily resolved or avoided all together.

2.7 Usually site rules form an integral part of the pitch agreement and procedures for making rules or changing existing ones will normally be included in the agreement itself. If not, the rules may not be binding or enforceable. This uncertainty can leave home owners feeling vulnerable.

2.8 We propose that, in future, site rules should always be part and parcel of the express terms of the agreement and that any proposed changes to the rules by a site operator must be consulted on with the home owners or, if there is one, any qualifying residents' association. If a majority of home owners disagree in writing to the proposed change or the qualifying residents' association does so, the site operator will not be able to implement the change unless a residential property tribunal authorises it.

2.9 A change to the site rules would have no effect unless it was notified to the home owners with a summary of the consultation response and (where appropriate) a copy of the tribunal decision.

2.10 Existing site rules will bind a new site operator until any changes have been consulted on and agreed or authorised. A new site operator cannot impose rules where the site is not subject to rules unless home owners agree to this or in default the tribunal does so.

2.11 We also propose to limit the type of rules that can be included - particularly to exclude those which might be used as a device to prevent open market sales by home owners, such as an interview requirement.

2.12 We also propose that all sites rules must be deposited with the local authority and published by it alongside the site licence. This would allow any prospective purchaser to check their suitability for living on the site against them as well as other rules that apply to the site. If the rules are not deposited or those that are, are not accurate the site operator will not be entitled to rely on the rules at all (in the former case), or would be entitled to rely only on those in the published version (in the latter case) in any proceedings against a new home owner.

Q7. Do you agree that site rules should not be changed without prior consultation with the home owners (or in default the tribunal)?

Q8. Do you agree that a new site operator should not be able to unilaterally change or make site rules without agreement with the home owners (or in default the tribunal)?

Q9. Do you think that certain rules that are unreasonable, such as those that could be used to block sales should be excluded and not enforceable? Please give examples of the types of rules you have in mind.

Q10. (a)Do you agree that site rules should be deposited with the local authority and available for inspection by a prospective purchaser? (b) Do you agree with the consequences that should follow if a site operator does not deposit the rules or the correct rules?

Home owners' Improvements and Alterations

2.13 We have heard complaints that site operators will sometimes be deliberately obstructive when home owners want to carry out improvement works even within their own homes. We have heard of cases where home owners were refused permission to install an accessible shower unit and where permission to install a ramp for wheelchair access to the home was refused.

2.14 We therefore propose to make clear that a home owner is always entitled to make any internal improvements to their home so long as they do not alter its definition as a mobile home. The site operator's permission would never be required for such improvements.

2.15 In some cases it will be appropriate for the site operator's permission to be sought for external improvements to the home or the pitch. These might breach the site rules, or even the site licence. For external improvements, therefore, we propose that the site operator should be able to grant or refuse permission for improvements, but that this should not be unreasonably withheld. If the home owner believed that permission had been unreasonably withheld an application could be made to the residential property tribunal for its approval instead. The site operator could not charge for considering the application for approval.

2.16 However, we not propose to include within this any structures which are the property of the site operator, including out houses on traveller sites.

Q11: Do you agree that home owners should be able to make internal alterations and improvements to their home without consent of the site operator?

Q12: Do you agree that consent for external improvements should not be unreasonably withheld and there should be a right of appeal to the tribunal?

Joint Ownership: Rights and Succession

2.17 Mobile homes are often owned jointly, for example, by married couples or friends. But sometimes only one of those owners is a signatory to the pitch agreement. This can lead to problems particularly if the person named on the pitch agreement moves into a care home or dies. For example, if the person named on the pitch agreement dies while in a care home, at present their spouse

might not be entitled to succeed to the pitch agreement, even though they jointly own the home.

2.18 We propose to simplify the law so that anyone who owns and lives in the home as their only or main residence will be deemed to be a party to the agreement. If, therefore, the person named on the agreement ceased to occupy the home, the remaining home owner's right to continue to occupy the home would not be affected.

2.19 We also propose that where the home is in the sole ownership of the deceased, but he is survived by a spouse or other family member who also lived in his home at the time of the owner's death that person would also be entitled to succeed to the agreement.

Q13: Do you think this change simplifies the existing rules, provides greater clarity and is practical?

2.20 If no one residing in the home is entitled to succeed when the owner dies, then ownership is determined by their will, or under intestacy provisions. At present, someone who inherits a mobile home in this way is bound by the pitch agreement but does not have a right to live there.

2.21 We want to make it easier for people, not just relatives of the deceased, who inherit a mobile home to move into it. At the moment they have no choice but to sell it and in the meantime remain liable for pitch fees and other charges. There is evidence that these rules are used to force the sale of homes to the site operator at a discounted rate. We are, therefore, considering changing the law so that someone who inherits a mobile home may:

(a) live in the home under the terms of the agreement or

(b) gift the home to a family member so that they can live in it under the terms of the agreement.

