

Mobile Homes – guidance

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This guidance document is also available in Welsh. Please contact the tribunal for a Welsh version of this document.

Part One - Introduction

What is the purpose of this Guidance?

This guidance explains the procedures that will be followed by a Residential Property Tribunal (“the tribunal”) when dealing with applications to the tribunal under the Mobile Homes (Wales) Act 2013 (“the Act”).

Those applications deal with an agreement under which a person (“the occupier”) is entitled, under an agreement with the site owner (“the owner”), to station a mobile home on land forming part of a regulated site and to occupy the mobile home as his or her only or main residence (“an agreement”). The term “mobile home” is used here for a home referred to and defined in the 2013 Act as a “mobile home”. A “regulated site” is any land in Wales on which a mobile home is stationed for the purposes of human habitation (including any land in Wales used in conjunction with that land), subject to the exclusions in Schedule 1 to the Act. The owner of a regulated site must not cause or permit the site to be used as a regulated site unless the owner holds a site licence, which is required under section 5 of the Act.

Note: The Residential Property Tribunal in Wales does not have jurisdiction in respect of transit pitches on a local authority or county council site providing accommodation for gypsies and travellers. Disputes in respect of such sites should be referred to the County Court.

The person who makes the application is referred to below as “the applicant” and the person against whom it is made is referred to as “the respondent”. This guidance does not cover the law relating to mobile homes. An applicant who is in doubt as to whether a tribunal can deal with his or her case should take independent legal advice from a solicitor or housing adviser or contact a Citizen’s Advice Bureau.

Guidance is also available in audio format in English and Welsh. If you wish to receive an audio copy of the guidance please send a request to rpt@gov.wales

What is a Residential Property Tribunal?

Residential Property Tribunals were set up by law to deal with certain types of disputes relating to residential property. The membership of these tribunals is explained below. Each tribunal is an independent decision making body which is completely unconnected to the parties. The tribunal will look at all of the evidence presented before it and will use its own expert knowledge and experience.

Language Preference

The LVT welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English.

You may submit forms, documents and make written representations to the LVT in Welsh or English.

Who will deal with the matter once an application has been made to a tribunal?

From the time that the application is received a number of different people will deal with the paperwork involved and the parties. These include the following:

Clerks to the Tribunal

Clerks to the Tribunal are the administrative staff who will deal with the correspondence and other paperwork in the case from start to finish. The clerks are able to speak to parties about the processes and procedures relating to the application. They cannot give legal advice.

The Tribunal Members

The chairperson of the Tribunal, who will usually be a lawyer, is responsible for the smooth running of the proceedings and will write up the reasons for the tribunal's decision.

Other members of a tribunal may be lawyers, surveyors, other professional persons or lay persons. Lawyers are appointed by the Lord Chancellor whilst other members are appointed by the Welsh Ministers.

When a tribunal is set up to consider an application there will sometimes be three, but more frequently two, members including the chairperson. Sometimes a chairperson sitting alone will exercise the powers of the tribunal. This will usually be when dealing with procedural and related matters although, in limited instances, a chairperson sitting alone can determine the application.

The Residential Property Tribunal President

The Residential Property Tribunal President, assisted by a Vice President, is responsible for the members and in particular decides which member(s) should be appointed to hear and decide a case. They will not be involved in the decision unless they are members of the tribunal dealing with the case.

Part Two – Applications to the Tribunal

What types of application can be made to a tribunal?

