

# Park Homes in Wales

## Research Briefing

May 2019



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National Assembly for Wales  
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# Park Homes in Wales

## Research Briefing

May 2019

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### **Paper Overview:**

This Research Briefing provides an overview of the law and policy relating to park homes in Wales.



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## Contents

|  |           |
|--|-----------|
| <b>Introduction .....</b>                                | <b>1</b>  |
| <b>Mobile Homes (Wales) Act 2013 .....</b>               | <b>3</b>  |
| Overview of the legislation.....                         | 3         |
| Site licensing .....                                     | 3         |
| Buying, selling and gifting a park home.....             | 6         |
| <b>Resident associations .....</b>                       | <b>8</b>  |
| <b>Commission on sales .....</b>                         | <b>8</b>  |
| Research .....   | 9         |
| Consultation .....                                       | 10        |
| Implementing a reduction in the rate of commission ..... | 13        |
| <b>Further information.....</b>                          | <b>15</b> |
| <b>Useful contact details .....</b>                      | <b>16</b> |

## Introduction

*Park home* is the common name for a residential mobile home which is a permanent residence and situated on a site licensed by the local authority for residential use.

The Welsh Government has published a range of guides on the law relating to park homes, and these are all available on its [website](#). Specialist advice can be obtained from a solicitor, Citizens' Advice Bureau or the [Leasehold Advisory Service](#). A range of organisations familiar with policy and law in this area are listed at the end of this briefing. Some of those organisations will only be able to provide advice to their members.

Welsh Government figures from 2012 show there are 91 park home sites in Wales. These are spread across 19 of 22 local authorities, and are home to 3,430 households. However, this data is not thought to be exhaustive.

The law relating to park homes was modernised when the *Mobile Homes (Wales) Act 2013 (the 2013 Act)* was commenced. However, the 2013 Act did restate some existing law, including provisions relating to requirements to pay commission to the site owner when a park home is sold.

In May 2017, the then Cabinet Secretary for Communities and Children launched a consultation on park homes sales commission. Under the *Mobile Homes (Selling and Gifting) (Wales) Regulations 2014* site owners are entitled to commission on the sale price and the maximum rate of commission is 10%.

On 5 June 2018, the then Minister for Housing and Regeneration [announced in plenary](#) that she intended to reduce the rate of commission paid when a park home is sold to a new maximum level of 5%. This was to be implemented by reducing the commission rate by one percentage point each year over a period of five years. There was a [further consultation](#) in September 2018 on how best to implement the Welsh Government's proposals. A [summary of the responses](#) was published on 4 March 2019.



In January 2019, on the application of the British Holiday and Home Parks Association and a park owner, the Administrative Court for Wales gave permission for a Judicial Review of the Welsh Government's decision to reduce the rate of commission. The Welsh Government undertook not to introduce any changes to the maximum commission rate until the Judicial Review was complete.

On 27 March 2019, the Minister for Housing and Local Government issued a **written statement** on implementing changes to the park homes commission rate. In the statement, the Minister confirmed that the proposed reduction in the maximum rate of commission would not now go ahead as planned. Instead, she confirmed that the maximum rate of commission would be looked at again following further engagement with the sector. The Minister also said she was "minded to commission further research to ensure I have the strongest possible evidence base on which to base my decision".

## Mobile Homes (Wales) Act 2013

In November 2011, Peter Black, Liberal Democrat Assembly Member for South Wales West, was successful in the Private Members' Legislation ballot held in the National Assembly. His proposal related to park homes, and resulted in the *2013 Act* becoming law. The *2013 Act* is intended to give better protection to owners of park homes in Wales as well as consolidating and restating some existing law including parts of the *Caravan Sites and Control of Development Act 1960* (the 1960 Act).

### Overview of the legislation

The 2013 Act was brought forward to modernise the law as it related to park homes. It introduced a new licensing regime for park home sites, including a requirement that site managers satisfy a fit and proper person test. The criteria are broad giving the local authority discretion such that, for example, anyone with a history of criminal behaviour would generally be refused a site licence. The Act also modernises a number of aspects of the contractual relationship between park home owners and site operators, changes the process by which park homes are bought and sold, and gives local authorities powers to ensure compliance with site licence conditions.

