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## Consultation – Summary of Responses

### Draft Statutory Instruments to be made under the Mobile Homes (Wales) Act 2013

- 1) The Mobile Homes (Selling and Gifting) (Wales)  
Regulations 2014
- 2) The Mobile Homes (Pitch Fees) (Prescribed Form) (Wales)  
Regulations 2014
- 3) The Mobile Homes (Site Rules) (Wales) Regulations 2014

Date of issue: **June 2014**

## Overview

This document outlines the responses received to the Welsh Government's consultation on three sets of regulations made under the Mobile Homes (Wales) Act 2013 and the forms set out within them.

More details about the Act can be found on the Welsh Government website:

[www.wales.gov.uk/mobilehomesact](http://www.wales.gov.uk/mobilehomesact)

[www.cymru.gov.uk/deddfcartrefisymudol](http://www.cymru.gov.uk/deddfcartrefisymudol)

## Further Information

Enquiries about this report can be directed to:

Mobile Homes (Wales) Bill Team

Housing Policy

Welsh Government

Rhydycar Business Park

Merthyr Tydfil

CF48 1UZ

### Email:

[mobilehomeswalesact@wales.gsi.gov.uk](mailto:mobilehomeswalesact@wales.gsi.gov.uk)

## Additional copies

This document can be accessed from the Welsh Government's website at

[www.wales.gov.uk/consultations](http://www.wales.gov.uk/consultations)

## Related documents

- Consultation document WG20989 – Draft Statutory Instruments to be made under the Mobile Homes (Wales) Act 2013
- The Mobile Homes (Selling and Gifting) (Wales) Regulations 2014
- The Mobile Homes (Pitch Fees) (Prescribed Form) (Wales) Regulations 2014
- The Mobile Homes (Site Rules) (Wales) Regulations 2014

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## **1) Introduction**

The Mobile Homes (Wales) Act 2013 was passed by the National Assembly for Wales in November 2013 and the powers of the Act will come into force on 1 October 2014. The Act allows Welsh Ministers to set out new procedures for:

- Selling or giving away your mobile home.
- Making changes to pitch fees.
- Making and changing site rules.

The purpose of the consultation was to seek views on the new processes set out in the regulations so that they can be made as clear and easy to use as possible, whilst also being an accurate reflection of what is set out in the Act itself.

### **1. Selling & Gifting**

The Mobile Homes (Wales) Act 2013 removes the right of mobile home site owners to approve a sale or gift of a mobile home.

The Mobile Homes (Selling and Gifting) (Wales) Regulations 2014 set out the new process that should be followed when a home owner wishes to sell or give away their mobile home. The regulations also include the forms which must be used when selling or gifting a mobile home.

### **2. Pitch Fees**

The Mobile Homes (Wales) Act 2013 requires that when a site owner wishes to change the rate of the pitch fee they must consult, and gain agreement from the site residents about the change.

The Mobile Homes (Pitch Fees) (Prescribed Form) (Wales) Regulations 2014 prescribe the form that must be used by the site owner to calculate the pitch fees when consulting with the site residents.

### **3. Site Rules**

The Mobile Homes (Site Rules) (Wales) Regulations 2014 set out new procedures that site owners must follow when making or changing site rules. The regulations give site owners a year from 1<sup>st</sup> October 2014 to review all existing site rules and to propose new rules. The site owner must consult for a minimum of 28 days with all the mobile home owners on the site using the prescribed forms.

## **2) Consultation Process**

A 12 week public consultation was launched on the 10 February 2014 and was open for responses until 6 May 2014. A total of 14 questions were included in the consultation document, 4 relating to the process around selling and gifting a mobile home, 4 relating to the process around pitch fee reviews and 6 relating to the processes around making and amending site rules. After each question there was space to provide additional comments.

The consultation was published on the Welsh Government website. Stakeholders including local authorities, site owners, site residents and industry representatives were contacted directly and invited to take part in the consultation.

During the consultation period we held a number of consultation events across Wales, talking to site residents as well as site owners and local authority representatives. We also met with the British Holiday and Home Park Association to discuss the consultation.