The following types of application are covered by this guidance:

1. An appeal by a land owner against a decision not to issue a site licence, under section 7(4) (b) of the Act.
2. An appeal by the site owner against the conditions of the site licence, under section 12(2) of the Act.
3. Appeal by the licence holder, under section 14(1), against variation of the conditions of the site licence by the local authority.
4. Appeal, by the licence holder, under section 14(1) against the refusal of the local authority to alter the conditions of the licence.
5. Appeal, by the site owner under sections 17(2) and 23(1) against a compliance notice issued by the local authority.
6. Appeal by the site owner under sections 21(9) and 23(1), against the taking of emergency action by the local authority.
7. Appeal by the site owner under sections 22 (7) and 23(1), against the local authority's demand for expenses incurred in respect of taking action in default or emergency action.
8. An application by the local authority, under section 28(2), for an order revoking the site licence on the grounds that the owner or a person appointed by the owner, is not a fit and proper person to manage the site.
9. Appeal, under section 29(6), against a local authority decision that a person is not a fit and proper person to manage a site.
10. Appeal under section 30(5), by a person aggrieved, against the local authority's decision to appoint an interim manager.
11. An application, under section 33(6)(c), for a repayment order, by an occupier of an unlicensed site.
12. An application, under section 49(5) of the Act, by an occupier, for an order requiring the site owner to give him a written statement as to the terms of the agreement to occupy as required by the Act.
 - (1) An application, under section 50(2) of the Act, by either party to an agreement, for an order that there shall be implied into the agreement terms concerning the matters mentioned in Part 2 of Schedule 2 to the Act.
 - (2) An application, under section 50(3)(a) or 50(3)(b) of the Act, by either party to an agreement for an order:
 - (a) varying or deleting an express term of the agreement or

(b) providing for an express term that would otherwise be unenforceable to have effect in full or subject to any variation specified in the order

13. An application, under section 54 of the Act, by either party in relation to any matter under the Act or the agreement.

(Note that the court has exclusive jurisdiction to deal with termination orders except in the case of applications 15 and 16 below.)

(Note also that if there is a pre-existing arbitration agreement at the time any question arises under the Act or any agreement, and the arbitration agreement applies to that question, the tribunal will have jurisdiction to determine that question.)

14. An application, under paragraph 7(1) (a) of Chapter 2 Schedule 2 or paragraph 40(1)(a) of Chapter 4 Schedule 2 to the Act: by an owner who wishes to terminate an agreement for occupation on the ground that, having regard to its condition, the home is having a detrimental effect on the amenity of the site.

(Note that generally only the court can determine questions relating to termination of the agreement but in the case of this particular ground the tribunal determines the preliminary issue of the effect of the mobile home on the amenity of the site).

15. An application by a site owner under paragraphs 5, 6, 7(1)(b) of Chapter 2 Schedule 2, or (in relation to local authority permanent gypsy and traveller sites) paragraphs 38, 39 or 40(1)(b) of Chapter 4 Schedule 2 to the Act for a termination order on the ground that:

- (a) the occupier has breached a term of the agreement and after having been given notice to remedy the breach has failed to do so within a reasonable time **or**
- (b) that the occupier is not occupying the home as his only or main residence **or**
- (c) that having regard to its condition the home is having a detrimental effect on the amenity of the site and the tribunal has already made an order to this effect.

In all of these cases the ground also requires that the tribunal considers it reasonable for the agreement to be terminated.

(Note that application 16 can only be dealt with by the tribunal where there is a pre-dispute arbitration agreement that covers the question to be decided).

16. An application, under paragraph 10 (3) of Chapter 2 of Schedule 2 to the Act, by the owner of the mobile home site for a refusal order preventing the occupier from selling the mobile home and assigning the agreement to the proposed occupier.

17. An application, under paragraph 13(3) of Chapter 2 of Schedule 2 to the Act, by the owner of a mobile home site for a refusal order to prevent the occupier from giving the mobile home and assigning the agreement to a member of the occupier's family as the new proposed occupier of the mobile home.

18. An application under paragraph 42(8) of Chapter 4 of Schedule 2 to the Act, by an occupier of a permanent local authority gypsy and traveller site, for an order declaring that the assignment of the occupier's agreement is approved.

