



Department for  
Communities and  
Local Government

# Review of park homes legislation

Call for evidence - Part 2



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# Introduction

1. There are around 85,000 park homes on 2,000 sites in England. Park home living is a unique tenure where the resident owns their home, but pays a pitch fee to the owner of the site for the right to station it on their land. The sector offers an attractive choice for some people, often older persons downsizing from conventional family homes. Sadly, not all sites are managed well and there is still evidence that some site owners do not fully comply with their responsibilities or respect the rights of residents.
2. The Mobile Homes Act 2013 made significant changes to the law on park homes and marked the Government's commitment to giving better rights and protection to park homeowners, whilst ensuring that honest professional site owners are not faced with unfair competition from rogue operators.
3. The Act introduced new procedures for selling mobile homes, reviewing pitch fees and making site rules. The Act also introduced a new local authority site licensing regime which gave local authorities substantial new enforcement powers. The Government gave a commitment to review park homes law in 2017.
4. We are carrying out the review in two parts. Part 1 was published in April and sought evidence on fairness of charges, the transparency of site ownership and on experience of harassment. A copy of the paper is available at <https://www.gov.uk/government/consultations/review-of-park-homes-legislation-call-for-evidence>
5. In this publication, Part 2, we call for evidence on how effective local authority licensing has been; how well the procedures for selling mobile homes, making site rules and pitch fee reviews are working and whether "fit and proper" controls need to be applied in the sector. On pitch fees we call for evidence on the appropriate index to be used when carrying out a review - the consumer price index or (as at present) the retail price index. We will also seek views on the Park Homes Working Group's<sup>1</sup> recommendations on how local authorities can be assisted further in their licensing functions and on experience of the service provided by LEASE and suggestions about any other services they could provide to help improve the sector.

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

## About this Call for Evidence

6. This Call for Evidence has been planned to adhere to the Consultation Principles issued by the Cabinet Office. Information provided in response to it may be published or disclosed in accordance with access to information regimes (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). Please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and we cannot give an assurance of confidentiality in all circumstances. The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean it will not be disclosed to third parties.

## How to respond

7. We welcome all responses to this Call for Evidence and are keen to get views from everyone with an interest in this sector. This includes residents, site owners, local authorities, trade and other bodies.
8. Please use the “**Response form**” to answer the questions.
9. Responses should be returned by email to [parkhomes@communities.gsi.gov.uk](mailto:parkhomes@communities.gsi.gov.uk) and marked ‘Response to Call for Evidence Part 2’.
10. The closing date for responses is **16 February 2018**.

# Section A: Local Authority site licensing regime

## Fees

11. Unlike most modern licensing regimes, until 2013, local authorities were unable to charge for licensing of park home sites<sup>2</sup>. This meant that the cost fell on council taxpayers in the local area and their licensing functions were often under-resourced.
12. The Mobile Homes Act 2013 (the 2013 Act), therefore, gave local authorities the power to recover their costs in carrying out their licensing functions under the Caravan Sites and Control of Development Act 1960 (the 1960 Act). This includes the powers to require payment of a fee for consideration of an:
- a. application for the grant of a licence;
  - b. application for the transfer of a licence; and
  - c. application to alter an existing licence.
13. In addition, the local authority can charge an annual licence fee relating to its costs in monitoring licence requirement compliance on a park home site. Fees must however be set in accordance with a local authority's published policy. To assist local authorities, the Government published guidance on options for setting fees.

**Q1. Has the local authority introduced an annual licence fee? If yes, has the local authority published its fee policy?**

**Q2. For local authorities charging fees, has this provided sufficient resources to enable the authority to carry out its functions more effectively? If not, why?**

**Q3. Has the authority been able to recover all its enforcement costs? If not, why?**

## Compliance notices

14. The 2013 Act gave local authorities powers to issue compliance notices under the 1960 Act requiring a site owner to carry out any necessary work to the site to comply with their licence obligations. If the site owner fails to comply, the local authority will be able to prosecute them and if the site owner is convicted, the local authority may take the steps required in the compliance notice and any other appropriate action and recover its enforcement cost directly from the owner. In an emergency, a local

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<sup>2</sup> They are licensed under as caravan sites under the Caravan Sites and Control of Development Act 1960.

authority may also enter a site, do the works, and recover its costs. The Government published a best practice guide in 2014 on enforcement of the new site licensing regime to assist local authorities.

