Park Home Site licensing – Improving the Management of Park Home Sites

Consultation
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Consultation
Scope of the consultation

| Topic of this consultation: | This consultation paper relates to the proposed introduction of a revised and improved park home site licensing regime. |
| Scope of this consultation: | The purpose of this consultation is to build upon decisions about proposals taken following an earlier consultation in 2005 and sets out for further consideration how the new licensing regime might look. Views are sought on the new licensing system, particularly including the following key proposed areas: interim licences; site certification; criteria for demonstrating “fit and proper person” and suitable management arrangements; licence conditions; enforcement notices and related provisions; offences and fines; interim and final management orders; licensing fee structures. |
| Geographical scope: | This consultation paper covers the issues as they relate to both England and Wales, but the related Impact Assessment only applies to England. |
| Impact Assessment: | An Impact Assessment (Consultation Stage) is enclosed at Appendix C. Also a Legal Aid and Justice Impact Test is at Appendix D. |

Basic Information

| To: | This document is aimed at the organisations that are listed at Appendix B (page 49) and those that have an interest in the park homes industry, including site owners and managers and residents. |
| Body/bodies responsible for the consultation: | Park Homes Team, Communities and Local Government (CLG). Welsh Assembly Government. |
| Enquiries: | Samya Muddathir 020 7944 6226 Parkhomes@communities.gsi.gov.uk |
Background

**Getting to this stage:** Licensing of park home sites is currently governed by the Caravan Sites and Control of Development Act 1960 (the 1960 Act).

**Previous engagement:** In January 2005 CLG issued a consultation paper *Park Homes Site Licensing Proposals for Reform* and published the Summary of responses to the consultation in July 2005.

Since then the Government has continued to discuss with stakeholders and their representatives concerns and possible solutions in relation to poor management of some park home sites and unacceptable and, in some cases, illegal practices of some licence holders.
## Contents

- Extent and interpretation ........................................... 7
- Introduction .................................................................. 8
- About this consultation ............................................. 10
- How to respond to the consultation ......................... 12
- Section 1: The licence .................................................. 13
- Section 2: Revocation of licences ............................... 25
- Section 3: Enforcement of licences ............................ 29
- Section 4: Management Orders ................................. 37
- Section 5: Licence fees ................................................ 44
- Appendix A List of questions ....................................... 46
- Appendix B List of key organisations to be consulted .... 49
- Appendix C Consultation stage Impact Assessment ....... 52
- Appendix D Legal Aid and Justice Impact Test ............ 79
Extent and interpretation

1. This consultation is issued jointly by Communities and Local Government and the Welsh Assembly Government and, therefore, covers the issues as they relate to both England and Wales.

2. This paper is solely concerned with proposals in respect of protected sites, that is park home sites and those mixed use sites where any of the homes are protected under the Mobile Homes Act 1983. It does not apply to sites which are not required to be licensed under the Caravan Sites and Control of Development Act 1960, e.g. local authority owned sites. In this paper any reference to a “park home” or “home” means a mobile home and includes a caravan. Any reference to a “site” or a “park home site” means a protected site i.e. a mobile home site and includes a caravan site or park and a privately owned gypsy and traveller site. Any reference to the Secretary of State also refers to the Welsh Ministers as regards Wales.

3. Throughout this paper we refer to site owners and residents. In this paper site owner means someone who has a legal estate or interest in the land on which the site is situated or proposed to be situated. And resident means someone who is entitled to station a mobile home on the site and is entitled to occupy that home as his only or main residence.

4. We anticipate issuing a consultation paper later this year on possible reforms to the site licensing regime in respect of holiday and other sites.

5. The consultation stage impact assessment in Appendix C and any references to it in the text of the paper only apply to England.
Introduction

1. In January 2005 Communities and Local Government issued a consultation paper *Park Homes Site Licensing Proposals for Reform* (the 2005 consultation paper) that set out possible changes to the existing site licensing regime in respect of park home sites. The summary of responses to the consultation (the response) was published in July 2005 and set out the Government’s intentions to pursue a number of the proposals but not in respect of a number of others.