19. An application, under paragraph 14(1) and (2) of Chapter 2 of Schedule 2 and paragraph 44(1)(a) and (b) of Chapter 4 of Schedule 2 (in relation to permanent pitches on local authority gypsy and traveller sites) to the Act, by a site owner, for the tribunal's determination for temporary relocation of the mobile home on another pitch forming part of the site.
20. An application under paragraph 14(3) of Chapter 2 Schedule 2 or paragraph 44(3) of Chapter 4 of Schedule 2 (in relation to permanent pitches on local authority gypsy and traveller sites) to the Act, by an occupier, for an order that the mobile home be returned to its original pitch following the completion of repairs or works.
21. An application, under paragraphs 17(1)(b) and 17(6)(a) of Chapter 2 of Schedule 2 by the site owner or occupier for a determination of the new pitch fee, or, in relation to permanent pitches on local authority gypsy and traveller sites, an application by the site owner under paragraphs 47 (6) and (10) of Chapter 4 of Schedule 2 to the Act, for an order that the pitch fee be reviewed and for determination of the amount of the new pitch fee.
22. An application, under paragraph 18(1)(a)(iii) of Chapter 2 Schedule 2 or paragraph 48(1)(a)(iii) of Chapter 4 Schedule 2 (in relation to permanent pitches on local authority gypsy and traveller sites) to the Act, by an owner for an order that improvements be taken into account when the pitch fee is reviewed.
23. An application by the occupier, under paragraph 17(15) and (16) of Chapter 2 Schedule 2, for an order that the owner should re-pay the difference between the old and new pitch fees where the mandatory information has not been provided.
24. An application, under section 52(9) and (10) of the Act and regulation 10 (1) of the Mobile Homes (Site Rules) (Wales) Regulations 2014, by an occupier or any qualifying residents association with regard to the proposed, making varying or deletion of a site rule or rules by the site owner.
25. An application, under section 52 (9) and (10) of the Act and regulation 17(1) of the Mobile Homes (Site Rules) (Wales) Regulations 2014, by an occupier or any qualifying residents association with regard to the site owner's failure to deposit new or varied site rules, or a deletion notice, in time.

Important Note

If at any time it appears to the tribunal that an application is frivolous, vexatious or an abuse of process, it may dismiss the application. However, before doing so, it will give the applicant an opportunity to state his or her case.

Part Three – How to apply

How can an application be made to the tribunal?

An application must be made on the appropriate form to the Residential Property Tribunal. Forms can be obtained from the Residential Property Tribunal, Oak House, Cleppa Park, Celtic Springs, Newport, NP10 8BD, telephone number 0300 025 2777 or email rpt@gov.wales

Note – The Residential Property Tribunal will not accept applications by FAX or Email.

Is there a limit on the number of pitches, mobile homes or references on a single application?

Yes. If an application to determine any question arising under the Act relates to more than one pitch or mobile home, the application may refer to only one provision of the Act.

Furthermore, no application to determine any question arising under the Act may relate to more than 20 pitches or mobile homes.

Does a fee have to be paid for an application?

Yes. A fee is payable by the applicant in relation to all of the applications listed above as follows;

£155 for one mobile home or pitch

£205 for two mobile homes or pitches

£410 for three or four mobile homes or pitches

£515 for five or more mobile homes or pitches

When must a fee be paid?

The fee must be paid with the application. Fees must be paid by a crossed cheque or by postal order drawn in favour of 'Welsh Government'. The Tribunal will not accept cash.

If a fee is not paid within a period of 14 days from the date on which the application is received, the application will be treated as withdrawn unless the tribunal is satisfied that there are reasonable grounds not to do so.

No fee is payable to the tribunal in relation to an application made under the Act that has been transferred from a court to a tribunal. There is no fee payable for any other application. Furthermore, even if a fee is payable it will be waived in the following cases.

Waiver of fees

A fee will not be payable in any of the above cases where the applicant or his or her partner is in receipt of any of the following benefits or assistance.

- Income Support
- Housing Benefit
- Income-based Job Seeker's Allowance
- Income related Employment and Support Allowance
- Working Tax Credit where:

- a. *either* that credit includes a disability element or severe disability element (or both)
or it is combined with child tax credit and
 - b. the gross annual income used to calculate the Working Tax Credit is £16,190 or less
- A Guarantee Credit under the State Pensions Credit Act 2002
 - An income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.

