



BRIEFING PAPER

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Mobile (park) homes - 10% commission on sales

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Summary

When an owner of a mobile/park home situated on a site covered by the *Mobile Homes Act 1983* (as amended) sells their home, there is a requirement on the new buyer to pay commission on the sale to the site owner. The maximum rate of commission is prescribed in regulations made by the Secretary of State and is currently set at 10% of the sale price.

The general justification for the charge is that what is sold is an amalgam of the value of the park home and the value of the site on which it is placed.

Mobile/park home owners regard the requirement to pay commission as unfair and outdated. Various organisations, such as [Park Home Owners Justice Campaign](#) (PHOJC), are campaigning for reform. The PHOJC argues that the 10% charge should be based on the difference between the last sale price and the current sale price. In particular, PHOJC states that, when compared to the commission earned by estate agents on the sale of traditional housing, the commission payable on the sale of a park home is “unfair.” An e-petition calling for a review of the commission charge was presented to Downing Street in July 2014.

The charge has been reviewed several times since it was last amended (reduced from 15%) in 1983. In [October 2014](#) the Coalition Government said there were no current plans to amend the amount payable – this position was reiterated by the Minister for Housing, Brandon Lewis, on [8 June 2015](#). There is a commitment to carry out a review of the park homes industry in 2017, by which time it is expected that the changes made by the *Mobile Homes Act 2013* will have had time to bed-in.

1. The requirement to pay commission on a sale

When an owner of a mobile/park home situated on a site covered by the *Mobile Homes Act 1983* (as amended) sells their home, there is a requirement to pay commission on the sale to the site owner.¹ The maximum rate of commission is prescribed in regulations made by the Secretary of State and is currently set at 10% of the sale price.²

The general justification for the charge is that what is sold is an amalgam of the value of the park home and the value of the site on which it is placed. A report by Shelter on the 1983 Act (published in 1988) contained a short section on commission charges:

It is worth mentioning that the payment of up to 10% commission to a site owner is frequently objected to by many mobile home owners. They argue that as a site owner does nothing to earn this commission, they do not see why s/he should get it. This argument is even stronger when occupiers have increased the value of the home by adding porches, brick skirts, etc at their own expense.

The site owner's response to this argument is to accept that they do nothing for the money but that this is part of the income, along with pitch fees and selling new mobile homes, that they have always expected to receive to make the businesses viable. They say that if the commission was reduced or abolished, then they would have to increase pitch fees accordingly to make up the difference. It is certainly true that there is some evidence that this did happen when commission was reduced from 15% to 10% in 1983.³

2. Department of the Environment survey 1990-91

A survey of park home and site owners carried out on behalf of the Department of the Environment (DoE) over 1990/91, found that commission charges emerged as an issue on which there were fundamental disagreements between park owners and residents:

Park owners argued strongly that the retention of commission at its current level was essential for the continued viability of the trade, and that reduction or removal would lead to greater pressure on pitch levels or greater pressure towards sales through the park owner. Many residents, however, saw commission as a payment totally unearned and undeserved by the park owner.⁴

The DoE survey found that park owners saw commission on sales as a vital part of their income and were concerned that the percentage

¹ Paragraphs 7A(5) and 7B(8) of Part 1 Schedule 1 to the *Mobile Homes Act 1983* (as amended). The obligation to pay commission falls on the buyer of the mobile home.

² *The Mobile Homes (Commissions) Order 1983* SI 1983/748: [Mobile Homes \(Selling and Gifting\) \(England\) Regulations 2013](#) (S.I. 2013/981)

³ *It's not what we expected*, Shelter's Mobile Homes Unit, 1988

⁴ DoE *Mobile Homes Survey*, 1992, para 694

should not be reduced any further. Over half the park home owners in the survey thought the payment of commission to be unfair or "disgusting".⁵

3. A review of commission charges 2001-02

The Department of the Environment, Transport and the Regions (DETR) established a Park Homes Working Group in 1998 with a view to reviewing a number of issues relating to park homes.⁶ The report of the Working Group was published on 12 July 2000; the Group recommended that the Government should commission an independent study into the economics of the park homes industry "to identify the maximum level of commission to be set and give clarification of the items to be included in the calculation of the commission."

Berkeley Hanover Consulting was commissioned to carry out the study in January 2001. Their findings, [Economics of the Park Homes Industry](#), were published on 29 October 2002. Berkeley Hanover found "evidence did not support the idea of excessive profits in the sector as a whole" but the researchers identified several respects in which park home transactions did not operate as a perfectly flexible, fair and transparent market:

Firstly, there is evidence that overall demand outstrips supply: questioned about physical and regulatory limits to expansion, only 7% of operators said that they had space on which further homes could be added but that they did not wish to do so. However, given that over 50% of parks are owned by operators running only one park, and only one operator runs over 25 parks, the industry is far from being a monopoly.