2. This consultation paper builds upon those decisions and sets out how the new regime might look. However, it should be noted that since the publication of the response the Government has continued to discuss with stakeholders and their representatives concerns about poor management of some park home sites and unacceptable and, in some cases, illegal, practices of some licence holders. As a result the Government has considered the licensing regime in the round and this paper proposes a number of changes to the regime, some of which are different to those set out in the 2005 consultation paper and the response. Any changes to the licensing regime flowing from this consultation would require primary legislation.

Current legislative framework

3. Licensing of park home sites is governed by the Caravan Sites and Control of Development Act 1960 (the 1960 Act). The 1960 Act applies to many privately-owned caravan sites, including holiday parks, in England, Wales and Scotland. The original purpose of the 1960 Act was to regulate the land used as caravan sites and for the purposes of ensuring sites were not over populated with caravans and the health and safety of residents was protected, for example, by attaching conditions relating to the facilities and services available on site.

4. We believe that the present licensing regime does not meet the requirements of park home residents in the 21st century. Anyone with the appropriate planning permission for use of land as a caravan site is (except in very limited circumstances) entitled to a licence. Under the current regime the local authority has no power to

   - consider the suitability of a person to hold such a licence
   - include any conditions in the licence as to management standards, and
   - revoke a licence on the grounds of unsuitability e.g. where the licence holder has committed a serious criminal offence.
5. Whilst the majority of licence holders are suitable persons and carry out their management functions in a competent and professional manner, there are a minority of licence holders who behave in an unprofessional and in some cases unscrupulous or criminal way. It is the Government’s view that it is in the interests of all residents that licence holders are subject to an effective licensing regime.

Overview of proposals to introduce an effective licensing regime

6. We want a thriving and well run park homes sector that provides sites where people want to live. We want a licensing system that raises and maintains the standards on sites and ensures sites are safe, well planned and well managed with appropriate facilities and services.

7. The proposal is to modernise the licensing system by introducing a scheme which will give licensing authorities wider discretion on the grant of licences and powers to revoke them, but which also protects the interests of licence holders and residents when a licence is not granted (or is revoked).

8. We intend that certain standards will need to be met in order to hold a licence and the licence itself will include conditions, including as to management arrangements. Licensing authorities will be given powers to charge persons applying for licences and they will be expected to use the revenue generated to monitor and enforce licence conditions.

9. The new regime needs to apply to existing sites and existing site licence holders (as well as any new ones) and we intend therefore to ensure that there are appropriate transitional provisions to ensure that over a reasonable period of time the new regime will be applied to existing sites and site licence holders. We envisage that this would include requiring all existing site licence holders to apply for a new licence and in doing so meet the requirements of the new regime.

10. Our proposals are set out in more detail below and we would welcome your comments on them. We want to work closely with all stakeholders in the development of this policy, so where specific issues arise we have asked for your views. In addition, the impact assessment at Appendix C is a consultation stage impact assessment. We would welcome your comments on the impact assessment including any additional information you may have in relation to the costs and benefits of the proposals.
About this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome;

2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible;

3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;

4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;

5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained;

6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation;

7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that
confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

CLG will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.
How to respond to the consultation

Please send your response no later than **4 August 2009** to:

Samya Muddathir  
Park Homes Policy Team  
Department for Communities and Local Government  
1/C3 Eland House  
Bressenden Place  
London  
SW1E 5DU

Or by email to: Parkhomes@communities.gsi.gov.uk marking your response “Site licensing Consultation”.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator  
Zone 6/H10  
Eland House  
London SW1E 5 DU

Or by e-mail to: consultationcoordinator@communities.gsi.gov.uk
Section 1

The licence

Requirement to have a licence

1. Currently the 1960 Act makes it an offence for a site owner\(^1\) to cause or permit any part of any land to be used as a caravan site without a licence from the (licensing) authority\(^2\) (subject to certain exceptions and exemptions). The maximum fine for the offence is £2,500\(^3\). One of the current exceptions is where an authority has received an application for a licence but has not yet issued one.