To claim a waiver of fees an applicant must complete another form available from the Residential Property Tribunal office. The waiver form will not be copied to other parties in the proceedings.

Any person in doubt about fees should telephone the Residential Property Tribunal on 0300 025 2777.

Can the tribunal order reimbursement of a fee that has been paid?

Yes. The tribunal may order a party to an application to reimburse any other party to the extent of the whole or part of any fee paid by that other party. However, the tribunal will not do so if, at the time the tribunal is considering this matter, it is satisfied that the party or his or her partner is in receipt of assistance under any of the benefits or assistance referred to above.

Part Four – Procedure following application

What will happen after the tribunal has received an application?

The clerk will write to the applicant acknowledging receipt and send a copy of the application to the respondent together with the accompanying documents. The clerk will also send to the respondent a notice specifying the date by which he or she must reply.

A respondent who receives the notice must by that date send the tribunal a written reply acknowledging receipt of the application and documents and stating whether or not he or she intends to oppose the application.

If the application relates to a proposed sale or gift of a mobile home or the assignment of an agreement relating to a permanent pitch on a gypsy and traveller site, and the tribunal is notified of the name and address of the person to whom the occupier wishes to sell or give the mobile home or assign the agreement (“an interested person”) the tribunal will send that person a copy of the application and documents and explain the procedure for applying to be joined as a party.

Joining an appeal or application

A person (“the potential party”) may make a request to the tribunal to be joined as an applicant or a respondent to the proceedings. However, such a request must be made in writing as soon as possible and must give the reasons for the request. The tribunal may refuse a request where it is not satisfied that the potential party is an interested person or a person who has sufficient interest in the outcome of the proceedings. The tribunal must notify the potential party and the existing parties of the decision and the reasons for it. Any potential party whose request is granted will be treated as an applicant or a respondent.

Next steps

The clerk will send all parties and interested persons, of whom it has been notified, a copy of any directions and the date for the hearing and inspection of the property.

What are Directions?

Directions are the orders made by the tribunal which require the parties to take specified steps to ensure that all the necessary information about an application is provided for the tribunal and all parties. They also set out a timetable for further progress of the case. Where a party fails to comply with certain directions the tribunal may make an order dismissing or allowing the whole or part of the application. (Note that the term ‘Directions’ can also refer to the orders that can be made by the tribunal as part of its decision).

Paper Determinations and Hearings

Unless a party or parties state that they require a hearing, a chairperson may decide that the case is suitable for determination on the basis of the written evidence (“a paper determination”) without an oral hearing. He or she may then issue further directions.

Note that in the case of applications 16 and 20 above, a paper determination may only be made (a) where the respondent has notified the tribunal that the respondent does not oppose the application or

(b) all parties have notified the tribunal that they consent to the application being decided without an oral hearing.

What is a Case Management Conference?

This is a short hearing which all parties and/or their representatives should attend. It is conducted by a tribunal chairperson, who may sit alone, or in some cases with either one or two other members. A Case Management Conference (CMC) is NOT a hearing of the issues and the tribunal will not make any final decision on the case. The CMC is a relatively informal hearing to try to identify the issues in the case and to see if any part of the dispute can be resolved by agreement at that stage. If not the tribunal will decide what further steps need to be taken to enable the application to come to a full hearing. After the CMC the tribunal will give directions setting out the steps to be taken by the parties to deal with the points mentioned above.

What is a preliminary hearing?

A preliminary hearing is different from a CMC. In some cases there may be doubt about the validity of an application or an issue as to whether the tribunal has jurisdiction to deal with an application. In such cases the tribunal may arrange and notify the parties of a preliminary hearing to consider this matter alone. In such a case the parties will be notified and a hearing will be arranged to consider this preliminary issue. If the tribunal decides that the application is valid or that it does have jurisdiction, it may go on to consider the main issue on the same date (if this has been pre-arranged with the parties) or it may decide to set a hearing in the normal way.