Secondly, 14-18% of more recently arrived residents believed the obligation to pay commission was not (or may not have been) made clear to them. On face value this might not seem a problem for the 80% who did not intend to move off the park in future in any case. But the fact that 58% had acquired their homes directly or indirectly through a previous resident suggests a mismatch between intention and reality, where a lack of information is likely to impose a hidden cost.

Thirdly, there is a perception that operators may harass residents into abandoning the park. The resident may lose out through being forced to sell the unit at a submarket price to the operator (who then either resells it at a profit or redevelops the pitch with a new home). Or he/she sells it at a market price on which the operator receives commission. While only 7% of residents reported having experienced pressures to leave in this way themselves – and by definition some who had experienced such pressure would have left the park so would have been unable to participate in the survey – 43% said they were aware of other residents on the park experiencing pressure to leave.

Finally, operators effectively block the sale of new units by manufacturers direct to residents (the sited price of a new home is

⁵ *ibid* paras 616-618

⁶ HC Deb 13 April 1999 c78W

substantially higher than the price the operator pays the manufacturer). In addition, manufacturers report that operator pressure prevents them from offering a refurbishment service.⁷

The study estimated that income from sales formed 51% of site owners' revenue, pitch fees 42%, and commission the remainder.⁸

The study outlined three potential avenues for reform, the consequences of which were based on total profits to operators remaining the same:

Reduce or eliminate the commission

Simply decreasing or eliminating the maximum commission outright would mean that operators would have to increase prices elsewhere. Although the researchers assumed that this would come wholly from increasing pitch fees, some or all of the shortfall could be met through the price of new units (assuming that the trend for the value of park homes relative to bricks and mortar housing to rise over time will continue). If commission was abolished, pitch fees would rise by 20-32%. This might impact on the attractiveness of this form of tenure.

Sliding scale of commission related to length of stay

Although the researchers acknowledged that the current structure of commission – under which the same proportion is payable every time the unit changes hands – could provide an incentive for operators to 'encourage' their residents to leave, the researchers did not calculate in detail the option of relating the rate of commission to the resident's length of stay. Such a system would be fairer to people only staying on the park a short time – although this would imply that those selling after a very long stay would have to pay far more than 10%. The researchers also state that this mechanism would undermine the assumed relationship of commission to the value of the land. However, it could be argued that the land value forms an increasingly important component of the value of the sited home over time.

Basing the commission on the value of the land

The contribution of the operator's land to the value of the home could alternatively be acknowledged explicitly in the commission – either by applying commission to the land proportion of the home's value, or to the increase in value of the land component. The percentage of land value payable as commission would have to maintain existing actual income from commission; alternatively, if the percentage remained at 10%, the lower actual amount payable would mean that prices elsewhere would have to rise (from pitch fees or operator-sold units – as for first option).

Although the researchers did not specifically address this point, a mechanism assuming an increase in land values would of course function only as long as land values did indeed continue to rise.⁹

It was accepted by the researchers that there would be implementation issues associated with whichever option was chosen (if any) and that it would be particularly difficult to introduce changes for existing residents as legislation is rarely retrospective. Operators might find it difficult to

⁷ Berkley Hanover Consulting, [Economics of the Park Homes Industry - summary, 2002](#),

⁸ Berkley Hanover Consulting, [Economics of the Park Homes Industry, 2002, fig 4.2](#)

⁹ Berkley Hanover Consulting, [Economics of the Park Homes Industry - summary, 2002](#)

carry out cost and income projections for the park as a single business if residents are on different regimes. An alternative suggested by the researchers would be to offer residents a choice of payment mechanisms at the outset so that he/she could elect, according to his/her circumstances, a higher price at entry in exchange for lower commission payments at exit.

A further suggestion of the researchers would have involved residents and prospective residents being allowed greater scope to contract with a park home manufacturer independently for bringing a home onsite and to refurbish existing units:

While operators would see their income flows affected as units needed replacing (through them) less often, refurbishment is likely to be the best use of resources for residents. Operators should accept this development as a business risk, and on new contracts adjust the price of the unit (and possibly other elements of the cost package) accordingly.¹⁰

The *2004 Housing Act*, which implemented some of the Park Home Working Group's recommendations, did not make any changes to the requirement to pay commission on sales.