**Q4. How many compliance notices has the local authority issued to date?**

**Q5. Have all works required been completed by the site owner?**

**Q6. What challenges did the authority experience in preparing and issuing the compliance notices? Can the process be improved and if so, how?**

## Licensing offences

15. It is an offence to operate a park home site without a licence being in force. It is now also an offence to not comply with a compliance notice issued by the local authority. Both offences attract a fine, which is not subject to a statutory limit. In addition, 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.

**Q7. How many prosecutions for breach of the licensing provisions has the local authority pursued? Please provide details.**

**Q8. What do you think might be the barriers confronting local authorities in prosecuting for licensing breaches?**

# Section B: Contractual arrangements

## Sale of mobile homes

16. Under the Mobile Homes Act 1983 (the 1983 Act) as originally enacted, the owner of a mobile home on a protected site, other than a local authority traveller site, had a right to sell or gift the home and to assign (pass on) the pitch agreement to a person approved by the site operator. Before a sale was completed, the seller had to obtain the site owner's approval of the new owner. Although the legislation provided that approval could not unreasonably be withheld, some site operators used the approval process to deter the purchaser from the sale. This then enabled the site owner to purchase the home at a discounted price. The 2013 Act brought in measures to reduce the possibility of sale blocking.
17. The 2013 Act introduced a new process into the 1983 Act for selling a park home. This included requiring the seller to provide the buyer with certain relevant information and documents using a prescribed form, at least 28 days before the proposed completion date. The seller and purchaser must also complete and provide the site owner with a form confirming that the purchaser meets the site rules. If a site operator objects to the transaction, they can apply to the First Tier Tribunal for a refusal order on one of the prescribed grounds, within 21 days of the notice being served. Prescribed forms must be used at each stage of the sale process. A similar procedure was set up for gifting a home.
18. Importantly, the requirement to notify the site owner of the proposed sale or gift only applies to the first sale of a home following the introduction of the statutory provisions. Any proposed further sale and assignment of agreement does not need to be notified to the site owner. This was because the Act was intended to phase out the site owner's role in approving a purchaser so the continuing role, albeit in a much more restricted form, would only apply to the first sale immediately following commencement of the Act.

**Q9. Have the procedures for selling mobile homes reduced or eliminated the blocking of sales?**

**Q10. How well did the procedures work? Were all the procedures followed, including the use of the required forms and provision of all relevant information?**

**Q11. Are there ways in which the process can be improved and if so how?**

**Q12. Is there experience of using the procedure to gift a home?**

**Q13. Are you aware that the prior notice requirement to the site owner and their right to apply to a tribunal for a refusal order does not apply to a sale of a home**

**and assignment of agreement on the second or subsequent sale following the commencement of the relevant provision of the 2013 Act?**

## Site rules

19. Many sites have specific rules covering matters such as age and family criteria for eligibility to live on the site and general management rules. However, prior to the 2013 Act, rules were frequently abused by site owners to circumvent residents' rights, in particular their freedom to sell their homes. Inappropriate site rules were also used to secure other benefits to site owners and reduce residents' rights.

20. The 2013 Act required that if a site owner decides to have site rules on the site, they must propose the site rules and consult with homeowners and any qualifying residents' association about those rules. The consultation period must be at least 28 days and the site owner must use statutory forms throughout the consultation process. Residents or a qualifying residents' association who object to the proposed rules or consider that they have not been made in accordance with the procedure, can apply to the First Tier Tribunal for a determination. Once the rules have been made and accepted for deposit by the local authority, they will form part of the express terms of the agreement between the site owner and the resident (provided that the site owner complies with notification requirements).

**Q14. Did the site owner make new rules and if so was the process open and transparent?**

**Q15. What challenges were faced by residents, site owners or local authorities with the new process?**

**Q16. Are there ways in which the process can be improved and if so how?**

## Pitch fee review form

21. Prior to the 2013 Act, there was significant concern about overcharging on pitch fee reviews. There was therefore a call for greater transparency to ensure that homeowners had enough information about the proposed new pitch fee so they could make informed judgements at the outset, rather than having to seek further information from the site operator.