2. The response to the 2005 consultation paper set out Government’s intention to increase the fine to £20,000.

3. Our proposals for a more comprehensive site licensing regime are designed to ensure that a site is properly managed at all times by an appropriate person or body. The keystone to this is that all park home sites must have a site licence at all times. The only exceptions to this would be:
   - where an application for a site licence has been made and therefore an interim licence (see paragraph 7 below) comes into existence, or
   - where a local authority has issued a Management Order (see paragraph 99).

4. We do not consider that a fine of £20,000 is high enough to act as a deterrent to prevent site owners using land as a caravan site without a site licence. We propose, therefore, a maximum fine of up to £50,000.

5. We propose that sites that are currently exempt from the 1960 Act licensing provisions should continue to be exempt from the new licensing regime and that the Secretary of State be given a power to exempt other sites or types of sites where appropriate. We would propose to use this power to exempt, for example, sites that are owned and occupied by one family for which the measures proposed in this consultation paper would be inappropriate.

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\(^1\) The 1960 Act uses the word “occupier”, which is defined as meaning any person with a legal interest or estate in the land i.e. owner of the freehold or a leasehold interest in the land.

\(^2\) Section 1(1) of the 1960 Act

\(^3\) Section 1(2) and (3) of the 1960 Act
6. The flow chart below sets out the proposed process to be followed in making an application for a site licence. We propose that the site owner must make the application for a site licence. However, as explained in paragraph 19 he may nominate another person to be the licence holder.
Interim licence
7. We propose that where there are park homes already on the site, the submission by the site owner of an application for a site licence will automatically cause an interim licence to come into being. That interim licence will remain in place until a decision on whether to grant or refuse a site licence has been made. Under an interim licence the interim licence holder must take steps to ensure the site is managed effectively to give adequate protection to the health, safety and welfare of the residents occupying it pending the grant of a site licence or the making of a management order.

Site certificate
8. There may be occasions where a prospective purchaser of land with a site on it or proposed to be placed on it would wish to determine whether a site licence would be granted to him and on what terms. In such an instance, subject to planning permission having been obtained for use as a park home site, a person would apply for a site certificate to say that a licence would be granted to him and on what terms. A fee would be payable for any such application and a local authority would consider the application, including in relation to consultation requirements, in a similar way to a site licence application. Any subsequent site licence application must be granted on the terms of the site certificate and no application fee would be payable. We propose a certificate will be valid for two years from the date it was issued.

Q1. Do you agree that an interim licence needs to be provided for?

Q2. Do you agree that a site certificate would be useful?

Matters of consideration in granting or refusing to grant a licence

9. Under the existing arrangements the authority must issue a licence (within a specified time) if it is satisfied the site has planning permission for use as a caravan site and the applicant has not within the previous three years had a site licence revoked.

10. As previously explained, the existing regime does not allow the authority to consider the suitability of the site owner to hold a site licence or the adequacy of the management arrangements for the site. This has resulted in some sites being badly managed and a number of sites being run by unsuitable persons. The 2005 consultation paper and the response said that we did not intend to introduce ‘fit and proper person’ controls. However, further discussions with stakeholders and our reconsideration of the site licensing regime in the round has led us to the conclusion that it is necessary to require a site licence holder to be a fit and proper person and for

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4 Section 3 of the 1960 Act
a local authority to consider the management arrangements for the site, in order to improve the management standards on sites and protect residents from unsuitable site owners or managers.

11. We therefore propose that under the new site licensing regime a local authority must grant a licence where all the following are met:

- The site has planning permission as a park home site
- The site is suitable, or may be made suitable by conditions attached to the licence, for such number of park homes as may be specified in the licence
- The proposed licence holder is a “fit and proper” person
- The proposed management arrangements are suitable for the management of the site or can be rendered suitable by conditions attached to the licence.

**Fit and proper person**

12. We propose that in deciding whether a person is “fit and proper” the local authority may have regard to any relevant evidence as to whether the proposed licence holder has:

- any unspent convictions for violence, arson, sex offences, fraud, deception, other dishonesty or drugs
- been determined by a court or tribunal to have unlawfully discriminated against any person on grounds of sex, colour, race, ethnic or national origins, disability or sexuality in, or in connection, with carrying out any business activities
- been convicted of an offence under section 3 of the Caravan Sites Act 1968 or has been determined by a court or tribunal to have harassed any person in connection with any business activity
- not complied with any obligation or requirement under the Mobile Homes Act 1983 as determined by a court or tribunal
- not complied with any requirement imposed upon him under any Health and Safety or Fire Safety legislation as determined by the relevant body
- not complied with any obligation or requirement imposed on him under the 1960 Act or the new site licensing provisions; or
- been disqualified as a company director.