### Site licensing

#### Licences

Park home sites are licensed by local authorities under the *2013 Act* and sites must also have the relevant planning permission. The person managing the site (who may also be the site owner) must pass a fit and proper person test. Site licences last for a maximum period of five years, unless revoked earlier. Initial site licences issued under the 2013 Act will need to be renewed in April 2020.

Local authorities are able to charge for site licences – this was not permitted under the 1960 Act.

In June 2017, the Welsh Government **confirmed** that 96 site licences had been issued, and none had been revoked.

Some concerns about the efficacy of the licensing system have been raised, both by Assembly Members and by the industry. In **response** to the Welsh Government's 2018 consultation on the park homes commission rate, the British Holiday & Home Parks Association (BH&HPA) noted:

All residential parks in Wales are now deemed fit and proper, yet some businesses currently holding these licences are controlled by people who have been barred from BH&HPA membership. We are also aware of people licensed to manage parks who have been barred from BH&HPA membership.

### Licence conditions

Under Section 9 of the 2013 Act, local authorities have powers to attach conditions to site licences. This section is restated from Section 5 of the 1960 Act. The conditions may be imposed in the interests of persons dwelling on the land in park homes; any other class of persons; or the public at large.

Conditions that may be attached to a licence include conditions restricting the total number of park homes allowed on the site and conditions ensuring adequate sanitary facilities. Local authorities may also impose a condition that requires works to be completed to the site to the satisfaction of the local authority (but not to individual privately-owned park homes). A licence must be issued subject to a condition that the site licence, the most recent utility bills and current certificate of public liability insurance are all displayed on the land in a prominent place, unless there is a condition restricting the number of park homes on the site to three or fewer.

When deciding what (if any) conditions to impose in a site licence, a local authority must have regard to any model standards which have been specified by Welsh Ministers under Section 10 of the 2013 Act. These standards relate to the layout of, and the provision of facilities, services and equipment for, regulated sites or particular types of regulated sites. A *regulated site* is one on which a park home is stationed for human habitation – this is subject to certain exceptions and does not include holiday sites. The current **Model Standards** were issued in 2008 under the previous legislation, but continue to have effect by virtue of paragraph 4, Schedule 5 to the 2013 Act.

Section 11 of the 2013 Act ensures that local authorities must consult the relevant fire and rescue authority when they are considering conditions to impose in a site licence.

The applicant for a site licence has a right of appeal to a Residential Property Tribunal against any condition that is attached to a site licence within 28 days, other than the condition about displaying the site licence. Similar provisions for appeals apply where a licence condition is varied.

### Enforcement

Local authorities have a range of enforcement powers under the 2013 Act, including:

- Section 5 of the 2013 Act places a prohibition on use of land as a regulated site without a site licence. If a person is prosecuted by the local authority for this offence, the court may impose an unlimited fine;
- Fixed penalty notices may be issued for breaches of licence conditions;
- Compliance notices, which set out what licence condition has not been complied with and steps that need to be taken within a prescribed time frame, can be served on the owner of the land. The site owner may appeal to the Residential Property Tribunal against the notice. Failure to comply with the notice, without reasonable excuse, can result in prosecution and an unlimited fine. Where the site owner has been convicted on two or more previous occasions, the local authority can ask for the site licence to be revoked. Where a site owner is convicted of failing to comply with a compliance notice, a local authority may take the actions that the original compliance notice required;
- Local authorities have a power to take emergency action to remove an imminent risk of serious harm to the health and safety of any person on the site. The local authority must serve a notice on the owner specifying, amongst other matters, the emergency action it intends to take, and the intention to enter the land. The owner has a right of appeal to the Residential Property Tribunal;
- Where a park home site is established without a licence, the site owner/manager may be subject to a repayment order made by a Residential Property Tribunal (RPT) to repay any payments that have been received from residents of the park homes stationed on the site. Section 33 of the 2013 Act sets out the requirements that must be met for the RPT to make a repayment order. This includes a requirement that the owner of the site must have been convicted of an offence under Section 5 in relation to the site;
- If the local authority considers that the site licence holder is failing or has failed, either seriously or repeatedly, to comply with a condition of the site licence; that the site is not being managed by a fit and proper person; or there is no one managing the site, then an interim manager of the site may be appointed.

## Buying, selling and gifting a park home

A person who buys a park home will not own the land it is situated on. The land will be owned by the site owner for which they will be charged rent, more commonly called a 'pitch-fee'. There may be additional ongoing charges for utilities such as water, sewerage, gas and electricity which the site owner may supply to the park home. Park homes are also subject to council tax and occupiers must abide by the site rules.