22. The 2013 Act required site owners to use a statutory form, which specifies how the new pitch fee has been calculated. If the form, including the notes attached to it, is not used, the pitch fee review will be invalid. The policy intention behind the introduction of the form was to improve transparency so residents could see what they were being

asked to pay for and why. This would enable them to more effectively challenge unfair charges.

**Q17. Has the use of the pitch fee review form made the process more open and transparent?**

**Q18. Are there ways in which the process can be improved and if so how?**

## Pitch fee review inflationary index

23. Under the 1983 Act there is a presumption that when a pitch fee is reviewed it will increase or decrease in line with the rate of inflation measured over the previous 12 months, unless there are other factors that displace this assumption. Those factors are explained in more detail in paragraph 14 of Part 1 of this call for evidence:

<https://www.gov.uk/government/consultations/review-of-park-homes-legislation-call-for-evidence>

24. At present the inflationary change is measured by reference to the Retail Price Index (RPI). We want to know whether this index is the right one or whether the appropriate index should be the Consumer Price Index (CPI). The RPI includes relevant costs, such as mortgages and housing costs, and to that extent might be considered more reflective of the costs of managing a park home site. On the other hand, residents of park homes are often on fixed incomes which sometimes only rise by CPI.

25. We want to hear views on the respective benefits of RPI and CPI and what the implications of any change in the appropriate measure might be.

**Q19. Do you think the appropriate index should be RPI or CPI? Please give your reasons.**

**Q20. Do you think changing the measure will have an impact on the costs of site management? If so please explain how.**

## Section C: “Fit and Proper” person control

26. The changes introduced by the 2013 Act were targeted at the worst practices in the sector to ensure that residents could live peacefully in their homes knowing that the law protects them from abuse.
27. Specifically the Act included powers that could require a person holding the licence of a site to demonstrate to the local authority’s satisfaction that they were a “fit and proper” person to do so, but these have not been brought into force.
28. We want to hear evidence as to whether or not there is a need to introduce such an industry wide test, applying to individuals and companies (through their directors) and what the practical purpose and implications such a requirement would have.
29. We also want to know what kind of behaviours should be taken into account when deciding whether a person is “fit and proper”, for example, what convictions under the criminal law should be relevant, and whether breaches of site licence conditions and contractual arrangements under the 1983 Act are to be considered.
30. Finally, we want to understand what arrangements you think should be put in place if the owner is deemed not fit and proper to hold a licence.
- Q21. In your view, does the 2013 Act provide local authorities with sufficient powers and resources to deal with abuse of residents and the poor management of sites?**
- Q22. Are additional requirements such as a “fit and proper person” test necessary and if so would the requirement help deal with the problems in the sector effectively?**
- Q23. What do you think the practical effect and consequences would be of introducing an industry wide “fit and proper” test?**
- Q24. What matters should be taken into account in deciding whether a person is “fit and proper”? If directors of a company are not “fit and proper” should the company be deemed unfit?**
- Q25. What arrangements should be put in place in relation to the site if the owner is not a “fit and proper” person to hold the site licence and manage it?**

## Section D: Working Group Report and recommendations

25. A copy of the working group's report is annexed to this paper. In relation to enforcement and use of local authority powers, the group recommended that;

- The government should ensure that appropriate enforcement is taken by local authorities, since the effectiveness of the Mobile Homes Act 2013 cannot be assessed in the absence of enforcement.
- Local authorities should be encouraged and assisted to share information and best practice across local authority boundaries through a central register.
- Local authorities should have a dedicated officer to deal with park home related issues and should be required to publish the name of the officer responsible.
- The Government should consider providing training or funding organisations to provide training programmes for local authorities.