2.22 This would be subject to the proposed home owner complying with the site rules – including for example any rules on age. The site operator would have an opportunity to challenge whether a proposed home owner complied with the site rules, and any disputes would be resolved at a tribunal.

Q14: Do you agree that someone inheriting the home should be entitled to live in it (or nominate another family member to do so) providing this would not breach the site rules?

Moving a Mobile Home

2.23 The site operator is entitled, under certain circumstances, to re-site a mobile home and when he does so the home owner has certain rights and protections. However, we are aware of complaints of abuse, and that the law is not sufficiently clear. We therefore propose to improve and clarify the law so that a home can only be moved with the authorisation of a tribunal.

Authorisation to move a home

2.24 Site operators are already required to seek the authorisation of a tribunal to move a home. But that does not apply if he needs to carry out "essential" or "emergency" repairs. This is open to abuse by unscrupulous site operators, especially as it is left to their judgement whether the move is necessary, whether the pitch to which the home is to be moved is comparable to the one to be vacated and whether the home can be moved back to the original pitch.

2.25 Emergency repairs do, of course, need to be carried out quickly. This is probably why the court's permission was not originally required in these cases. However, the court's role has now been transferred to residential property tribunals, who are able to deal with cases very quickly under their urgency procedure.

Returning the home to the original pitch

2.26 We propose to make clear that, where a home is moved to facilitate emergency or essential repairs to the base, the home owner's pitch agreement will remain in force. If the home owner agrees to move permanently to another pitch (or the tribunal rules that the pitch is no longer suitable) we propose that the site operator must give the home owner a new agreement for the pitch at a comparable fee to that payable on the former pitch.

Responsibility for the move

2.27 At the moment it is not clear who is required to move the home and the home owner's belongings when a home move is authorised. The law currently says that the site operator must pay the costs and expenses the home owner *incurred* with the home being moved. This suggests that the move is the home owner's responsibility although the home owner can reclaim costs from the site operator retrospectively.

2.28 We propose that the tribunal should make clear whether the site operator or home owner is to carry out an approved home move. Where a move has been initiated by the site operator, he would always pay all costs and expenses in connection with that move. If the home owner is to move the home the site operator would be obliged to meet the full costs in advance. In either case the site operator will be required to indemnify against loss or damage to the home. Where the move is temporary the same rules should apply when moving the home back to its original pitch.

Q15: Do you think that the rules governing a home move need to be changed? If not, please give your reasons.

Q16: If so, do you agree:
(a) that the tribunal should give authority for the home move in all cases?
(b) that if the move is to facilitate works to the pitch or base there should be a presumption in favour of returning the home to its original pitch?

(c) that on a permanent home move the new pitch should be comparable and the agreement should be on the same terms as the old pitch agreement?
(d) that the tribunal decide who moves the home and that the site operator must fund the move in advance?

Please give your reasons.

Repairs and Maintenance: Site operators' obligations and Site Improvements

2.29 The difference between "repairs" and "improvements" is not always clearly understood. Repairs to sites are the responsibility of site operators and must be funded through existing revenue sources.

2.30 Prior to the changes introduced in 2006 it was possible for site operators to recharge the cost of repairs through an increase in the pitch fee, if the repairs were beneficial to the home owners, for example work to upgrade roads. Since then only "improvements" can be recovered through pitch fee increases and then only after consultation with home owners. However, some site operators still add repair costs to pitch fees.

2.31 Problems seem to stem from the fact there is no effective definition of the site operator's repairing obligation in the Act.

Definition of site operator's repairing obligations and improvements

2.32 We propose to correct this by clarifying the site operator's obligation is to keep the site in repair by maintaining and keeping in repair:

(a) the base on which the home is stationed;

(b) any pipes, conduits, wires, structures, tanks or other equipment provided by the site operator in connection with the provision of water, electricity or gas or for the supply of sanitary facilities to the site, pitch or mobile home;

(c) all parts of the site that are under the control of the site operator and not within the repairing liability of a home owner, including access ways, street furniture and lighting, boundary fences, buildings in common use, drains and the drainage system and any open spaces or facilities in common use and to keep the same in a clean and tidy condition;

(d) any out house to which the pitch agreement relates;

(e) any trees, hedges or shrubs on the site and in the pitch (which have not been planted by the home owner or a predecessor in title or assignee),

and ensuring that the supply of gas, electricity or water to a pitch, out house or the home is maintained to a satisfactory standard (if the site operator is responsible for the supply).

2.33 We could also, to avoid any future confusion, make it absolutely clear that costs relating to the above cannot be included in a pitch fee review, and, therefore, home owners are not obliged to pay any sum attributable to repairs.