We received 28 written responses which broke down into:

- 13 Site residents.
- 6 Local Authorities.
- 2 Voluntary Sector Organisations.
- 2 Residents Association.
- 1 Assembly Member.
- 1 Residential Property Tribunal.
- 1 Older Peoples Commission for Wales.
- 1 Community Law Partnership.
- 1 Independent Park Home Advisory Organisation.

2 responses were received from outside Wales.

17 of the responses were answered in full either on the consultation response form or in the format of the consultation document, 11 responses were submitted as comments / overviews of the regulations. Responses submitted in comment/overview form are included as comments raised under the relevant sections. A full list of all responses is shown at Annex A.

During our consultation events we visited 3 mobile home sites across Wales, speaking to 47 people including 4 site owners/managers and 43 site residents. One other site held an event with the local authority and submitted their views and another 2 consultation events unfortunately had to be cancelled due to circumstances out of our control. These 2 events are currently being rearranged as post-consultation events and will be taking place in June. The evidence gathered at the consultation events is included as comments raised under the relevant sections of the consultation summary.

Details of the evidence gathered at these events are in Annex B at the back of this report.

This document provides a summary of the responses received. It can not include every comment but tries to capture recurring themes and issues. The Welsh Government would like to thank all those who responded to this consultation.

### **3) Summary of Consultation Responses**

#### **Overview**

The changes to selling and gifting a mobile home, pitch fee reviews and making site rules are due to come into force under the Mobile Homes Wales Act 2013 (“the Act”). Overall these changes were welcomed by the consultation respondents and by site residents who attended the consultation events.

The regulations, which have been made to support the implementation of the new law, were positively received with the majority of respondents feeling they accurately reflected the provisions set out in the Act.

There was concern though, over the accessibility of the regulations to lay people and that guidance and factsheets would be required to ensure that site managers and site residents could fully understand their new rights and responsibilities.

The Selling and Gifting Regulations were seen as supporting the provisions of the Act and were broadly welcomed. A number of site residents though, expressed concern that with the removal of the site owner’s involvement in the sales process there would no longer be any opportunity for the vetting of ‘unsuitable’ residents or residents who could not, or would not, meet the site rules. This concern was raised in both the consultation responses and at the consultation events.

The Pitch Fee Regulations were again very positively received with the majority of respondents welcoming the necessity to consult with residents over proposed increases. There was though, concern that some of the wording in the prescribed forms could be ambiguous. The phrase ‘reasonable costs’ was seen as of particular concern to leaving site residents open to exploitation by unscrupulous site owners.

The Site Rules Regulations were again broadly supported by both consultation respondents and residents who attended the consultation event. The need to consult and seek agreement from residents when making, amending or deleting a site rule was welcomed.

There were a number of other issues raised that were not within the scope of the consultation, most notably the sales commission paid by the site resident to the site owner on the sale of a mobile home. Generally, the views expressed about the commission rate are split between those who see the commission rate as unfair and unwarranted by site residents and those who recognise that it is an important part of the business model for mobile home sites which helps to ensure that standards are maintained.

Two respondents also raised a concern regarding the impact of the regulations on local authority Gypsy and Traveller Sites. It is not the intention of the regulations to impact on local authority Gypsy and Traveller sites and further detailed examination will be undertaken to ensure that there is no unintended impact of the regulations on other groups.

## Responses to the individual questions set out in the consultation

### a) The Mobile Homes (Selling and Gifting) (Wales) Regulations 2014

These regulations make detailed provision in relation to the selling and gifting of a mobile home and assignment of agreements under the Mobile Homes (Wales) Act 2013. The purpose of the consultation is to seek views on the clarity of the new requirements and the forms provided.