Is an expert necessary?

This depends on the type of case. Expert evidence is sometimes needed where the dispute involves technical matters such as accounts, the condition of a mobile home, the cost of repairs or improvements. Experts are not always required and this is something a party may wish to discuss at a CMC. If expert evidence is required then the expert will be asked to produce a report which sets out the evidence that he or she will give at the hearing of the application. If both parties intend to call expert evidence on a particular issue, the experts may be asked to exchange their reports and may also be asked to meet before the hearing to find out if any aspects of the matter can be agreed. It may be possible to agree jointly to instruct one single independent expert.

Part Five – inspections and hearings

Will the tribunal visit and inspect the premises?

An inspection may or may not be required. It will depend on the nature of the application. Any inspection will only take place on a date and at an approximate time notified to the parties. With the permission of any occupier the tribunal will normally want to inspect the inside of the property as well as the site. The owner is entitled to be present during the inspection of the mobile home with the permission of the occupier. An inspection will usually be on the day of the hearing.

Can the parties say anything at the inspection?

Both parties can draw attention to any physical aspect of the property or the site that they wish the tribunal to see, but not to make any representations. Representations must be kept for the oral hearing (if any) or must have been made in writing.

What is a hearing?

A “hearing” is where the tribunal convenes at a particular time and place for the purpose of enabling the parties to put their respective cases to the tribunal. A party can speak themselves or somebody else, whether professionally qualified or not, can speak for them. It could be a relative or friend, for example. Parties should provide the tribunal and the other parties with copies of any documents they wish to use at the hearing well in advance of the hearing.

If a hearing is held will ordinary court procedures be followed?

No. Tribunals such as Residential Property Tribunals are decision making bodies set up by Parliament to enable certain types of disagreements to be dealt with speedily in a way that avoids the formality and cost that surrounds ordinary court proceedings. Hearings are usually held in a convenient local building which may be the Tribunal Office where appropriate. Hearings are open to the public, although usually only the parties, their representatives and their witnesses, the tribunal and the Clerk will be present. The proceedings are orderly but informal. The applicant is asked to put his or her case. He or she can be questioned by the other party who can then put his or her case and then be questioned in turn. The purpose of the proceedings is to enable both parties to put their cases to the tribunal in their own words or through somebody else acting on their behalf. The chairperson will seek to ensure that nobody is at a disadvantage by not being represented. He or she will make sure that each party understands what the other party is saying. The tribunal may ask questions of a party present to make sure that it has all the necessary facts.

What happens if one or both parties do not attend the hearing?

The tribunal can go ahead and make a decision even if one or both parties do not attend provided it is satisfied that proper notice of the hearing has been given.

Can a hearing be postponed or adjourned by the tribunal?

Yes. A party has the right to ask the tribunal to postpone or adjourn a hearing. The tribunal might even decide to do this of its own accord. However, it will be done only if there is a compelling reason and the tribunal considers that no party is unfairly affected. If you wish to apply for a postponement

you should write to the tribunal giving full reasons. You should copy your letter to the other party/parties and they will be invited to comment.

Can an applicant withdraw his or her application?

An applicant may withdraw the whole or part of his application (a) at any time before a tribunal begins considering the evidence or (b) at any time after the tribunal has begun to consider the evidence provided that the tribunal is satisfied that the other parties consent and the tribunal consents to the application being withdrawn. In order to withdraw, the applicant must write to the tribunal stating whether the whole or part of the application is withdrawn. A copy of this notice must be sent to all other parties and the tribunal must be notified that this has been done. In some cases the tribunal may not allow the case to be withdrawn immediately if there are outstanding issues.

Part Six – The decision and after

When will the tribunal make its decision?

The tribunal will make its decision as soon as possible after the conclusion of the proceedings including any hearing.

What orders can the tribunal make?