26. The Government is interested to hear views and comments, particularly from local authorities on these recommendations. For example:

**Q26. Does your local authority have a list of mobile home sites in its area?**

**Q27. Does your local authority share information with other authorities and if so how? If not, what are the reasons for not doing so?**

**Q28. Does your local authority have a dedicated mobile homes officer and if so has this been beneficial? If not, why?**

**Q29. What training programmes (internal or external) are currently available to local authorities? Are there any other training programmes that you would find helpful?**

**Q30. Did the authority find the guidance published by DCLG helpful? If not, why?**

**Q31. What do you think are the main barriers to local authority enforcement in the sector and how could Government support greater enforcement action?**

# Section E: Leasehold Advisory Service (LEASE)

27. Following the introduction of the Mobile Homes Act 2013, the Government set up the Leasehold Advisory Service (LEASE) to provide free independent advice to park home residents to help them understand and enforce their new rights.

28. Since 2013, LEASE has been providing advice mainly to park home residents through a dedicated telephone helpline and guidance on their website. LEASE has also delivered presentations and training sessions across the country to residents, local authorities and site owners to inform and encourage best practice in the sector.

29. We want to hear about your experience of the service you received and suggestions about any other services they could provide to help improve the sector. Please note, however, we are unable to consider specifics of individual cases.

**Q32. Are you aware of LEASE?**

**Q33. Have you used or received any advice from LEASE? If so, how did you receive it (e.g. website or helpline) and was the advice given in a helpful way?**

**Q34. Have you attended a presentation or training course delivered by LEASE? If so did you find the content useful or instructive?**

**Q35. Are there any additional services that LEASE could provide?**

# Appendix A: Park Homes Working Group Report – June 2016

## Section 1 – Background

1. The Mobile Homes Act 2013 made sweeping changes to the law on park homes and marked the Government's commitment to giving better rights and protection to park home owners, whilst ensuring that honest professional site owners flourish.
2. As part of the changes, a new licensing scheme was introduced to enable local authorities to monitor site licence compliance more effectively. The new licensing regime came into force on 1st April 2014. A summary of the new powers given to local authorities is at Annex A.
3. In October 2014, the Housing Minister announced that he would set up a working group to identify evidence of poor practice in the sector and investigate how best to raise standards further and tackle abuse.
4. In March 2015 the working group (Annex B) issued a call for evidence and received 261 responses from residents, site owners, trade associations, local authorities and MPs.

### Summary of responses

5. Residents provided evidence of ongoing disputes with site owners on a range of issues including a lack of maintenance on sites, incorrect calculation of pitch fee reviews and utility charges. There were also cases of harassment and abusive behaviour by site owners and poor communications and relationships between residents and site owners. In some cases, residents had either made applications to the tribunal and achieved successful outcomes, or the local authority had taken action and resolved ongoing disputes. However, for most residents local authorities were not using their new enforcement powers to tackle site owners about ongoing maintenance issues on parks. The commission paid on the sale of a mobile home was also an issue of concern for residents. In their view, commission is an unjustified charge on park home owners which takes away part of their capital.
6. Site owners had generally welcomed the changes introduced by the Mobile Homes Act 2013 and had helped distribute the Government's "Know your rights" leaflet. Site owners were also using the new pitch fee review form and had consulted residents on new site rules. There were concerns however that this had increased the amount of paperwork and some residents did not understand the requirements placed on them by the new sales procedures. Site owners also expressed concern about the call by residents for changes to the 10% commission paid on the sale of a home. The commission is an important revenue stream without which their businesses would not be viable and site owners would no longer be able to maintain or invest in the future of their parks.

7. Some site owners have had a positive relationship with their local authority in the past and have had inspections carried out. Most had however not had any contact with their council since the new legislation came into force or had found that the council was not conversant with the new requirements or enforcing against the rogues in the sector. This was enabling the rogues to continue to operate freely within the sector while the reputation of those who run fair and reputable businesses continued to be tarnished.
8. Local authorities also generally welcomed the recent changes and the ability to serve compliance notices. Some had introduced a fee charging policy for processing applications for new sites and those for the transfer of licences, while others had carried out a review of all licence conditions. One authority had employed a dedicated park homes officer and another had designed information packs for residents to assist them with dealing with rogue doorstep traders, choosing a reputable trader to work on their home and how to get advice on their rights. Also, while one authority continued to receive a large number of complaints, another had seen a significant reduction in the number of harassment and sale blocking complaints which in their view was a result of the legislative changes. Some authorities also provided details of enforcement action they had taken against site owners under the mobile homes legislation and trading standards legislation. A common concern for most authorities was with the new procedure for accepting site rules. Where a set of rules deposited with the local authority for publication included a “banned” site rule, the local authority had no power to refuse to accept those site rules or amend them.