#### Question 1:

**Do you agree that the regulations make clear the requirements for the future Sale or Gift of a mobile home?**

Of the 28 responses received:

17 (60%)	answered 'Yes'
0 (0%)	answered 'No'
11 (40%)	did not answer this question

There was broad agreement that the regulations made clear the requirements for future sales and gifting of mobile homes. Many additional comments made under this question show the extent of the support for the changes in legislation being brought in surrounding the selling and gifting of a mobile home:

- “We fully support these new regulations and their purpose.”
- “We welcome the proposal that the control of selling or gifting a mobile home should lie with the mobile home owner and not the site owner”.
- “I agree that mobile home owners should be able to sell or gift their home without interference from the site owner ...”
- “The freedom given to resident to sell or gift their home without the permission of the site owner ... will benefit a number of older people who have chosen to use a mobile home as their home.”

A number of respondents raised concerns regarding stakeholders understanding their new right and responsibilities:

- “Concerns that requirement on the occupier is very onerous particularly bearing in mind sites are normally occupied by older persons. The forms can be confusing and the amount of work involved may make occupiers reluctant to sell or gift their home. Simplified explanatory information leaflets will be required.”
- “The draft regulations provide all the information required, however we believe they could be improved to ensure their proper use by creating user friendly guidance through consultation and engagement with resident, site owners, managers and local authority staff.”



There was also concern from a number of site residents that by removing the site owners 'veto' on sales there was no protection against anti-social residents moving onto the site or new residents not meeting the site rules:

- "If the site owner's role in approving the sale or gift of a mobile home is totally removed, how will existing residents be protected from the possibility of unsocial neighbours".
- "I knew I would never have a neighbour from hell while the site owner had control of his site, but now that you are changing things, I can never be sure of anything ever again. And that would be a shame."
- "One feature of the new legislation makes the residents more than a little concerned. That is the site owner will no longer be able to block the sale of a mobile home. The home owner will be free to sell their home to who they wish... These homes are generally our last residence and would be left to relatives to sell on and in some cases, their only target would be to achieve the highest price and not be concerned to whom they sold it to and whether they come under the site rules or not, age restriction etc ..."

**Question 2:**

**Do the draft regulations accurately enable the provisions set out in the Mobile Homes (Wales) Act 2013 for the sale and gifting of a mobile home?**

Of the 28 responses received:

16 (57%)	answered 'Yes'
1 (3%)	answered 'No'
11(40%)	did not answer this question

The majority of respondents felt that the regulations accurately enabled the provisions in the Act for selling and gifting a mobile home. The only comment submitted related to the provision that the buyer (rather than the seller) pays the site owner the 10% commission rate on the sale.

- "... it is not the buyers duty to pay the commission it is the sellers. The way the draft is worded leaves opportunity for unscrupulous park owners to try and obtain the 10% from both parties."

**Question 3:**

**Do the prescribed Sale and Gifting forms include all the necessary information that is required to complete a sale or gift of a mobile home?**

Of the 28 responses received:

14 (50%)	answered 'Yes'
2 (7%)	answered 'No'
12 (43%)	did not answer this question

Although there was general agreement that the forms did include all the necessary information, some respondents felt that some additional information should be included or omitted:

- “The requirement to give details to the park owner of the previous occupier’s forwarding address [represents] an opportunity for the park owner to continue persecution of that person beyond the conclusion of the sale.”
- “Any question of arrears should remain between the seller and the site owner. It should not affect the sale.”
- “Consideration should be given to including grounds for a refusal order to include credit history ... it is accepted market practice for landlords to built premises to undertake credit checks on prospective tenants”

Again the issue of guidance to support the completion of the forms was raised:

- “The forms include all the necessary information however site owners, the current occupier and proposed occupier may find difficulty understanding the forms due to the wording and complicated legal nature. Supplementary plain English guidance will be essential.”
- “There is an urgent need that all residents are enabled and encouraged to understand their rights and responsibilities as soon as possible to avoid the pitfalls that wait them through difficulty in finding their way through complex legal language.”

**Question 4:**

**Is there anything not included in the regulations for sale and gifting that should be?**

Of the 28 formal responses received:

4 (14%)	answered 'Yes'
13 (46%)	answered 'No'
11 (40%)	did not answer this question

Although most respondents felt that nothing had been left out of the regulations, some comments reflected a general concern that site owners may choose to ignore the legislation or use it to their advantage:

- “It should be made clear that the site owner can not ignore the new regulations”.
- “Clear guidance preventing the park owner using the selling and gifting to reimburse themselves with sums of money that he wrongly considers he is owed.”