4. Exemption for park homes given as gifts (2006)

The Office of the Deputy Prime Minister (ODPM) issued *Park Homes Statutory Instruments: consultation on implied terms and written statements* in July 2004. This paper set out proposals to amend the terms implied into written statements by the 1983 Act; in relation to commission, there were proposals to 'stipulate that commission on sale does not apply to a gift of the mobile home.' In the February 2005 summary of responses the Labour Government said that it accepted wording suggested by the trade associations to achieve this aim:

The owner shall not be entitled to receive a commission on a gift made under Schedule 1, Part 1, paragraph 9 of the 1983 Act.¹¹

Paragraph 9 of the *Mobile Homes Act (Amendment of Schedule 1) (England) Order 2006*, which came into force on 1 October 2006, implemented this change.

¹⁰ *ibid*

¹¹ *Implied Terms and Written Statements for Park Homes: consultation summary of responses*, February 2005, paras 2.18-2.19

5. Park home commission rate – 2006 consultation

In the summary of responses to a January 2005 consultation paper on proposals to reform site licensing, the then Government said it would 'examine the economics of the park home industry including the 10% commission in a consultation paper.'¹² On 10 May 2006 the Government published a further consultation paper, *Park Home Commission Rate*, which outlined options for a more transparent payment system for park homes. The consultation period closed on 2 August 2006; the then Government announced the outcome on 27 March 2007.

Briefly, it was decided that the maximum rate of commission should remain at 10% and that measures to strengthen the transparency of payment mechanisms on park home sites should be introduced.¹³ The Labour Government published its proposals alongside a summary of responses to the consultation process, the proposals are listed below:

- Revise the Written Statement Regulations which prescribe the content of residents' written agreements, to ensure that the commission payment requirement is sufficiently obvious to anyone reading the statement.
- Where a written statement is not provided in advance of a sale (in accordance with the changes made in the Housing Act 2004) or if the commission payment requirement does not appear as required in accordance with the Written Statement Regulations, a park owner will not be able to require payment of that commission.
- Require that where a park home owner is selling their home to a third party (ie not the site owner) that the incoming resident is given a copy of the written agreement at least 28 days before the sale takes place, unless otherwise agreed; and
- **Require a prospective home owner to confirm to the park owner that they are aware of the commission rate payable and all other charges payable during the occupancy of the park home.**
- **As part of taking forward the proposed changes, Communities and Local Government would engage with the industry to agree how they can improve transparency in relation to commission and pitch fee monies.**

¹² [Park Homes Site Licensing Proposals for Reform: Summary of Responses](#), July 2005,

¹³ CLG Press Notice 'Park Home Commission Rate moves towards greater transparency,' 27 March 2007

- Revise the Departmental park homes booklet to make the financial arrangements clearer.¹⁴

The first four of these proposals would have required primary legislation. The Department for Communities and Local Government had already indicated in July 2005 that it intended to legislate on site licensing and intended to bring forward legislation to implement these proposals when a suitable opportunity arose.

Legislation was not introduced before the 2010 General Election but the *Mobile Homes Act 2013* has now implemented a number of these changes (see Section 7).

6. Communities and Local Government Committee inquiry 2011-12

The Communities and Local Government Select Committee launched an inquiry into the park homes sector in December 2011. Its findings and recommendations were published in [Park Homes](#) (June 2012).¹⁵ The Committee received complaints from park home owners about the requirement to pay commission but concluded that the right of site owners to receive commission on sales should remain in place:

30. In Bournemouth, we heard from Richard Grigg, a site owner, who told us that at one site he knew of a residents' association that was given the option of reducing the commission fee they would pay on a home sale if they agreed to an increase in pitch fees.

He said that only one in around a hundred residents agreed to this. His view chimed with a wider canvass of views carried out in 2006. The Government pointed out in its written submission that:

"The previous Government consulted in 2006, on what the appropriate maximum rate should be. Some residents favoured a reduction in, or abolition of, the commission rate, but accepted that it would result in higher pitch fees—these residents generally intended to sell their home at some point in the future. Other residents who generally saw their park home as their "home for life", wished to retain the existing rate in return for the protected pitch fees. Site owners, however, held the view that the rate should not be changed.

Given the balance of views arising from the previous consultation we do not see there is a strong case for revisiting the rate."

31. We see no pressing reason to change the maximum commission that is paid to site owners on the sale of park homes. The commission is an important source of revenue for site owners and provides funding for properly managing and maintaining sites. Indeed, a change could disturb the balance between commission and pitch fees, resulting in a significant and unwelcome increase in pitch fees for many residents on fixed incomes.