### **Summary of key recommendations**

- The working group considers the lack of enforcement action by local authorities a priority concern.
- The government should ensure that appropriate enforcement is taken by local authorities as the effectiveness of the Mobile Homes Act 2013 cannot be assessed in the absence of enforcement.
- Local authorities should be encouraged and assisted to share information and best practice across local authority boundaries through a central register.
- Local authorities should have a dedicated officer to deal with park home related issues and should be required to publish the name of the officer responsible.
- DCLG should speak and engage with the national bodies of solicitors and estate agents to raise awareness about the legislation.
- DCLG should work with the Department for Energy and Climate Change to investigate how the cost of LPG is made up and how the market can be made to work better on park home sites.

## Section 2 - Key issues and recommendations

### (A) Local authorities not being proactive

9. Although some local authorities had welcomed the changes introduced by the Mobile Homes Act 2013, most had not been proactive in enforcing the rules thus allowing rogue site owners to continue to flout the law. Many park owners had also not been contacted by or had received little to no communication from their local authority. This meant that home owners continued to be denied a response to their concerns whilst the reputation of good site owners continued to be tarnished.
10. A review in January 2016 of the websites of 233 English local authorities by the British Holiday & Home Parks Association found that only 89 councils (38%) had published their site licensing fees. Where fees are charged, the range is so great as to suggest misunderstanding or inappropriate application of the requirements. For example:
  - For a 10-pitch residential park:
    - Annual fees ranged from £37.80 in Hart to £566 in Herefordshire
    - Fees for transfer of site licences ranged from £27.80 in Taunton Deane to £896 in Derby City.
  - For a 50-pitch residential park:
    - Annual fees ranged from £123 in Corby, Daventry and Wellingborough to £1,226 in Herefordshire
    - Fees for transfer of site licences ranged from £27.80 in Taunton Deane to £896 in Derby City.
11. One reason why local authorities had not been proactive was a lack of knowledge of the mobile homes legislation and the powers available to them. Local authorities themselves had cited a lack of resources as a reason for not taking action. This meant that they had to prioritise and deal with other issues in their area.
12. There was also some concern that because local authorities have enforcement powers and not duties, it gave them an excuse not to take action on some occasions.

### ***Recommendations***

13. The government should ensure that appropriate enforcement is taken by local authorities as the effectiveness of the Mobile Homes Act 2013 cannot be assessed in the absence of enforcement. This could be achieved by:
14. DCLG writing to all local authority chief executives to remind them of the powers and resources available to them to deal with park home issues.
15. Local authorities should also report to DCLG and provide details of whether they had a fee structure or fee policy in place, how many site rules had been published, how many site licences had been issued, how often they inspected sites and what action they had taken following those inspections.

16. If local authorities charge fees for their licensing functions but fail to provide a satisfactory service or deal with complaints, residents and site owners can take their complaint further to the local government ombudsman. Many residents and site owners may however not be aware of this and efforts should be made to raise awareness about the ombudsman.
17. Local authorities should have a dedicated officer to deal with park home related issues and should be required to publish the name of the officer responsible.
18. In the past, when major legislation was been introduced, training programmes were offered to local authorities along with beacon style councils rolling out best practice. The Government should consider providing training or funding organisations such as the Institute of Licensing and the Chartered Institute of Environmental Health to provide training programmes for local authorities. LEASE could also channel their resources towards training programmes for local authorities.