We propose to define an improvement as anything done to the site (including its facilities and amenities) which increases the services available to the home owners, and which the home owners have been consulted about (see below) but excluding:

- Anything which is required to be done under a site licence or through enforcement action under that site licence or
- Something that is the responsibility of the site operator to maintain and keep in repair under the site operator's repairing liabilities.

Q17: Do you agree that the site operator's maintenance and repairing obligations would benefit from this clarification?

Q18: Do you think there needs to be anything else included or anything that ought to be removed from these obligations?

Q19: Do you agree with the definition of "improvements"?

Improvement works – consulting with home owners

2.34 The current rules about improvements are poorly understood. We propose to make these rules more transparent by including them as a new separate implied term, setting out:

- A requirement to consult on the proposed works and their costs, if the site operator wishes to recover those costs through the pitch fee.

- In particular the consultation must set out how the works will benefit the home owners and how the costs of those works are to be recovered from the home owners.

- The site operator will not be able to pass on the costs unless (a) the majority of home owners have not objected to the works being carried out and (b) the scheme for recovery and apportionment of the cost has not been objected to by that majority.

- In the event that the majority of home owners object to the works, the cost or the scheme for the recovery of the cost, the site operator may apply to a residential property tribunal for its authorisation of the works etc, but only before the works have started.

- If the site operator does not consult on the proposed works or goes ahead with them following consultation objections without getting the tribunal's approval to do the works, the costs will not be recoverable through the pitch fee (and the tribunal will not be able to deal with an application retrospectively).

2.35 Also, the provisions for cost recovery seem ineffective. At present, the costs can only be recovered in full at the next pitch fee review. There is no mechanism to recover costs incurred on the same improvement works over two or more review periods without further consultation. So a site operator can only carry out works which can be consulted on, completed and billed in a single financial year. Also, once the cost of one-off improvements has been recovered there is no effective mechanism to require the sum to be deducted in calculating future pitch fee reviews.

2.36 We propose to clarify the law so that:

- improvement works can be phased over two or more consecutive review periods without the need to re-consult;

- the cost of the works can be phased and recovered over two or more consecutive review periods;

- the cost of one-off improvements can only be recovered once. The site operator is to deduct from the pitch fee in the next review the costs of improvements which have been already recovered.

Q20: Do you agree the works should be permitted to be phased and recovered over two or more review periods?

Q21: Do you think the site operator should be required to remove the cost of improvements from future pitch fees when those costs have been recovered?

Pitch Fee reviews

2.37 The proposed new rules about repairing liabilities and improvements works are intended to make the pitch fee review process more transparent and, therefore, to prevent ineligible charges being added to pitch fee reviews. However, the inclusion of ineligible charges is not confined to works undertaken on sites, but sometimes extends to other issues. We want to ensure that home owners have enough information about the proposed new pitch fee supplied to them so they can make informed judgements at the outset, rather than having to seek the further information from the site operator.

(a) Written statements

2.38 In order to ensure that a home owner knows how a pitch fee is calculated and what their rights are we propose the site operator will be required to provide a home owner with a statement in every review notice which identifies:

- The rate of change in the Retail Price Index since the previous review and how that rate has been applied to the existing pitch fee;
- Any adjustments (including reductions) that are required or are proposed to be made to that pitch fee in account of relevant changes since the last review and his statement will include a brief description and explanation of those changes;

and contains information about when and how the proposed pitch fee becomes payable. We propose that if the statement does not contain all the information in set out in this paragraph then the review notice is invalid.

(b) Eligible costs

2.39 At present, site operators are allowed to pass on to home owners, costs that they incur as a result of "legislative changes". This is reasonable. But home owners complain that some site operators try to impose any additional costs they "legislatively" incur on home owners' pitch fees, no matter how remote those costs are to the home owners. A well known example of this is a site operator who tried to claim costs of maternity pay (as a result of changes made to employment law) even though there were no expectant mothers working on his sites.

2.40 We therefore propose to clarify that pitch fees can only be increased in respect of legislative changes which directly affect the actual costs of the management or maintenance of the site, and took effect during the 12 months since the last review date. This would not include more general changes such as those affecting tax, overheads or other business or head office activities.

(c) Costs incurred as a result of this proposed legislation

2.41 The Government believes it would be iniquitous if the measures set out in this consultation to prevent abuse, overcharging and stopping home owners exercising their rights result in site operators passing on their costs for complying with the lawful requirements to home owners through over-inflated pitch fees.

2.42 We therefore, propose to include a provision in the legislation to make it clear that site operators cannot pass on any costs that are incurred by them in order to implement the changes to the Mobile Homes Act 1983 brought forth under this proposed legislation, in the next or any future pitch fee review.

Q22: Should the site operator be required to provide a written statement specifying how the pitch fee is calculated and giving information about its implementation? If so, is the information specified above the right amount and type?
Q23: Do you agree that site operators should not be able to pass on their costs of implementing the changes outlined in chapters 1 and 2 of this paper through pitch fees?