The pitch fee may be reviewed annually. The 2013 Act controls this review and changed the usual basis for the review from the Retail Prices Index (RPI) to the Consumer Prices Index (CPI). This had the effect of reducing the amount of any increase following a pitch fee review and in some cases where the CPI was negative, led to a reduction in the pitch fee.

Park home owners have the right to sell their home on the open market and transfer (assign) their agreement to the purchaser. Prior to the 2013 Act becoming law, park home owners had to seek approval from the site owner of the proposed purchaser. There were concerns this was being exploited by a minority of site owners who were blocking sales for their own financial gain.

A park home owner can also gift the park home to a member of their family and assign the pitch agreement. There is no requirement that the family member to whom the park home is being gifted already lives on the park, but they will be expected to occupy it as their only or main residence after the pitch agreement is assigned to them. The park home owner giving away their home is not allowed to receive any money for it, and the site owner is not entitled to commission. 'Family' is defined in the 2013 Act as the park home owner's:

- spouse, civil partner or person living with you in an enduring family relationship;
- parents, grandparents, children and grandchildren (including anyone by virtue of a marriage, civil partnership or an enduring family relationship or anyone treated as a child of the person's family);
- brothers, sisters, uncles, aunts, nephews and nieces (including anyone by virtue of a marriage, civil partnership or an enduring family relationship).

Whether the park home is sold or gifted, the new owner will have to meet any site rules if they want to live on the park.

The Welsh Government has published a **guide** that covers selling and gifting of a park home. The **prescribed forms**, which must be used, are also available on the Welsh Government's website.

When a park home is sold, different rules apply depending on whether it is being sold by the owner of the site or the owner of an individual park home.

### Buying from a park home owner

Where a park home is bought from an existing park home owner, the seller needs to provide a *Buyers Information form* to the person buying the home. This sets out important information about the sale, the site, its rules, the utilities and the pitch agreement. If the person selling the home acquired it before 1 October 2014, then a *Notice of Proposed Sale form* also has to be completed (by both the buyer and the seller) and given to the site owner. If the information provided shows that the buyer cannot meet the site rules relating to age, pets or vehicles, the site owner can ask the **Residential Property Tribunal** to stop the sale. If the person selling the park home had acquired it, either as a sale or a gift on or after 1 October 2014, they don't need to fill in a *Notice of Proposed Sale form*.

If the sale can go ahead, the seller assigns the pitch agreement to the buyer. The buyer must then pay any commission due to the site owner. Further detail on park home sales commission is provided below.

### Buying from a site owner

The rules are different if the park home is being purchased from the site owner. The site owner should provide the prospective purchaser with all relevant information about the sale. If the sale goes ahead, the site owner needs to provide a Written Statement which sets out the terms of the proposed pitch agreement. The owner should also provide a copy of the site rules.

Under Section 49 of the 2013 Act, this Written Statement must be given at least 28 days before the buyer enters into the contract to buy the park home or the pitch agreement is made. However, the buyer can agree in writing to a shorter period if they want to complete the sale sooner.

The Welsh Government has published a **guide** that covers buying a park home. The **prescribed forms**, which must be used, are also available on the Welsh Government's website.

## Resident associations

A site owner is required to consult any Qualifying Residents' Association (QRA) on matters which relate to the operation and management of, improvements to, or any proposed change of use of, the site which may affect the occupiers either directly or indirectly.

The QRA may also ask the local authority to consider exercising its powers to appoint an interim manager. This might happen, for example, in circumstances when the residents' association does not consider the site manager is a fit and proper person.

A QRA has to meet the criteria outlined in Section 61 of the 2013 Act. This includes being independent from the owner of the site and its membership must be open to occupiers of all park homes on the site. "Occupier" means a person who is entitled to station the park home on the site, and to occupy the park home as the person's only or main residence. Only one occupier of each park home may be a member of the association. A QRA will have its own rules and constitution and these must be open to public inspection.

The Welsh Government has published a [guide](#) on QRAs.