¹⁴ *ibid*

¹⁵ [Park Homes](#), HC 177-I, First Report of Session 2012-13

We conclude that the right of site owners to receive up to 10% commission from the sale of park homes on their sites should remain in place. Without this revenue pitch fees would have to rise. Furthermore, the commission provides site owners with an incentive to allow home owners to sell their homes on the open market. Without it, and in the absence of legislation to abolish the site owner's approval of buyers, incidents of sale blocking may increase.¹⁶

7. Impact of the Mobile Homes Act 2013

7.1 Legislative changes

Although the *Mobile Homes Act 2013* did not change the maximum 10% commission rate, it did bring in changes affecting the sale of park homes:

- prospective buyers must be provided with written details of the commission payable before the sale is finalised;¹⁷
- park home owners are no longer required to get the approval of the site owner for a sale to take place.¹⁸

The removal of site owner permission came from a proposal in the 2012 Government consultation paper, [A better deal for mobile home owners](#).¹⁹

The paper also proposed that restrictions on the payment of commission charges could be used to deter site owners' 'sale blocking' practices:

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.²⁰

This proposal was not included in the *Mobile Homes Act 2013*.

7.2 Backbench business debate (October 2014)

On 30 October 2014 Annette Brooke secured a Backbench Business debate calling for a review of the commission rate. The debate saw a number of additional concerns raised.

Natascha Engel argued that because site owners no longer have any involvement in sales, they can no longer justify the receipt of commission:

At the moment it is daylight robbery; people are getting nothing in return for it (the commission)... All he (the site owner) has to do is get his secretary to delete one name and enter another. A huge commission for a two minute job.²¹

¹⁶ *Ibid* paras 30-31

¹⁷ [Mobile Homes Act 2013](#), section 10(4)(4)(f)

¹⁸ *Ibid* section 10

¹⁹ DCLG, [A better deal for mobile home owners](#), 2012, para 1.19

²⁰ *Ibid*, para 1.23

²¹ [HC Deb 30 October 2014 c489](#)

Ms Engel also proposed linking receipt of commission to the upholding of minimum maintenance standards on the site. Echoing this point, other Members proposed increased transparency on what commission is spent on. Jeremy Lefroy argued that "such transparency would take a lot of the heat out of the debate."²²

The Minister for Housing, Brandon Lewis, said that concerns about proper maintenance of sites had already been addressed in the 2013 Act as local authorities now had powers to enforce maintenance standards. On transparency, he said:

The Act requires site operators to use a statutory form, and to set out what is included in any proposed new pitch fee and how that fee has been calculated. We are therefore starting to see the transparency that we want to exist more widely.²³

The Minister reiterated that the Coalition Government had no current plans to change the commission rate. He did; however, agree with Ms Brooke's call for a review into the park homes sector.

7.3 Policy reviews in England and Wales

During the October 2014 debate Annette Brooke did not call for the 10% commission fee to be scrapped. Instead, she argued for a review to be undertaken in order to establish facts around the need for the fee and the implications of reducing or ending it. She pointed to the example of the Welsh Assembly.²⁴

A debate took place in the Welsh Assembly on 16 July 2014 on the 10% commission rate. In response to this, the Minister for Communities and Tackling Poverty, Lesley Griffiths, wrote [a letter](#) informing of the Welsh Government's intention to undertake specific research into the commission rate and its impact on site residents and site owners.²⁵

Ms Brooke made reference to a subsequent letter from Ms Griffiths to a constituent which explained that the report of the research was expected to be published in spring 2015.²⁶ At the time of writing the research had not been published and the Welsh Government's timetable is not known.

Responding to the debate, the Minister for Housing, Brandon Lewis, announced that he had asked a ministerial colleague to "bring together representatives from across the sector to identify evidence of poor practice where it exists, and investigate how best to raise standards and further tackle abuse."²⁷ He said a review will be carried out in 2017 "which will give us a couple of years to see the impact of the new laws before we review how they are working." He went on to say that he "would be very happy for that group, under its own auspices, to consider a wider review of the issues that have been raised today."²⁸

²² *Ibid* c491

²³ *Ibid* c503

²⁴ *Ibid* c480

²⁵ [Letter from Lesley Griffiths AM to William Powell AM](#), 2 October 2014

²⁶ [HC Deb 30 October 2014 c489](#)

²⁷ *Ibid* c503

²⁸ *Ibid* c503

The review will look at the entire park homes industry, rather than focus specifically on the commission rate. It will be taken forward as a Government working group chaired by an Under Secretary of State and will include input from national resident groups and industry trade bodies.

The Minister confirmed (June 2015) that there are no plans to carry out an immediate review of the commission rate:

Damian Green: To ask the Secretary of State for Communities and Local Government, if he will undertake an immediate review of the effect of the 10 per cent commission charge on the sale of park home properties; and if he will make a statement.

Answered by: **Brandon Lewis:** Following a recommendation from the Communities and Local Government Select Committee in 2012 that the right of site owners to receive up to 10% commission from the sale of a home should remain in place, the Government has no plans to carry out an immediate review of the commission payable on the sale of a park home.²⁹

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