Damages and compensation

2.43 It appears that, without an explicit provision in the Act, neither a home owner nor a site operator may be entitled to damages or compensation for a breach of the agreement or of an obligation under the Act.

2.44 This seems to be the case in circumstances where the tribunal can order specific performance because the courts have held that where a home owner seeks a court's approval of a purchaser in default of the site operator the court cannot award damages for any loss incurred by the sale not proceeding[2].

2.45 We, therefore, propose to put beyond doubt that if someone incurs loss or expenses because of a breach of contract or a duty under the Act, in all circumstances they are entitled to damages and or compensation from the party at fault. This would include compensation for loss or expenses where a sale has been unreasonably blocked.

2.46 We propose that claims for damages and compensation would be made in the first instance to a residential property tribunal (and enforced in the courts).

Q24: Do you agree there is a need for a specific provision that damages and compensation can be claimed for breaches under the agreement and the Act?

[2] Lee v Berkeley Leisure Group (Court of Appeal) (1995) 29HLR 663

CHAPTER 3
CRIMINAL OFFENCES IN THE CARAVAN SITES ACT 1968

Introduction

3.1 The Caravan Sites Act 1968 (the Act) makes it a crime for owners of protected sites to harass or evict home owners without due process, or interfere with their peace or comfort in ways likely to abandon the site or refrain from exercising their rights. Local authorities are the primary authority for bringing proceedings under the Act.

Increasing penalties for eviction and harassment

3.2 Section 3 of the Act makes it a criminal offence for site operators (or persons acting on their behalf) to evict, attempt to evict or through harassment cause home owners to give up their mobile homes (without a court order), or prevent them from exercising a lawful right (for example to sell their home) or seeking a remedy. Harassment includes interfering with their peace and comfort or by withdrawing services or facilities.

3.3 Prosecutions under the Act are normally brought by the local authority. At present if a person is convicted of an offence under section 3 in the Magistrates' Court the maximum penalty that can be imposed is a level 5 (£5,000) fine or 6 months imprisonment or both. If the case goes to the Crown Court the maximum fine is unlimited and the offender can also be sentenced to imprisonment for up to two years.

3.4 A mobile home is a valuable asset and a fine of only £5000 may not act as much of a deterrent to a site operator who is determined to act outside of the law to get what he wants. We are conscious that some site operators might be more inclined to consider acting criminally to harass or intimate home owners into selling their homes to them if the avenue for sale blocking is removed. To prevent that it is important that the Magistrates' Courts are able to impose fines that reflect the seriousness of such a crime in terms of its potential economic benefit to the perpetrator as well as the impact of the crime on the victim. The provision in the Legal Aid, Sentencing and Punishment of Offenders Bill, which is currently before Parliament will, if enacted, permit Magistrates' Courts to impose unlimited fines. This will apply to offences under section 3.

Local authority role

3.5 It is also important that local authorities are proactive in taking action against owners (and their agents) for breaches of the law. We want to hear from consultees what their experience has been of local authority intervention in cases of harassment and intimation and how (if necessary) that might be improved.

Nature of offences

3.6 It is also important to clarify exactly what is meant by "refrain from exercising a right" in section 3(1)(c). It includes not only a future act, such as selling a home, but a continuing one such as interference with the peaceful enjoyment of the pitch to which the agreement relates, by encroaching upon it, removing fences, reducing its extent, causing other damage to it etc. These actions are criminal offences. But do we need to make that clearer?

3.7 We also propose to make it clearer that the offence in section 3 can be committed against any person who is entitled to reside in the home, for example, as a temporary guest of the home owner as well as any person who is an owner occupier.

Q25: What is your experience of local authority intervention in harassment and intimidation cases? Could this be improved and if so how?

Q26: Do you think we need to make it clearer that section 3 applies to (a) all acts of interference of a criminal nature and if so how do you suggest that might be achieved and (b) all persons lawfully occupying a park home, including temporary guests?

CHAPTER 4
CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960- LICENSING REFORMS AND OTHER CHANGES

Introduction

4.1 The Caravan Sites and Control of Development Act 1960 (the Act), was designed to give local authorities powers to ensure that caravan sites were healthy and safe, and properly planned. The Act requires almost all privately owned caravan sites to be licensed.

4.2 Those licensing provisions have been in place for more than fifty years and are now out of date. Our intention is to enable local authorities to properly resource their licensing functions by charging for their services and to give them appropriate powers to enforce licence conditions, so that home owners are properly protected.

4.3 We propose amending the current scheme to:

- Enable authorities to refuse to grant a licence if it is not satisfied the site is fit for purpose;
- Give authorities powers to charge for their licensing functions;
- Enable authorities to enter sites and carry out emergency works, in certain circumstances, and to recover their costs of such actions;
- Increase the maximum fine a court can impose on conviction for breach of a site licence;
- Make other changes to make the scheme more practical and effective.