## **(B) Local authorities not using their transfer of licence powers and have difficulty using their enforcement powers**

19. The legislation requires local authorities to have regard to certain prescribed matters when deciding whether to issue a site licence or consent to the transfer of a site licence (see annex A). Local authorities were however not carrying out their duties and were not geared up to gather the necessary information to enable them decide whether or not to grant or transfer a licence. This was enabling the rogues to continue to purchase sites and escape their management responsibilities.
20. Some rogue site owners also intimidate local authority officials and make numerous complaints about them and the authority's procedures. This was aimed at taking up the authority's time and resources and diverting attention from themselves to enable them to continue avoiding their responsibilities.
21. Local authorities had difficulty with using their enforcement powers, particularly in relation to serving notices because the powers were inadequate, time consuming and it could take up to two years to resolve a site licence issue. Some rogue site owners were aware of this and were deliberately misusing the law to their benefit.

### ***Recommendations***

22. It is important for local authorities to target the rogues to send a clear message to others. Local authorities may however not have the right level of expertise in enforcement and consideration should be given to setting up a body or appointing a person (e.g. an environmental health officer) who would provide authorities with specific advice on site licensing matters.
23. Local authorities should also be encouraged and assisted to share information and best practice across local authority boundaries. A central rather than local register about rogue site owners could be created and this would help authorities to learn about successful prosecutions or processes by other authorities. It would also encourage other authorities to take action against the rogue site owners in their area. For example, it would be helpful for local authorities to know that in enforcement

cases, where they do not have the site owner's correct details, they could serve a section 16 Local Government (Miscellaneous Provisions) Act 1976 notice.

24. A central register will also enable information to be shared across local authority areas when considering the transfer of site licences. This will assist authorities in carrying out their duties under The Mobile Homes (Site Licensing) (England) Regulations 2014 which are designed to help prevent rogue site owners from buying parks and holding site licences.
25. Providing local authorities with templates for example, of model fee policies and application forms would also assist them in their enforcement duties.

### **(C) Lack of knowledge of legislation by solicitors and agents**

26. Solicitors, estate agents and conveyancers generally lacked any knowledge about the mobile homes legislation and in particular the process for buying and selling mobile homes. As a result, some estate agents regularly contact site owners for information and this gives the site owner an opportunity to block a sale. The lack of knowledge about the legislation had also contributed to residents not following the proper procedure when selling homes.

#### ***Recommendation***

27. DCLG should speak to and engage with the national bodies of solicitors and estate agents to raise awareness about the legislation. This could be done through training programmes and provision of 'home information' type packs to solicitors and estate agents as a means of educating and raising awareness. DCLG could also contribute articles for publication in the Estate Agents Gazette and Law Society Gazette.

### **(D) Site rules**

28. While some site owners were not aware of the new procedures for making site rules, others had made a decision not to make new rules at all. This meant that after 3 February 2015 all old site rules applying to that park were no longer enforceable. For example, if a site previously had age or pet restrictions, those rules would no longer be enforceable and would allow people of all ages or with pets to move onto the site. The site would no longer be a retirement park which could have been the initial reason for a resident purchasing a home on the site.
29. In other cases, where site owners had decided to make new rules they had simply used the industry's template. This meant that rules which had not previously been seen as necessary for the site would now applied to the site.
30. An issue for local authorities about the new procedures for making site rules was that where a set of rules deposited with the authority contained 'banned rules' but which had seemingly been accepted by residents through the consultation process, they had no powers to refuse to publish the rules or require the site owner to make the rules again. No official guidance was also available from DCLG when the new procedures came into force and unofficial guidance from DCLG went far beyond what could be justified.

### **Recommendation**

31. No recommendations were made on this issue but the following comments were agreed.
32. There had been suggestions that local authorities should be part of the consultation process between the site owner and residents. Local authorities are however not party to the agreement between a resident and site owner and cannot therefore be involved in the consultation or make decisions on whether or not a rule is a banned rule. If a rule is a banned rule, then it isn't a rule and a tribunal would throw a case out on that basis.
33. In addition, site rules, once made, become part of the express terms of the agreement between residents and the site owner. During the consultation process, residents have an option to challenge a site rule(s) at the First Tier Tribunal if the site owner does not follow the correct procedure.
34. The approach taken by some authorities where a set of rules deposited with them contained a banned rule, had been to add a disclaimer on their website that:
35. *The site rules are published under Regulation 16 of the Mobile Homes (Site Rules) (England) Regulations 2014 and are a copy as presented to the council by the site owner. The council accepts no responsibility or liability for any errors or omissions.*
36. *Schedule five of the above regulations lists matters which are not permitted as site rules. A copy of the regulations is available on the [Government Legislation website](#)*

### **(E) Calculation of utility charges**

37. Charges for utilities and private sewerage were sometimes incorrectly calculated and in some cases, administration or standing charges were included in the calculation. Some residents were also made to pay for utilities within the pitch fee but were not provided with a breakdown of the amount.