13. In addition, a local authority may also have regard to any other relevant information, as to the suitability of the person to be a licence holder, for example, association with persons who are themselves unfit.
14. There are clearly some difficulties in determining the above evidence. We would expect a local authority to carry out a standard level Criminal Records Bureau check in relation to a) and confirm with Companies House in relation to g). A local authority may have some difficulty in relation to the other criteria especially if offences were committed in different local authority areas as the information is not necessarily held centrally. In relation to d) following the transfer of disputes from the courts to the Residential Property Tribunal (RPT) (see paragraph 32) a local authority would be able to check such information on the RPTS database of decisions available on their website. We will aim to ensure that the determinations are searchable by licence holder and site address.

15. We propose that the applicant for a licence will be required to provide certain prescribed information and to certify the information is correct. It will be a criminal offence (subject to a Level 5 (£5000) fine) for an applicant to provide false or misleading information or to fail to knowingly disclose information which the local authority has asked for in relation to their consideration of the application and that may also lead to a refusal to grant a licence or, when discovered, its revocation.

16. A licence holder may be a company. In such a circumstance, it is proposed that the directors or the company must be fit and proper persons and the company must specify an individual or individuals who will be managing the site. Those individuals will be named in the licence and must, in the local authorities’ view, also be fit and proper persons. The company would be under an obligation to notify the local authority when there is a change of manager and would be required to apply (with the appropriate fee) for the local authorities’ determination as to whether the manager is a fit and proper person.

Management arrangements
17. We propose that in deciding whether the management arrangements are suitable the local authority may have regard to:

- the applicant’s management competence, including previous relevant management experience
- the organisational structure the applicant has in place (or will put in place); and
- the financial situation of the applicant.

Q3. Do you agree that a local authority must grant a licence in the circumstances described? Should other circumstances be included?

Q4. Do you agree with the above criteria for determining whether a person is a fit and proper person?

Q5. Do you agree with the above criteria for determining whether the management arrangements are suitable?
Determining the licence holder

18. Under the existing regime the site licence holder is the site owner. This is because the licence and the conditions relate to the site rather than the holder.

19. Under the proposed regime the suitability of the licence holder will be a consideration. Therefore, we consider that the site licence holder should be the person who has responsibility and control of the site. Normally the person responsible for and in control of the site is the site owner, or, if the site owner has nominated another person in the licence application, the person nominated. However, where a local authority is not confident that the person nominated has sufficient independence from the site owner (a family member, for example) then the local authority can take into account whether the site owner would be considered a fit and proper person. This proposal is to avoid a site owner, who would not be considered to be a fit and proper person, merely getting another person, who is not independent of him, to be the licence holder.

20. If a licence cannot be granted to the site owner or the person nominated in the application the authority may grant the licence to another person:

- if that person is willing to hold the licence (on such terms and conditions as are proposed)
- the authority and the site owner agree that person should hold the licence; and
- the authority is satisfied that the person is the most appropriate person to hold the licence; is fit and proper and the management structures are sufficient to ensure that person has sufficient autonomy and will be able to comply with the conditions of the licence, or, meet any other obligation.

21. We anticipate that this provision could be used where the local authority is minded not to grant a licence to a proposed licence holder, for example because they are not fit and proper or they do not have sufficient management competence. Rather than refusing the licence application and issuing a Management Order (see paragraph 103 below) the local authority may wish to agree with the site owner (who would need to be suitably co-operative) an appropriate alternative licence holder such as a professional managing agent. Such an approach would be less interventionary and potentially less expensive than an IMO, but would secure the appropriate management of the site.
22. It has been suggested that the site licensing regime should ensure that all employees are fit and proper persons. We believe this would be an unnecessarily regulatory burden and would not necessarily achieve the desired effect. The intention here is that the licence holder (and manager if the licence holder is a company) must be a fit and proper person. They will be the person responsible for the site and must ensure that all the site licence conditions are met. Whilst we do not intend to require that every staff member employed on a site is a fit and proper person, we would anticipate that the site licence management conditions will be sufficiently robust to ensure that any employee who behaves in an unacceptable manner will be appropriately dealt with. If they are not appropriately dealt with, the licence holder will be in breach of his site licence conditions and action may be taken against him (including, following conviction for breach of licence, revocation of the licence).