## Commission on sales

The 2013 Act does not remove the right of site owners to charge a commission on sales. It simply restates the situation that existed under the *Mobile Homes Act 1983* (which is one of the Acts consolidated into the 2013 Act). This provides for a maximum rate of commission to be determined by Welsh Ministers in Regulations. Commission on sales has proven controversial. In 2013, Caerwnon Park Residents Association [petitioned the Assembly](#) to have it abolished.

Site owners are entitled to receive a proportion of the sale price of a park home on their land as commission. The commission is a percentage of the sale price of the park home on their land which, by law, is limited to a maximum of 10%. This maximum rate is set out in Regulation 8 of the *Mobile Homes (Selling and Gifting) (Wales) Regulations 2014*. The commission is paid by the person who buys the park home with the benefit of the agreement to station it on the park.

The rate of commission was considered during the development of the 2013 Act. For example, it is noted in the Explanatory Memorandum that Consumer Focus Wales research suggested that:

There are incentives for unscrupulous site operators to "churn" their residents as this could provide increased commission payments and also redevelopment opportunities - particularly where a site operator buys a home from a resident.

However, the Explanatory Memorandum went on to note that "the revenue generated by this commission forms an essential part of site operators' business plans." It also references 2001 research carried out across England and Wales (Office of the Deputy Prime Minister & Welsh Assembly Government, *Economics of the park home industry*, 2002, para 41) which found that if the entitlement to commission was removed, pitch fees would have to increase by around 22%.

## Research

Public and Corporate Economic Consultants (PACEC) Ltd were commissioned by the Welsh Government to undertake research into the economics of the park home industry. The research, [Understanding the Economics of the Park Home Industry in Wales Final Report](#), was published in October 2016.

The report made four recommendations:

- **Commission Rate** - although the commission rate is an ongoing source of dissatisfaction among residents, the results of this research suggest that its removal/ reduction has the potential to have a negative impact on the viability and sustainability of many Welsh park home operators. If the removal/ reduction of the commission rate were to be offset by an increase in pitch fees, this could have a negative impact on residents who have extremely limited financial resources and who wish to remain in their park home for the foreseeable future. Consequently, we recommend that the commission rate remains unchanged for existing residents, but that consideration be given to providing new residents with an option of incurring higher pitch fees in lieu of a commensurate reduction in the commission rate applied to future sales. Although, this approach may require legislative change and it is likely to add to the complexity of operator administration and business planning, it could (if adopted by sufficient numbers) contribute to improved operator cash flow and viability, whilst providing residents with greater choice and the potential to obtain a higher proportion of the proceeds of the sale of their park home.



- **Resident awareness of contractual obligations** - There is a need to enhance greater awareness of contractual obligations among the current resident population and to ensure that these points are made abundantly clear to future residents. We recommend that key stakeholders work collaboratively to ensure that regular and clear communication of these issues are provided to residents.
- **Identification and Addressing Poor Practice** - relatively high levels of resident dissatisfaction continue to exist in relation to the maintenance and upkeep of parks and the conduct of park operators. We recommend that further consideration be given to how incidents of poor practice can be identified and addressed more effectively. We also recommend that, in line with good practice, a regular review is carried out on the effectiveness of the Residential Property Tribunal, to ensure that it continues to protect the rights of all parties on an equitable and effective basis.
- **Energy Costs** - The cost of energy (and specifically gas) is the highest area of expenditure for park home residents. A household is deemed to be in fuel poverty when more than 10 per cent of income is spent on fuel. Fifteen per cent of the residents responding to the survey stated that they earned less than £600 per month and the average spend of fuel costs ranged from £47 to £66 per month, as such there is evidence of potential fuel poverty amongst residents. We recommend that further consideration should be given to initiatives that reduce energy costs and fuel poverty for this section of the community.

## Consultation

On 21 March 2017, the then Cabinet Secretary for Communities and Children made a [statement](#) to the Assembly, primarily on the commission rate that applies to park home sales. However, the Cabinet Secretary also addressed the other recommendations in the PACEC report. He accepted in principle the recommendations relating to awareness raising of residents' contractual obligations and that the Welsh Government will consider how poor practice on sites could be identified and addressed. He also agreed to look at how the Welsh Government might encourage site owners to seek out the most cost-effective energy deals on the market.

In relation to the commission rate, the Communities Secretary noted that the recent PACEC research had "faced a number of challenges" and, "In spite of the fact that over half the total number of park operators engaged in the research, only a quarter of the operators provided detailed financial information."