#### **b) The Mobile Homes (Pitch Fees) (Prescribed Form) (Wales) Regulations 2014**

These regulations prescribe the form of the document that must accompany a pitch fee review notice proposing an increase in the pitch fee in Wales. The purpose of this consultation was to seek views on the clarity of the new requirements and the form provided.

##### **Question 5:**

**Do you agree that the regulations make clear the requirements for a pitch fee review?**

Of the 28 formal responses received:

12 (42%)	answered ‘Yes’
5 (18%)	answered ‘No’
11 (40%)	did not answer this question

There was a general feeling that the regulations do make clear the requirements for pitch fee reviews and the changes to be introduced were overall welcomed:

- “I welcome the transparency in pitch fee reviews to help occupiers understand the amount they are being charged and to ensure the site owners are not able to add unfair charges.”
- “I certainly agree that the site owner should consult with park home owners and we should be able to see where the money has been or is going to be spent”.
- “We welcome the pitch fees being linked to CPI rather than RPI, making it more a more affordable model for people in Wales in comparison to England”.
- “We welcome the proposal for consultation to take place with mobile home owners prior to pitch fees being increased.”
- “We fully support these regulations and their purpose”.

Several concerns were raised though at what additional charges could be considered ‘reasonable’ and added on to pitch fees:

- “Who says what is a reasonable cost?”

- “Define more clearly what are the ‘reasonable costs’ that can be added to Pitch Fee”.
- “The pitch fee review should only consist of the CPI increase plus any improvements to the park which have been agreed by the majority of residents following full consultation with all residents. The wording ‘any other matters that can be included in a review’ should be removed due to the ambiguity of the interpretation.”

**Question 6:**

**Do the draft regulations accurately enable the provision set out in the Mobile Homes (Wales) Act 2013 for a pitch fee review?**

Of the 28 formal responses received:

12 (42%)	answered ‘Yes’
5 (18%)	answered ‘No’
11 (40%)	did not answer this question

The respondents who felt that the regulations did not accurately enable the provision set out in the Act reiterated the points made in question 5 relating to the ambiguity of the term ‘recoverable costs’:

- “‘Recoverable Costs’ is a very loose definition that a site owner can easily exploit and will probably need a decision from a Tribunal to decide if this charge is actually justified. Unless sufficient residents object (often not the case on many parks with elderly or rather timid residents) it can be claimed that the majority of residents support it.”

**Question 7:**

**Does the prescribed pitch fee review form include all the necessary information that is required to inform residents about the proposed increase/decrease?**

Of the 28 formal responses received:

14 (50%)	answered ‘Yes’
2 (8%)	answered ‘No’
12 (42%)	did not answer this question

Overall respondents felt that the review form included all the necessary information:

- “Yes. Although concerned owners and occupiers may well be confused by some of the detail. Simplified explanatory leaflet will be required.”

**Question 8:**

**Is there anything specific that is not included in the pitch fee regulations that should be?**

Of the 28 formal responses received:

5 (18%)	answered 'Yes'
9 (32%)	answered 'No'
14 (50%)	did not answer this question

Comments for question 8 reiterate comments made in the previous pitch fee regulations questions:

- “Information as to what is within the pitch fee for maintenance of the site.”
- “Improvements must be exactly that and not instances of neglected/long overdue park maintenance that has at last been carried out.”
- “We would like to see a more precise definition of ‘improvements’ compared with ‘maintenance’ as this is habitually a contentious point.”

**c) The Mobile Homes (Site Rules) (Wales) Regulations 2014**

These regulations prescribe the procedure for making, varying and deleting site rules. The purpose of the consultation was to seek views on the clarity of the draft regulations and the prescribed forms.