Q6. Do you agree that the licence holder should be the person with overall responsibility for the site?

Granting a licence

23. Under the existing arrangements the authority must issue a licence (within a specified time) if it is satisfied the site has planning permission for use as a caravan site and the applicant has not within the previous three years had a site licence revoked. Where planning permission has been given for a specified duration, the licence cannot exceed that period, but otherwise the licence must be granted for an indefinite period.

24. Currently a licensing authority can, but does not have to, attach conditions to a licence. Those conditions can relate to such matters as:

- the permitted number of caravans on the site
- their spacing, density, size and siting
- the occasions on which the site can be used
- the amenity of the land; health and safety issues and facilities on the site.

25. The Secretary of State currently also has the power to issue model standards which the authority must have regard to in setting site licensing conditions. Revised model standards were published in April 2008. A licence holder may appeal against a licence condition to the magistrates’ court.

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5 Section 3 of the 1960 Act
6 Section 4 of the 1960 Act
7 Section 5 of the 1960 Act
8 Sections 7 and 8 (2) of the 1960 Act
26. The 2005 consultation paper and the response agreed that a duty should be imposed on local authorities requiring them to attach conditions to the grant of site licence. These conditions would be those that the local authority considers to be necessary or desirable to impose on the site and licence holder in the interests of the residents and the public at large and to be based on Model Standards. Local authorities would still have the option to add additional terms to the licence with the safeguard of unreasonable terms being overturned by a magistrates’ court upon appeal by the licence holder.

27. The 2005 consultation paper and the response also agreed that the local authority should take into account representations from licence holders and residents before setting or altering conditions.

28. We propose that on granting a licence, the local authority must include conditions, based upon revised Model Standards, that it considers are designed to secure the effective management and maintenance of the site and the protection of the health, safety and welfare of its residents and neighbours. The conditions must also specify the maximum number of park homes that may be stationed on the site and any restriction or prohibition of its use as a site under the planning permission granted. Where planning permission for use of the site has been limited to a specific period the licence must also be so limited.

29. Before granting a licence a local authority must consult the site owner, the proposed licence holder, such other persons with an interest in the site as is known to it (a relevant person9) and residents of the site, providing a copy of the proposed licence and proposed conditions, and then take into account any representation received before making its final decision.

30. We intend to allow the licence holder, site owner (if different) and any relevant person to appeal against any condition attached to a licence. Although we do not intend to give a right of appeal against the grant of the licence itself, there will be a right of appeal against the decision to whom the licence is granted.

31. A resident will not have a right to appeal against the grant of the licence, to whom it is granted or the conditions of that licence.

Q7. Do you agree with the range of conditions that must be attached to a licence?

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9 Such persons may include a person with a superior interest in the site, a mortgagee or a manager of the site. Such a person will be known to it by disclosure in the application form.
Appeals

32. The consultation paper *A new approach to resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended)* that was published on 22 May 2008 proposed that the jurisdiction for determining certain disputes under the Mobile Homes Act 1983 be transferred from the county courts to the Residential Property Tribunal (RPT). The Government announced on 12 May 2009 its intention to proceed with this proposal. That consultation paper did not propose amending the jurisdiction for civil appeals under the 1960 Act because it was considered that it would be more appropriate to consider the jurisdiction of appeals as part of the wider reforms to the site licensing regime that this consultation paper is dealing with.

33. Currently, under the 1960 Act there are limited opportunities for civil appeals within the licensing process. Under the 1960 Act:

- a licence holder may appeal against a licence condition to the magistrates’ court for the area in which the site is located 10
- a licence holder may appeal against a variation of a licence condition.

