

Park Home Factsheet

Qualifying Residents' Association



Housing

This factsheet is one of a series of factsheets which have been published by Communities and Local Government concerning the rights and obligations of park home owners in England. This factsheet gives some basic guidance to park home owners who use their home as their permanent residence about Qualifying Residents' Associations under the Mobile Homes Act 1983(as amended).

Throughout this factsheet any reference to "site" includes a park home site (including a mobile home site) and to "park home" includes a mobile home or caravan.

This factsheet does not give an authoritative interpretation of the law; only the courts can do that. Nor does it cover all cases. If further advice or information about legal rights or obligations is needed, a Citizen's Advice Bureau or a solicitor should be contacted.



Introduction

Since 2006, park home law has included a specific role for residents' associations on sites providing they comply with specific rules. A residents' association that meets relevant criteria may be considered a Qualifying Residents' Association and must be recognised by the site owner and consulted about proposed changes to the operation and management of, and any improvements to, the site.

The requirement for the site owner to consult any Qualifying Residents' Association on some issues is in addition to the site owners' obligation to consult individual residents about improvements to the site and especially any expenditure on improvements that the site owner wishes to take into account at the next pitch review.



Forming a Qualifying Residents' Association

What criteria need to be met in order for a residents' association to become a Qualifying Residents' Association?

The criteria for becoming a Qualifying Residents' Association are laid down in law and stipulate that:

- the association must represent the owners of park homes on the particular site;
- at least 50% of the owners of the park homes on that site must be members of the association. In calculating the percentage of residents, each home is considered as having one occupant. If there is more than one occupant of the home then the person whose name appears first on the written agreement is the one who would be eligible for membership of the Qualifying Residents' Association;
- it must be independent from the site owner, who together with any agent or employee of theirs is excluded from membership;
- apart from the site owner or any of their agents or employees, membership is open to all residents who own a park home on that site;

- it must keep an up-to-date list of members which is open to public inspection together with the rules and constitution of the association;
- it must have a chairman, secretary and treasurer who are elected by and from among the members;
- with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting. In any ballot, only one vote can be allowed for each park home; and
- the site owner must acknowledge in writing to the secretary that the association is a Qualifying Residents' Association. Or, where the association has not been recognised by the site owner a court may make an order that the association is indeed a Qualifying Residents' Association.

How does the Qualifying Residents Association seek the site owner's acknowledgment?

The association should write to the site owner setting out how it meets the above criteria and ask for their acknowledgement, in writing to the secretary, that it is a Qualifying Residents' Association.

What happens if the site owner does not respond or fails to acknowledge the association?

The association may apply to the court for a ruling, an order, that it constitutes a Qualifying Residents' Association. The association should be prepared to provide sufficient evidence to show that it meets the necessary criteria.

What happens if the site owner does not like the constitution of the association?

The law simply requires that the Qualifying Residents' Association has a constitution; it does not require the site owner to approve it. However, a suitable template for a constitution has been drawn up jointly by the Independent Park Home Advisory Service, the National Association of Park Home Residents, the British Holiday & Home Parks Association, and the National Park Homes Council. Please contact them for a copy of the template; for contact details please see below. By using this template the site owner is less likely to object.

Independent Park Home Advisory Service

Tel: 0800 612 8938

Email: info@iphas.co.uk

Website: www.iphas.co.uk

National Association of Park Home Residents

Tel: 01903 816 247

Email: bjdoick@btinternet.com

Website: www.naphr.org

National Park Homes Council

Tel: 01252 336092

Email: info@nationalcaravan.co.uk

Website: www.nationalcaravan.co.uk

British Holiday & Home Parks Association

Tel: 01452 526911

Email: enquiries@bhpha.org.uk

Website: www.bhpha.org.uk

What happens if a Qualifying Residents' Association that has been acknowledged by the site owner no longer meets the criteria?

If a Qualifying Residents' Association no longer meets the criteria listed above, then it cannot be considered to be a Qualifying Residents' Association. As such, the consultation rights set out below that are associated with being a Qualifying Residents' Association will not apply. A site owner may, if he wishes to do so, discuss site operations and management with the association, but he will be under no legal obligation to do so.

What happens where there is a change of site ownership?

When there is a change of site ownership a Qualifying Residents' Association does not need to seek the new site owner's acknowledgement as there is no change in its status.

What happens if a site owner demands, for example, minutes of meetings, a photocopy of the membership list?

The site owner may reasonably require sight of the constitution, and the association's rules and the membership list in order that they can satisfy themselves that they comply with the statutory criteria. They are not entitled, for example, to minutes of meetings or to interfere in any way with the running of the association.



Rights of the Qualifying Residents' Association

What rights does a Qualifying Residents' Association have?

A site owner must consult a Qualifying Residents' Association about all matters which relate to the operation and management of, or improvements to, the site which may affect the park home owners either directly or indirectly.

The rules for consultation with the Qualifying Residents' Association require the site owner to:

- give the Qualifying Residents' Association at least 28 clear days' notice in writing of the matters under consultation;
- describe the proposed changes and how they may affect home owners either directly or indirectly in the long and short term;
- explain when and where the Qualifying Residents' Association can make representations, and
- take into account any representations made by the Qualifying Residents' Association before going ahead with the proposed changes.



Residents associations that do not qualify

Are residents' associations that do not meet the criteria for a Qualifying Residents' Association allowed to continue/to be set up?

Yes, an existing residents' association can continue or a new one can be set up where the above criteria are not met. Residents' associations on sites are frequently informal and many fulfil a number of roles – for example as a social club.

However, the consultation rights set out above that are associated with being a Qualifying Residents' Association will not apply. Although a site owner can, if they wish, discuss site operations and management with any residents' association, he is under no legal obligation to do so. In addition, the site owner must consult with residents on improvements which may result in a change to the pitch fee.

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