Holiday and Restricted occupancy Sites

4.4 The current licensing requirements apply to holiday sites, including those with static caravans where planning permission restricts the occupation to less than twelve months of the year. On some of those sites people are living in their caravans as their homes, although in some cases this may be in breach of planning permission that applies to the site. In making these changes, we need to consider whether to apply the modernised regime to sites which are occupied exclusively for holiday use or otherwise have occupancy rules restricting the use of caravans to less than twelve months in a year (restricted occupancy). The options are:

- To remove holiday and restricted occupancy sites from licensing altogether;
- To leave the old regime in place for holiday and restricted occupancy sites;
- To. apply the new regime to holiday and restricted occupancy sites;
- To apply the new regime to holiday and restricted occupancy sites only where the local authority needs to take enforcement action.

4.5 Removing holiday sites from the licensing regime altogether would reduce some regulatory burdens on holiday and restricted occupancy site operators. However, it would need to be accompanied by a corresponding increase in planning controls (since the licence would no longer be available to address such matters). Moreover, such a change might put occupants at risk and is particularly likely to make the sector more attractive to rogue operators.

4.6 Leaving holiday and restricted occupancy sites under the existing regime would leave some protection in place for occupants while avoiding any new burdens on site operators. But it might be more complicated and burdensome for local authorities to operate a dual licensing system in areas where there are both permanent residential sites and holiday ones. Furthermore, there might be a danger of rogue operators migrating to the holiday sector if enforcement standards were more light touch than in the residential sector.

4.7 Including holiday sites within the new regime could (through introducing new fee-raising powers) place an additional burden on the holiday industry, which is much larger than the residential mobile home sector. This is particularly so where local authority intervention is rare, as would be the case on well run commercial holiday sites. However it would, at the same time, ensure a good level of protection for holiday site users and residents of restricted occupancy sites. It would avoid the risk of rogue residential site operators moving into the holiday sector. We propose that mixed holiday/ residential sites will be covered by the new regime.

4.8 If the new licensing regime were to be applied to holiday and restricted occupancy sites it would be important that the burdens on the holiday industry were minimised. We would need to work with the industry and local authorities to consider, for example, how any licence fees would apply to holiday sites.

4.9 Alternatively, rather than applying the new regime to all holiday and restricted occupancy sites we could apply it only to those sites which are high risk – determined by whether the local authority has taken enforcement action for a serious breach of the site licence. This would minimise the burdens on good site operators, through for example licence fees, while ensuring that local authorities have the right powers to tackle poor practice. However, this option would require the local authority to effectively operate three licensing regimes – one for residential sites, one for “good” holiday sites, and a third “hybrid” regime possibly with sites moving in and out of both regimes.

Q27: Do you think holiday and restricted occupancy sites should be (a) excluded from licensing; (b) left within the scope of the existing scheme (c) brought within the new scheme or (d) only brought within the scope of the new regime where local authority enforcement becomes necessary? Please give your reasons.

Q28: Do you agree that any alternative arrangements for holiday sites should only apply when they are for exclusive holiday use, and that mixed sites should be treated as residential?

Charging for licensing functions

Background

4.10 Unlike most modern licensing regimes, local authorities are currently unable to charge for licensing caravan sites. This means that the cost falls on council tax payers in the local area. Local authorities say that this inability to charge for their functions means that licensing functions are often under-resourced.

Types of charges

4.11 We propose, therefore, to permit local authorities to recover their costs in carrying out their licensing functions, including being able to require payment of a fee for consideration of

- an application for a licence and any licence granted;
- a transfer of a licence;
- an application to alter a licence (initiated by the site operator) and for the issue of any altered licence.

Q29: Do you agree that local authorities should be able to charge a fee for consideration of these issues? Are there any other licensing functions for which charges should be levied?

4.12 These are, of course, one-off costs associated with new licences or those which are proposed to be changed. We consider local authorities should also be able to recover their costs in ongoing management of licences - such as handling enquiries, dealing with complaints, inspections and offering advice etc. We expect that the “on-going” fee will be payable annually or at other intervals determined by the local authority (of not more than once a year).

4.13 We propose that local authorities should be able to include the requirement to pay an annual fee or for an alteration or transfer of a licence as a condition of the licence, and so failure to pay it will be an offence. We also propose local authorities will have discretion to exempt certain owners of sites from licensing fees, for example single and small family sites, that are not run for commercial gain.

Q30: Do you agree that local authorities should be able to charge an annual fee for administration of the licence?

Q31: Do you agree that the requirement to pay a fee should be a condition of the licence?

Q32: Do you agree that local authorities should have the power to exempt certain owners of non commercial sites from any licensing fees?