34. The proposed new licensing regime is intended to be more comprehensive with measures that go further than the existing regime. As such there will be a greater number of circumstances where a right to appeal is needed. These are set out throughout this consultation paper.

35. We propose that all civil appeals under the proposed licensing regime should fall to be heard by the RPT. The RPT is a specialist housing tribunal which is part of an umbrella organisation called the Residential Property Tribunal Service (in Wales, known as the Residential Property Tribunal Wales). RPTs and their sister tribunals have a wealth of experience in adjudicating on disputes and in carrying out other functions in connection with housing and landlord and tenant matters. The RPT currently have jurisdiction for a number of housing law issues including landlords’ rights of appeal in relation to licensing houses in multiple occupation and selective licensing of residential properties under the Housing Act 2004 and we consider it appropriate for site licensing appeals to fall to the RPT. In addition, the RPT currently have jurisdiction for approving management orders in relation to houses in multiple occupation.

Q8. Do you agree that jurisdiction in relation to site licensing appeals and approvals should fall to the RPT?

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10 Sections 7 and 8 (2) of the 1960 Act
Refusal to grant a licence

36. Currently a licensing authority may only refuse to grant a licence if the site does not have planning permission or the applicant has within the previous three years had a site licence revoked. The 2005 consultation paper and response did not propose any changes to this position.

37. Under the new regime a local authority cannot issue a licence if, at the date the application is received, the site does not have relevant planning consent. There is no appeal against this refusal. A local authority may also refuse to grant a licence if it is not satisfied that the criteria in paragraph 11 are met.

38. Before refusing the grant of a site licence, a local authority must notify the applicant, the proposed licence holder (if different), any relevant persons, and residents and give them the opportunity to make representations. The local authority must then take into account any representation received before making its final decision. Where the local authority refuses to grant a site licence, it shall notify the same person as mentioned above of this and shall include in that notice:

- a statement of its reasons for doing so
- information as to the effect of the refusal e.g. Interim Management Order (including draft terms of the order).

39. We propose that if the local authority is satisfied that there is an imminent threat to the health, safety and welfare of the residents, the authority may dispense with the consultation requirements.

40. We intend that the site owner, proposed licence holder (if different) or other relevant person may appeal to the tribunal against the refusal of the local authority to grant a licence. This appeal may be made at the same time as an appeal against the making of an Interim Management Order and any terms of such an order.

41. A resident will not have a right to appeal against the refusal to grant the licence.

Q9. Do you agree with the proposed arrangements for dealing with refusals?
Variation of licences

42. Currently a licensing authority may on its own initiative or upon the application of the licence holder vary the conditions of a licence. Before varying a licence the authority must consult the licence holder. The licence holder may appeal against any alteration of the conditions or the refusal by the authority of an application by him for the alteration of the conditions.

43. The 2005 consultation paper and the response agreed that the local authority should take into account representations from site owners and residents before altering conditions. We propose that in addition to the licence holder and the residents, the local authority must also consult other relevant persons before varying the licence. Residents will not have a right to apply for a variation of a licence or appeal against any alteration of the conditions or a refusal to vary a licence.

44. A licence may not be varied to change the licence holder (though a manager specified therein may be changed). A proposed change of licence holder will require a new application for the grant of a licence to be made to the authority.

Variation of licence conditions to reduce number of homes

45. Where an existing site is affected by a change of circumstance whereby it is no longer suitable to station as many park homes as is specified in its licence, a local authority may vary the licence to reduce the number of homes permitted to an appropriate level.

46. We intend to provide that a local authority may not require the removal of park homes from a site whilst residents’ agreements or tenancies are continuing. We anticipate that a licence holder would be required to reduce the numbers of park homes at the point:

a) When the resident’s agreement to occupy the pitch is subject to the Mobile Homes Act 1983:
   (i) he has given notice to the site owner of his intention to terminate the agreement; or
   (ii) the site owner has obtained an order from the county court terminating the agreement and has obtained a possession order from the county court (which has not been or is no longer suspended); or

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11 Schedule 1, Pt 1 para 3 Mobile Homes Act 1983
12 Under paras 4, 5 or 6 of Schedule 1, Pt 1 of the 1983 Act
13 Sections 3 (1)(b) and 4 Caravan Sites Act 1968
b) When the resident of the park home is a statutory tenant under the Rent Act 1977 or an assured shorthold tenant (including a statutory tenant) under the Housing Act 1988 or would be such a tenant if he were entitled to succeed, the site owner has obtained a possession order (which if originally suspended is no longer suspended).