In the statement, he went on to say:

This is disappointing and means it is difficult to understand fully the economics of the industry at present and the precise implications of making any change to the commission rate. By the same token, Llywydd, neither am I convinced, in the absence of a complete and reliable picture of the industry's economics, that a case has been made to maintain the status quo. Indeed, I've received very strong representations suggesting that there may be good reason to reduce or even abolish the commission rate. Clearly, I must base my final decision on the best possible evidence. I would like, therefore, to invite the park home owners to let me have the evidence that they believe would justify leaving things as they are. Given the paucity of the information submitted to the consultants, it would be particularly useful to have financial evidence drawn from site owners' business accounts and other relevant sources that they may have

The options I will consider will include reducing or even abolishing the commission rate, which, at the current time, I am minded to do, but I will not commit further at this stage as I do not want to pre-empt the outcome of the forthcoming public consultation exercise. The [PACEC] report suggests that many park home sites are operating either at a loss or at only a small surplus. This reinforces the need for meaningful financial information because, as well as being fair to residents, in particular, in being able to access homes for themselves, we need to ensure that we do not inadvertently impact on the long-term viability of the park home sector in Wales either, which generally comprises sites smaller than their English counterparts.

The [consultation](#) was launched on 25 May 2017 and closed on 17 August 2017. The consultation sought views on:

- whether commission fees should be changed
- how any changes might affect park businesses
- how any changes might affect residents.

A [summary of responses](#) to the consultation, along with an [independent review of financial information \(PDF 1MB\)](#), provided by site owners which was commissioned by the Welsh Government from MHA Broomfield Alexander and dated 13 March 2018, was published on 24 May 2018.

The conclusion of the review carried out by MHA Broomfield Alexander states:

... based on the evidence from the financial information of the parks provided, and when including a reasonable allowance for the time worked by the park owners, if the commission income were removed the parks would be returning either a minimal or negative return on investment, which cannot be sustained as a business model in the long term without a significant increase in pitch fees, a rise in which would impact all home owners in the sector.



**Supplementary analysis** (PDF, 1MB) was commissioned by the Welsh Government from MHA Broomfield Alexander. This purpose of the analysis, dated 10 May 2018, was to “identify how important the commission rate income received on the resale of park homes is to their business’s continued viability.” The conclusion of the analysis was:

...when looking at the results of the individual parks whose data was included in the consultation, and when including the value for owners time, in all of the scenarios the reduction in commission would result in between 37.5% and 87.5% of the park respondents becoming loss making. If the increase in pitch fees could not be achieved to offset the lost commission income, these losses could not be sustained as a business model in the long term.

In a **written statement** issued on 24 May 2018, the then Minister for Housing and Regeneration said:

Following consideration of the views and evidence presented, I am setting out my intention to begin a phased reduction of the commission rate over a period of time.

I also intend to take forward a range of proposals designed to support good management in the sector and to ensure that those buying and selling park homes have access to clear, consistent information to support their decision making.

On 5 June 2018 the then Minister for Housing and Regeneration made an **oral statement** that provided more detail of her plans. In the statement, she said:

I am committed to ensuring everyone can access suitable, good-quality, secure and affordable homes. Reducing the maximum commission rate will help to remove the financial barriers for residents who want or need to sell. It will also help to ensure that potential buyers are not put off buying a park home because they’re worried about how it will affect them, should they need to sell in future. However, I am mindful of the need to avoid placing sites at risk of closure, whilst also seeking to protect residents from steep and sudden increases in pitch fees. It’s my intention to reduce the commission rate to a new maximum level of 5 per cent. This will be done by reducing the commission rate by one percentage point each year over a period of five years.

The regulations to achieve this will be subject to the scrutiny of this Assembly by the affirmative procedure, and I will bring forward regulations at the earliest opportunity in the new year. I believe that this approach strikes a reasonable balance in protecting the interests of all parties. Reducing the commission rate gradually will help reduce the risks to the viability of some sites by providing site owners with time to adjust their business models to reflect this change, and I do accept that this adjustment may include increases in pitch fees for some. I have considered carefully the calls from some to use powers in the 2013 Act to restrict any potential increase in pitch fees, but I’ve decided against this course of action.