### **Recommendation**

38. No recommendations were made on this issue but the following comments were agreed.
39. Under the implied terms of an agreement, a site owner has an obligation to provide free of charge, if requested by the occupier, any documentary evidence in support and explanation of any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement.
40. In addition, the Water Resale Order guidance [https://www.ofwat.gov.uk/wp-content/uploads/2015/10/prs\\_lft\\_guidetowresale.pdf](https://www.ofwat.gov.uk/wp-content/uploads/2015/10/prs_lft_guidetowresale.pdf) explains how a person is protected if they buy water and sewerage services from a reseller (another person or company) instead of directly from a water or sewerage company. It also outlines how charges should be worked out by the reseller. The OFGEM guidance

<https://www.ofgem.gov.uk/ofgem-publications/74486/11782-resaleupdateoct05.pdf> provides similar advice for resellers and purchasers of mains gas and electricity.

41. In both cases, purchasers can recover any amounts they are overcharged through the courts. With regulations already in place to deal with overcharging, no further legislation is required.

## **(F) Water and electricity meters**

42. Residents were of the view that they should have a right to have a meter installed. In relation to water, park owners usually resist requests for meters to be installed by stating an excessive price per home for a meter to be fitted. Also, in cases where there are leaks on a site, some site owners see no urgency in getting the leaks repaired. This is because the site's water bill, which will include the cost of leakages, will be charged to and paid for by residents. .
43. Many park home residents also felt unhappy that the current system allows the park owner to choose a utility supplier even though the supplier may not necessarily be the most reasonable. The park owner being the account holder also denies residents, who are the bill payers, any benefits of being the account holder e.g. nectar points or the right to claim any electricity rebates.
44. It was acknowledged however that a site owner may be able to negotiate a commercial rate for utilities which would be cheaper than residents negotiating individual prices. Also, there are costs involved in installing and reading water meters and administering individual charges for every resident on a park. This raises questions about whether residents, site owners or both should bear the cost of that improvement.

### ***Recommendation***

45. DCLG should investigate further the funding implications of having water and electricity meters fitted for every park home.

## **(G) Liquefied Petroleum Gas (LPG)**

46. Some park home residents are unable to have their own supplier of LPG and are forced to purchase their supplies from the park owner. The price of LPG also remains high and as the resale of LPG is not regulated, park owners are able to charge whatever price they like, whether it is piped from a tank on the park or resold in cylinders.
47. On the sale of LPG, it was noted however that under the Mobile Homes Act 2013, site rules or purported rules that promote restrictive trade practices have been banned. They include rules that require residents to:
  - purchase only goods or services of any description supplied by the site owner or such other person as he nominates (including heating oil and LPG).
  - only use such tradesmen as the site owner nominates (including the site owner).

48. Residents should therefore be able to buy their LPG from a supplier of their choice. Where LPG is provided by the site owner by means of a tank, residents have the option to purchase gas bottles although there could be the additional cost of having the existing pipework changed.

***Recommendation***

49. DCLG should work with the Department for Energy and Climate Change to investigate how the cost of LPG is made up and how the market can be made to work better on park home sites.

**(H) Pitch fee reviews**

50. Some park owners have not fully understood the new regulations and fail to complete the pitch fee review form correctly or at all. Some site owners also include items such as maintenance charges in the pitch fee.

***Recommendation***

51. The implied terms should be amended to show that the pitch fee is for the right to station a home on the pitch and for maintenance of the park. The extra charges clause in the implied terms should also be clarified.