In determining an application the tribunal can make whatever decision is provided for by the relevant provision of the 2013 Act relating to that application.

More generally the Housing Act 2004 gives the tribunal power where appropriate to give:

- (a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;
- (b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as may be specified in the directions;
- (c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or the protected site in such manner as may be specified in the directions; and
- (d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified.

How will the tribunal give its decision?

In some cases the tribunal will give its decision orally following a hearing. In most cases it will give its decision in writing in the following weeks. However, in all cases the clerk will write to the parties and enclose the written decision.

Can the tribunal order one party to pay another party's costs?

Yes, but only in exceptional cases. The Housing Act 2004 gives the tribunal a limited power to order that a party shall pay another party's costs, but the amount of any such order is not to exceed £10,000. This power can only be exercised where a party has failed to comply with an order made by the tribunal, or where an application has been dismissed or allowed by reason of that party's failure to comply with certain requirements, or a party has acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings. Furthermore, such an order cannot be made unless the party has been given an opportunity of making representations on the matter to the tribunal. In all other cases each party must bear his or her own costs. (But see the section above on reimbursement of fees).

Can the tribunal's decision be challenged?

The tribunal cannot reconsider its own decision. However, any party can appeal the decision to the Upper Tribunal (Lands Chamber). Permission to appeal must be given by either the tribunal or the

Upper Tribunal (Lands Chamber). Where a party makes a request to the tribunal for permission to appeal, the request may be made:

- (a) orally at the hearing at which the decision is announced by the tribunal; or
- (b) subsequently in writing to the office of the tribunal.

A request for permission to appeal must be made within 21 days of the date specified in the decision notice as the date the decision was given.

The Upper Tribunal (Lands Chamber) will not accept any application for permission to appeal unless permission has first been refused by the Residential Property Tribunal. Following a refusal of permission by the Residential Property Tribunal the parties have 14 days to seek permission to appeal from the Upper Tribunal (Lands Chamber) itself.

Are tribunal decisions publicly available?

All decisions made by Residential Property Tribunals are open to the public and will be published on our [Website](#). Any request to withhold a decision or personal details contained within that decision must be made in writing to the Residential Property Tribunal. The request should set out the reasons for wanting the decision withheld. All requests will be considered on a case by case basis.

Does the Human Rights Act 1998 apply to tribunal proceedings?

Yes. Parties to an application are entitled to the benefit of the provisions of the Human Rights Act 1998. In effect, this entitles them to have their case determined in accordance with the European Convention on Human Rights. Article 6 of the Convention provides that parties have the right to a fair hearing within a reasonable time and before an impartial tribunal. This includes their right to put their case and to question the case brought by the other party and to be given reasons for the decision of the tribunal. Also, Article 8 provides that everyone has the right to respect for their private life, their home and their correspondence and that any internal inspection of the property will only be undertaken with the consent of the owner or occupier. In making their decisions, tribunals are obliged to have regard to the rights embodied in the Convention and where possible to interpret legislation consistently with those rights.

Assistance to Parties

In this instance the term “participant” means an applicant or a party or witness or other person taking part in proceedings relating to an application or to whom an order of the tribunal is addressed.

To enable participants to participate effectively in the proceedings assistance will be provided (free of charge) if, for example, they are:

- unable to read or speak or understand the English language or the Welsh language
- unable to read English or Welsh as a consequence of being temporarily or permanently blind or partially sighted
- able to speak in English or Welsh, but is unable to read or write in English or Welsh
- without hearing or speech

The requirement for a tribunal to provide a participant with the services of a person to read, write, or explain the nature and content of documents does not include a requirement for a tribunal to give any legal advice, but includes a requirement to explain the procedural steps in the proceedings.

A participant is entitled to assistance whether or not the participant is represented by someone else.

A participant requiring assistance but not receiving it must at the earliest opportunity notify the requirement for assistance to the tribunal.

Residential Property Tribunal

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Disclaimer

The content of this guidance was correct when published.