This process has highlighted a range of much wider issues relating to alleged poor practices by some site owners and variations in the implementation of the Mobile Homes (Wales) Act 2013. I intend to issue refreshed information about park home living, focused on delivering accessible and clear guidance to all parties. Working with the sector, I will develop best practice materials and will look at how we can strengthen the role of LEASE in providing advice. I will work with local authorities to ensure that they adopt consistent approaches to site licensing and enforcement. We have a fantastic example of collaborative working in the private rented sector with Rent Smart Wales as the lead authority. I will explore what we can learn from this model that might benefit the residential park home sector.

### Implementing a reduction in the rate of commission

On 26 September 2018, the Welsh Government launched a **consultation** on how to implement a reduction in the rate of commission. The consultation sought views on:

- how best to introduce the reduction
- what guidance is needed to support the change (if any)
- how best to communicate that change.

The consultation ended on 14 December 2018.

In January 2019, on the application of the British Holiday and Home Parks Association and a park owner, the Administrative Court for Wales gave permission for a Judicial Review of the Welsh Government’s decision to reduce the rate of commission.

In a **written statement** on 4 March 2019, the Minister for Housing and Local Government announced that a **summary of the consultation responses** had been published. However, because of the Judicial Review, no date for implementing the changes was announced. On 27 March 2019, a further **written statement** was issued by the Minister for Housing and Local Government. In the statement, the Minister said:

Having given careful consideration to information which has come to light since proceedings began, I have decided not to implement the decision, but to reconsider the matter afresh.

As Members, park home owners and site owners would expect, I want to ensure that all relevant information is fully considered before any change to the maximum rate of commission is implemented.

Therefore, and in order to ensure any change properly achieves the objectives it was intended to achieve, I will be re-taking the decision on whether to change the maximum rate of commission, and if so by how much and over what period, entirely afresh.

As part of my reconsideration I will be engaging with the sector and am minded to commission further research to ensure I have the strongest possible evidence base on which to base my decision.

## Further information

The Welsh Government has published a range of information leaflets on the 2013 Act. This includes **Mobile Homes: know your rights**.

Statutory forms that are required during the buying, selling and gifting process are available on the Welsh Government's **website**.

The British Holiday & Home Parks Association has published consumer guidance providing a summary of the procedures on the **BH&HPA website** (PDF, 2.4MB) and on its consumer-facing website **parkhome.org.uk**.

The National Caravan Council (the NCC) also has a website that provides a range of information on park homes: **www.theparkhome.net**.

## Useful contact details

### General advice

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As of 1 April 2016, the Leasehold Advisory Service (LEASE) can provide legal advice to park home owners, site owners or local authorities concerning park homes law in Wales. Please note, much of the advice on the LEASE website only applies to park homes in England.

Website: <http://parkhomes.lease-advice.org>

Telephone: 020 7832 2525

### Advice for park home residents

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Independent Park Home Advisory Service

17 Little Witcombe Court Park

Green Lane

Witcombe

Gloucester

GL3 4TZ

Tel: 0800 612 8938

Email: [info@iphas.co.uk](mailto:info@iphas.co.uk)

Website: [www.iphas.co.uk](http://www.iphas.co.uk)

National Association of Park Home Residents

NAPHR

Flat B

38 Abergele Road

Colwyn Bay

Conwy

LL29 7PA

Website: [www.naphr.org](http://www.naphr.org)

### Site Owner Trade bodies

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British Holiday and Home Parks Association

Chichester House

6 Pullman Court

Great Western Road

Gloucester

GL1 3ND

Tel: 01452 526911

Email: [enquiries@bhpa.org.uk](mailto:enquiries@bhpa.org.uk)

Websites: [www.bhpa.org.uk](http://www.bhpa.org.uk) (for the industry)

[www.parkhome.org.uk](http://www.parkhome.org.uk) (for consumers - lists residential parks in Association membership).

National Caravan Council Limited

Catherine House

Victoria Road

Aldershot

Hampshire

GU11 1SS

Tel: 01252 318251

Email: [info@thenc.org.uk](mailto:info@thenc.org.uk)



Website: [www.thencc.org.uk](http://www.thencc.org.uk)

Appeals and applications to the Residential Property Tribunal

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Residential Property Tribunal Wales

1st Floor, West Wing

Southgate House

Wood Street

Cardiff

CF10 1EW

03000 252 777

Email: [rpt@gov.wales](mailto:rpt@gov.wales)

Website: <http://rpt.gov.wales>