**(I) 10% commission**

52. The 10% commission paid on the sale of a mobile home is considered by residents as unfair because part of their capital has to be paid to the site owner. This makes it unaffordable for most residents to move to another home. Many residents also believe that commission is an unpredictable income stream and cannot therefore be relied upon to fund improvements. Residents would therefore like to see the commission abolished or reduced.

53. For site owners, the commission is an important source of income which allows them to reinvest in the parks and maintain higher standards without additional costs for homeowners. Site owners invest in developing and maintaining their park and are able to predict, perhaps with greater accuracy than other businesses, future income from pitch fees, sales and commission. Improving standards in the sector should therefore not include steps to make park businesses unprofitable.

54. The group noted that submissions by both sides have so far been anecdotal and the only way to make progress is to have an immediate review to gather factual, verifiable evidence. The group also noted that the issue of commission was consulted on in 2006 by DCLG and was considered again by the Communities and Local Government Select Committee in 2012 during its review of the sector. A call for another review raises questions about how often reviews should be carried out.

***Recommendation***

55. No recommendations were made as the group was unable to reach a consensus.

## Annex A: Local authority site licensing powers

The Mobile Homes Act 2013 introduced a new local authority site licensing regime which enables local authorities to monitor site licence compliance more effectively. The new scheme came into force on 1 April 2014 and has given local authorities powers to;

- charge fees for:
  - considering applications for the issue or transfer of a site licence;
  - considering applications for altering conditions in a site licence and
  - the administration and monitoring of site licences. This is levied as an annual fee.

Where a local authority decides to charge fees these must be published in its Fees Policy document, transparent and reasonable. A copy of the guidance on setting fees is available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285925/140227\\_Licensing\\_Fee\\_Guidance\\_Summary\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285925/140227_Licensing_Fee_Guidance_Summary_Final.pdf)

- serve compliance notices for the first time, where a site owner is in breach of a condition of a site licence. The compliance notice will set out the steps required in order for the breach to be remedied. In an emergency, or where a site owner has been convicted for failing to take the steps required by the compliance notice, the authority can enter the site and do the works.
- recover their costs (separately from licence fees) for taking enforcement action. This includes powers to force a sale of the site and place a charge on the land.
- Failure to take the action required under a compliance notice is a criminal offence and on conviction a site owner could face an unlimited fine. Operating a site without a licence could also result in an unlimited fine.
- Where a licensing offence is committed by a company, its directors, secretary or other officers will be liable to be fined as well as the company if it is held that the offence was committed with their consent or connivance or it occurred because of their negligence.
- When transferring a licence, local authorities now have the discretion as to whether or not to grant or approve the transfer. Local authorities are under a duty to exercise the discretion and cannot grant or approve a transfer without making relevant enquiries into the proposed licence holder's suitability to hold the licence.
- In deciding whether to consent or refuse to consent to the application, the local authority must now have regard to the suitability of the proposed licence holder to manage the site under the terms and conditions of the licence. It must also take into account the conduct of the existing licence holder (if any) when making its decision.
- If a local authority decides to approve the transfer or grant the licence it may do so subject to undertakings given by either the existing or proposed licence holder. Although the local authority can ask for undertakings to be given and must consider

any offered it is not bound to accept any undertaking. A copy of the guidance on transfer or grant of a licence is available at <https://www.gov.uk/government/collections/park-homes#mobile-homes-act-2013>

## Annex B: Members of the Working Group

1. Peter Aldous MP	(Con) - Waveney
2. Steve Brine MP	(Con) - Winchester
3. Natascha Engel MP	(Lab) - North East Derbyshire
4. Sonia McColl	Park Homes Justice Campaign
5. Brian Doick	National Association of Park Home Residents
6. Alan Savory	Independent Park Homes Advisory Service
7. Alicia Dunne	The National Caravan Council
8. Ros Pritchard	British Holiday and Home Parks Association
9. Paul Holland	South Oxfordshire DC/ Vale of White Horse DC
10. Lisa Osborn	North Somerset DC
11. William Tandoh	DCLG
12. Annette Brooke*	Former LibDem MP for Mid Dorset and North Poole
13. Stephen Lloyd*	Former LibDem MP for Eastbourne
14. Andrew Miller*	Former Labour MP for Ellesmere Port and Neston

\*from February – May 2015