**Question 9:**

**Do you agree that the regulations make clear the requirements for the procedure for making, varying and deleting site rules?**

Of the 28 formal responses received:

15 (54%)	answered 'Yes'
0 (0%)	answered 'No'
13 (46%)	did not answer this question

There was broad agreement that the regulations made clear the requirements for making, varying and deleting site rules:

- “We welcome the proposal for consultation to take place when changing site rules and the appeal process to a Residential Property Tribunal”.
- “[site rules] certainly need looking into and being explained in full, not just a quick note to say you must not do this and you must not do that”.
- “I ... welcome the statutory provision of ‘ineffective’ rules which seek to aid sale blocking or interfere with sale of mobile homes or

restrict activities of the site or prevent occupiers from exercising their rights.”

Some concerns were raised though:

- “Concern about how the Local Authority will know if the owner has carried out the consultation correctly and whether or not any representations made. Would there be a benefit in including the LA in all stages of consultation?”
- “Site owners may struggle with this process due to the complicated legal nature of the forms. Supplementary plain English guidance will be essential including model examples and case studies.”

**Question 10:**

**Do the draft regulations accurately enable the provisions set out in the Mobile Homes (Wales) Act 2013 for the making of site rules?**

Of the 28 formal responses received:

10 (36%)	answered ‘Yes’
6 (21%)	answered ‘No’
12 (43%)	did not answer this question

There was some concern that site managers would not adhere to the regulations unless compelled and that they would try to use them to their own advantage.

- “Where the word ‘should’ is used in the regulations it should be changed to ‘must’. Where the phrase ‘I intend to’ replace with ‘I will’ to provide consistency of authority and purpose across the Schedules.”
- “Park rules should be displayed centrally on a park notice board so that they can be read and understood by residents both now and in the future. The ‘rules display’ should not be confined to the inside of the site owner/manager’s office.”
- “Schedule 1 s4 (a) can be misused by rogue park owner to interfere with an occupier’s right to improve the plot. Perhaps ‘reasonableness’ could be included.”

**Question 11:**

**Do you think that it is reasonable for any new rules to be made within 12 months of the regulations coming into force?**

Of the 28 formal responses received:

12 (43%)	answered yes
4 (14%)	answered no
12 (43%)	did not answer this question

Overall, 12 months was seen as a reasonable time frame for site owners to ensure that new site rules are made in consultation with site residents. Those that responded 'no' to this question favoured a shorter time period:

- "Too long, three months maximum".
- "We consider that 12 months is excessive for what should be a straightforward administrative exercise ... a limit of 4 months or less would be more appropriate".

**Question 12(a):**

**Do you agree that the list of rules set out in Schedule 5 are not to be included in site rules?**

Of the 28 formal responses received:

14 (50%)	answered 'Yes'
0 (0%)	answered 'No'
14 (50%)	did not answer this question

There was overall agreement with the list of banned rules:

- "This is excellent".
- "Paragraph 2 (a) of Schedule 5 allows the owner to exercise discretion in relation to improvements to an occupier's plot. Whilst many of the other matters in paragraph 2 act to prohibit terms that would allow the owner to unreasonably control occupiers' behaviour, this exception allows the owner to exercise discretion widely in the applicable circumstances. It could be interpreted to allow an owner the exercise of discretion in relation to the traders used to undertake such improvements, contrary to the perceived aim of paragraph 2."

**Question 12(b):**

**Are there any other matters that should be included in Schedule 5?**

Of the 28 formal responses received:

1 (4%)	answered 'Yes'
5 (18%)	answered 'No'
22 (78%)	did not answer this question

One respondent commented

- "A rule which compels the occupier to purchase a new or a replacement home only through the agency of the site owner"

**Question 13:**

**Do you agree with the procedure for setting out, consulting and depositing site rules?**

Of the 28 formal responses received:

13 (46%)	answered yes
3 (11%)	answered no
12 (43%)	did not answer this question

There was general agreement with the procedures set out in the regulations, although again some comments reflected site residents' mistrust of site owners:

- "The proposed system will still enable a site owner to impose new and unreasonable rules."