4.14 For residential mobile home sites pitch fee reviews are regulated. There is a presumption that any change will be limited to inflation (measured by the change

in the retail price index since the previous review) unless there have been improvements to the site or a relevant change in the law.

4.15 A requirement to pay an annual charge for a licence could be seen as the result of an "enactment" and therefore legitimately passed on to home owners through the pitch fee in the first year but, any increases to fees in the future could not. Given that the costs of licensing will be unavoidable to the site operator, and should ultimately benefit home owners, this seems reasonable. However, some have argued that licence fees would be business costs, and as such should not be passed on to home owners.

Q33: Do you think that site operators should be able to recover licensing costs from home owners through pitch fees? Please give your reasons.

Carrying out works on a site

Background

4.16 Under the existing legislation a local authority may impose a wide range of licence conditions to ensure that the site is fit for habitation and kept in good repair. If a site operator is in breach of a licence condition the local authority in general only has a power to prosecute in the Magistrates' Court and cannot serve a formal notice requiring the work to be done ahead of prosecution. On conviction the maximum penalty that can be imposed is a fine of £2,500.

4.17 Despite ongoing problems with the quality of some sites, many local authorities are reluctant to prosecute site operators because the resulting fines are very small. For the site operator, the risk of a fine might be cheaper than the cost of carrying out the works.

4.18 We therefore propose to give authorities the power to serve formal notices on site operators requiring works to be done to comply with the licence and in certain circumstances to enable them to do the works themselves and recover their costs. These are similar to powers relating to bricks and mortar homes. We also propose to review the maximum fine that a court can impose.

Carrying out works to comply with the licence

4.19 Our proposals would:

(a) Enable a local authority to serve a notice on the site operator explaining the breach of the licence and give him a minimum period in which to remedy the breach. The notice would specify what needs to be done to remedy the breach.

(b) Permit the authority to recover all its expenses in the preparation, serving and execution of the notice; including administrative, legal and surveying costs, from the site operator.

(c) Prevent a prosecution under section 9(1) of the 1960 Act for a breach of licence condition unless the notice has not been complied with.

4.20 At present a local authority has a power to enter a site and do works that are required to be carried out as a condition of the licence and that have not been done. But this does not apply to general repairs – only works specified in the site licence. This is probably because it was designed to ensure that sites were safe and properly equipped when they first opened. It does not work effectively where sites were initially safe but have now fallen into disrepair.

4.21 We propose to correct this anomaly by replacing the existing provision with one that allows local authorities to enter sites, but not individual homes or caravans, to carry out works where:

- the licence holder has successfully been prosecuted for breach of the licence condition, because they did not comply with the local authority notice and the court authorises it to carry out the works or;
- the licence has been breached, and there is an urgent need to do the works to protect the health and safety of the home owners and entry to the site for that purpose has been approved by a Justice of the Peace.

4.22 In either case the local authority will be authorised to charge the site operator the costs of carrying out the works, and any associated administrative charges.

Q34: Do you agree the local authority should be required to serve a notice of the breach of condition which should specify how it can be remedied?

Q35: Do you agree the local authority should be prohibited from going straight to prosecution and must serve a notice of remedy instead?

Q36: Should a local authority be able to recover its expenses in connection with the notice from the site operator. If you disagree please state why.

Q37: Do you agree that a local authority should require authority from a court before being able to do works either in default or in an emergency? If not, please give your reasons.

Q38: Do you agree the local authority should be able to recover its cost of doing work in default, including administrative expenses, from the site operator?

Maximum Fine

4.23 The maximum penalty the magistrates' court can impose for a breach of a site licence condition is level 4 (£2,500). This maximum was set in 1982 and has not been increased since. Anecdotal evidence suggests that local authorities are slow to prosecute in many cases because of lack of resources and the fact that only a small fine can be imposed by the court, regardless of the seriousness of the breach. Some site operators prefer to accept the risk of a small fine and criminal record rather than carry out the works, which can be substantially more costly than the fine. In our view a maximum fine of £2,500 is inadequate,

especially where major works are required. It is important that any new fine structure represents a real economic deterrent to those who do not maintain or manage their sites and put home owners at risk by non compliance with licences.

4.24 We, therefore, propose to lift the cap on fine levels, so that in future the courts can impose fines that reflect the benefit that a site operator might gain from not complying with his legal obligations.

Q39: What is your experience of local authorities prosecuting for breach of licence conditions?

Q40: Do you agree that the current maximum fine for a breach of a site licence condition is inadequate and should be increased? Please give your reasons.

Recovery of charges and costs

4.23 We propose that any costs incurred by the local authority which are charged to the site operator should be recoverable as a debt due from him and may be recovered through appropriate court action. We also propose that the local authority should be able to charge a reasonable rate of interest on such sums that are due.

4.24 We also propose that the local authority should be able to register such debts as a local land charge against the site. This would be in line with local authority powers in relation to other residential property

Q41: Do you agree with this approach to recovering costs?

Other Changes to the Act

4.25 There are several other areas in which the Act could be modernised. We seek your views on these.

Licence holder

4.26 At present, there is no absolute requirement that all owners of a site are joint licence holders. Consequently it would be possible for an owner who is in breach of an obligation under his licence to transfer that licence to another owner in an attempt to avoid enforcement action.

4.27 We therefore propose that, where there are two or more individual owners of the site each shall be jointly and severally liable for complying with the licence conditions. On the death of a licence holder the licence will continue to be vested in any other owner of the site. Where there is no other owner it will vest in the deceased' executor until such time as it is transferred to a new owner.

4.28 We also propose to change the definition of the licence holder from “occupier” to “site operator” to avoid the understandable confusion between occupiers of a home and owners of the site.

Q42: Do you think these changes would be beneficial?

Offences committed by a corporate body

4.29 At the moment a site operator can escape personal liability for breach of a licence, which he may be personally responsible for, if the licence holder is a company - since it is the company and not him that commits the offence.

4.30 We therefore propose to bring the rules under the 1960 Act into line with the rules that apply for offences under the Caravan Sites Act 1968. This would mean that an officer of a corporate body (for example a director or manager) who played a significant role in an offence committed by that company could also be found guilty of that offence and punished accordingly.

Q43: Do you agree that if the site operator is a body corporate which commits an offence, then the relevant officer who is responsible for the offence should also be guilty of it?

The power to refuse a licence

4.31 At present it is an offence to operate land as a caravan site without a licence. However the requirement to obtain a licence does not arise until the owner starts to station caravans on the land. This means that, by the time a licence application is made, the site’s infrastructure, services and amenities may have already been provided without the involvement or oversight of the local authority. As the authority is obliged to grant the licence (subject to a limited exception relating to breaches of a licence) within two months of receipt this can mean that substandard sites are licensed and authorities are obliged to take enforcement action retrospectively.

4.32 We therefore propose that a local authority should be able to refuse to grant a licence if it is not satisfied the site has been laid out to its satisfaction and is fit for purpose. It would then be in the interest of the owner to engage with the local authority before starting any works to the site after planning permission is granted. We also propose that the local authority would have the discretion to charge for providing its advice and assistance.

4.33 The current penalty for stationing caravans on land without a licence (a maximum fine of £2500) is not much of a deterrent to those who are determined to operate sites without an appropriate licence being in place- especially if costly works might be required to make the land suitable before a licence would be granted. We, therefore, propose that the fine for operating a site without a licence should be increased to reflect the financial benefit that might be obtained by flouting the law. This will ensure that there is a sufficient incentive to obtain a licence. We seek your views on this proposal.

Q44: Do you agree that the local authority should be able to refuse to grant a licence if it is not satisfied that the site is fit for purpose?

Q45: Do you agree that the local authority should be able to charge the site operator for providing advice and assistance on suitability?

Q46: Do you agree that the current maximum fine for operating a site without a licence is inadequate and should be increased? Please give your reasons.

Powers of Entry

4.34 Section 26(5) makes it a criminal offence to wilfully obstruct any authorised person from entering a site. But the maximum penalty is a level 1 (£200) fine, which is no longer an effective deterrent. In modern housing legislation the maximum fine for a similar obstruction is £2,500. We see no justifiable reason why the fine for obstruction of entry to a caravan site should be considerably less, and seek your views as to what would be an appropriate level. However, this power of entry does not permit a local authority officer to enter a person's mobile home or caravan.

Q47: Do you agree that the maximum fine level for obstruction should be raised from £200 and if so to how much? Please give your reasons.

Annex A: Summary of consultation questions

Chapter one: Selling and gifting of mobile homes

Q1: Are you aware of sales being blocked on mobile home sites? If so, how?

Q2: Alternatively are you aware of open market sales proceeding smoothly?

Q3: Do you agree that the law should be reformed to prevent sale blocking?

Q4: Which of the three options do you prefer and why?

Q5: Do you agree that the new scheme should also apply to gifting of homes? If not, why not?

Chapter two: Other changes to the Mobile Homes Act 1983

Q6: Do you agree the time limit of six months should also apply to agreements that are assigned to new home owners?

Q7: Do you agree that site rules should not be changed without prior consultation with the home owners (or in default the tribunal)?

Q8: Do you agree that a new site operator should not be able to unilaterally change or make site rules without agreement with the home owners (or in default the tribunal)?

Q9: Do you think that certain rules that are unreasonable, such as those that could be used to block sales should be excluded and not enforceable? Please give examples of the types of rules you have in mind.

Q10: (a) Do you agree that site rules should be deposited with the local authority and available for inspection by a prospective purchaser? (b) Do you agree with the consequences that should follow if a site operator does not deposit the rules or the correct rules?