**Question 14:**

**Is there anything specific that is not included in the site rules regulations that should be?**

Of the 28 formal response received:

3 (11%)	answered 'Yes'
10 (36%)	answered 'No'
15 (54%)	did not answer this question

The majority either did not answer this question or did not think that anything else needed to be added to the site rules, a couple of comments were raised:

- "They should state clearly that the site should be well maintained and that the local council has power to enforce this requirement."
- "May be appropriate to include anything that would contradict or conflict with the site licence conditions issued by the local authority."



#### **4) Welsh Government response**

The Welsh Government welcomes the responses received to the consultation. The consultation period has ensured that key stakeholders have been given the opportunity to engage with the new procedures set out in regulations and has allowed for discussions to take place about the key provisions of the new law and its implementation.

Overall, the responses have been positive, with the changes set out in the Mobile Homes (Wales) Act 2013 welcomed and the further detail set out in the draft regulations supported. Some comments are provided below in response to some of the points raised on each of the regulations.

##### Mobile Homes (Selling and Gifting) (Wales) Regulations 2014

The removal of the site owner's 'veto' on sales is a key provision of the Mobile Homes Act 2013 and the regulations set out the new procedure for selling and gifting of mobile homes. The new procedures allow mobile home owners to sell their home to who they wish without the interference of the site owner.

Where concern has been raised that the new procedures will allow for anti-social elements to move onto sites, guidance will be prepared that will clearly set out the grounds where a site owner can apply for a 'refusal order' from the Residential Property Tribunal to prevent a sale. A new occupier can not move onto the site if they are unable to abide by certain site rules and a refusal order can be sought by the site owner from the Residential Property Tribunal.

##### Mobile Homes (Pitch Fees) (Prescribed Form) (Wales) Regulations 2014

Where comments were received regarding the terms 'recoverable costs', this commonly used term in legislation that refers to lawyer costs. Similarly 'reasonable costs' tend to be defined by a magistrate in such circumstances.

It is also recognised that some of the detail contained in the regulations can be quite complicated. Simple and easy to read guidance is being prepared for use by site owners and site occupiers in time for the provisions coming into force.

##### Mobile Homes (Site Rules) (Wales) Regulations 2014

Comments were received about the role of the local authority in the consultation process, the length of time allowed for site owners to bring in new site rules and the type of site rules allowed.

It is felt that 12 months is a sufficient time for all sites throughout Wales to complete the process of making Site Rules. This period is sufficient in allowing all sites to become accustomed to the provisions of the new law as a whole and to consult with all site residents.

Easy to read guidance will be prepared ahead of the Regulations coming into force which will describe the processes simply. It is not felt that local authorities be involved in the consultation process. A site owner should be able to document the consultation process that was undertaken to a licensing officer upon request.

In taking the consultation responses into consideration we have made the following changes.

- Review the regulations and tighten up areas which could be open to misinterpretation.
- Produce guidance leaflets and fact sheets in easy read format which explain the changes in the mobile home legislation and the rights and responsibilities of both site residents and site owners.
- Run a series of engagement events across Wales for site residents and site managers prior to implementation to raise awareness of the new legislation.
- Work with the local authorities to ensure they are aware of their responsibilities in terms of issuing site licences and conduct site visits.

## **5) Consultation Respondents**

1. Residential Property Tribunal
2. Sheila Turner
3. Graham Powell
4. Mr & Mrs Bainbridge
5. Anonymous
6. Mr W Samuel
7. Regulatory and Housing Services
8. Raymond Williams
9. Brian Gresty
10. Michael Smith
11. Giles England
12. Eluned Parrot AM
13. Susan Richardson
14. Rhondda Cynon Taf County Borough Council
15. Older People's Commission for Wales
16. Cardiff Council Housing & Neighbourhood Renewal
17. Community Law Partnership
18. Ceredigion County Council
19. Timothy and Rachel Jebbett
20. Citizens Advice Cymru
21. Conwy County Borough Council
22. Independent Park Home Advisory Service
23. Anonymous
24. Cardiff Gypsy and Traveller Project
25. Anonymous
26. Graham Bennett
27. Caernwon Park Residents Association
28. J G Higson