Q11: Do you agree that home owners should be able to make internal alterations and improvements to their home without consent of the site operator?

Q12: Do you agree that consent for external improvements should not be unreasonably withheld and there should be a right of appeal to the tribunal?

Q13: Do you think this change simplifies the existing rules provides greater clarity and is practical?

Q14: Do you agree that someone inheriting the home should be entitled to live in it (or nominate another family member to do) providing this would not breach the site rules?

Q15: Do you think that the rules governing a home move need to be changed? If not please give your reasons.

Q16: If so do you agree:

(a) the tribunal should give authority for the home move in all cases;

(b) if the move is to facilitate works to the pitch or base there should be a presumption in favour of returning the home to its original pitch;

(c) that on a permanent home move the new pitch should be comparable and the agreement should be on the same terms as the old pitch agreement;

(d) that the tribunal decide who moves the home and that site operator must fund move in advance?

Q17: Do you agree that the site operator's maintenance and repairing obligations would benefit from this clarification?

Q18: Do you think there needs to be anything else needs to be included or anything that ought to be removed from these obligations?

Q19: Do you agree with the definition of "improvements"?

Q20: Do you agree the works should be permitted to be phased and recovered over two or more review periods?

Q21: Do you think the site operator should be required to remove the cost of improvements from future pitch fees when those costs have been recovered?

Q22: Should the site operator be required to provide a written statement specifying how the pitch fee is calculated and giving information about its implementation If so is the information specified above the right amount and type?

Q23: Do you agree that site operators should not be able to pass on their costs of implementing the changes outlined in chapters 1 and 2 of this paper through pitch fees?

Q24: Do you agree there is a need for a specific provision that damages and compensation can be claimed for breaches under the agreement and the Act?

Chapter 3- Criminal offences in the Caravan Sites Act 1968

Q25: What is your experience of local authority intervention in harassment and intimidation cases? Could this be improved and if so how?

Q26: Do you think we need to make it clearer that section 3 applies to (a) all acts of interference of a criminal nature and if so how do you suggest that might be achieved and (b) all persons lawfully occupying a park home, including temporary guests?

Chapter 4 Caravan Sites and Control of Development Act 1960- Licensing reforms and other changes

Q27: Do you think holiday and restricted occupancy sites should be (a) excluded from licensing; (b) left within the scope of the existing scheme (c) brought within the new scheme or (d) only brought within the scope of the new regime where local authority enforcement becomes necessary? Please give your reasons.

Q28: Do you agree that any alternative arrangements for holiday sites should only apply when they are for exclusive holiday use, and that mixed sites should be treated as residential?

Q29: Do you agree that local authorities should be able to charge a fee for consideration of these issues? Are there any other licensing functions for which charges should be levied?

Q30: Do you agree that local authorities should be able to charge an annual fee for administration of the licence?

Q31: Do you agree that the requirement to pay a fee should be a condition of the licence?

Q32: Do you agree that local authorities should have the power to exempt certain owners of non commercial sites from any licensing fees?

Q33: Do you think that site operators should be able to recover licensing costs from home owners through pitch fees? Please give your reasons.

Q34: Do you agree the local authority should be required to serve a notice of the breach of condition which should specify how it can be remedied?

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Q38: Do you agree the local authority should be able to recover its cost of doing work in default, including administrative expenses, from the site operator?

Q39: What is your experience of local authorities prosecuting for breach of licence conditions?

Q40: Do you agree that the current maximum fine for a breach of a site licence condition is inadequate and should be increased? Please give your reasons.

Q41: Do you agree with this approach to recovering costs?

Q42: Do you think these changes would be beneficial?

Q43: Do you agree that if the site operator is a body corporate which commits an offence, then the relevant officer who is responsible for the offence should also be guilty of it?

Q44: Do you agree that the local authority should be able to refuse to grant a licence if it is not satisfied that the site is fit for purpose?

Q45: Do you agree that the local authority should be able to charge the site operator for providing advice and assistance on suitability?

Q46: Do you agree that the current maximum fine for operating a site without a licence is inadequate and should be increased? Please give your reasons.

Q47: Do you agree that the maximum fine level for obstruction should be raised from £200 and if so to how much? Please give your reasons.

Annex B: About this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. Although this consultation lasts for six weeks, we believe it is still compliant with the Code of Practice. We are consulting over six weeks because the main issues have been the subject of much public debate over the last few years and will be familiar to mobile home owners, site operators and local authorities. Furthermore, as we publish, Parliament's Communities and Local Government Select Committee is holding an inquiry into the park home industry. We have received a considerable amount of written evidence submitted to the committee from the industry, home owners, local authorities and other bodies and will be taking these submissions into account as part of this consultation process..

3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

DCLG Consultation Co-ordinator
Zone 4/H10
Eland House
London SW1E 5 DU

or, by e-mail to: consultationcoordinator@communities.gsi.gov.uk