47. We do not intend to allow an excessive number of park homes on a site to be a relevant factor when a tribunal or court determines whether to grant determination or possession.

Q10. Do you agree with the points at which a licence holder must reduce the numbers of park homes in order to comply with the licence variation?
Section 2

Revocation of licences

Revocation of a licence on misbehaviour

48. Under section 9(2) of the 1960 Act a local authority has power to apply to the magistrates’ court to revoke a site licence. However this is only available on a third or subsequent conviction for breach of a licence condition. The exercise of the power is discretionary, and the local authority is not obliged to make such an application even if there are good prospects of it being successful.

49. The 2005 consultation paper recognised that there were difficulties with the workability of the provision as revocation of a licence left a site without a licence holder. The 2005 consultation paper proposed that this power should remain but that measures should be introduced that would deal with the management of a site following revocation such as the local authority installing a temporary site manager. The response set out our intention to go ahead with this.

50. The proposals below build upon this agreed principle and goes further by giving the local authority a power to revoke a licence in specified circumstances that go beyond the existing provisions and without the need for a court’s determination. However, a licence holder or site owner (if different) would have a right of appeal to the tribunal against the revocation.

51. We intend that a local authority may only revoke a licence if it is satisfied:

a) the licence holder has unlawfully transferred or assigned the licence (or the management responsibilities there under) to another person or

b) the licence holder is no longer a fit and proper person to hold the licence or the management arrangements are no longer suitable, and/or

c) there has been one or more serious breaches of the licence conditions which cannot be remedied by the service of an enforcement notice (see paragraph 70 below) and/or

d) the licence holder has been persistently in breach of one or more licence conditions and/or

e) the licence holder has failed to comply with an enforcement notice (see paragraph 74 below), the authority has done the works in default and has been unable to recover its costs in doing so and/or
f) the authority has taken emergency remedial action (see paragraph 81 below) and has been unable to recover its costs in doing so.

52. A licence may not be revoked on the grounds in e) or f) until any appeal against the requirement to pay the costs to the RPT has been determined or dismissed.

53. We propose that before revoking a licence on the grounds in b) to f) the local authority shall notify the licence holder, the site owner (if different), all other relevant persons and residents of the site that it proposes to revoke the licence (including the effect of the revocation and the terms of the proposed Interim Management Order) and give them an opportunity to make representations. The local authority must take into account any representations made before making a decision. If it decides to revoke, it must notify the same persons as mentioned above of its decision, giving reasons.

54. We propose that if the local authority is satisfied that there is an imminent threat to the health, safety and welfare of the residents, or would be by consulting on its intention to revoke the licence, the authority may dispense with the consultation requirements.

55. We intend to give the licence holder or site owner (if different) a right of appeal against the revocation and/or terms of the Interim Management Order. Residents will not have a right of appeal against the local authority's decision to revoke a site licence.

Q11. Do you think the proposed circumstances in which a licence can be revoked are appropriate?

Q12. Do you agree that the local authority should be able to revoke the licence and make an Interim Management Order or do you think those matters should be decided by an RPT on the application of the authority?

Q13. Do you think it is right that the local authority should be able to dispense with the requirement to consult on a revocation if it considers there is an imminent threat to the health, safety and welfare of residents?

Q14. Do you agree that it is right that the local authority does not have to consult in cases of unlawful transfer?
Revocation of licence on transfer

56. Currently, when a site is sold, either the seller should apply to the local authority for consent to transfer the licence or the buyer should apply to the local authority for a new licence\textsuperscript{14}.

57. The 2005 consultation paper proposed that there should be an explicit duty on both a seller and buyer to notify the local authority of a transfer of the site at the exchange of contracts. The response stated that we would not go ahead with the proposal because the existing provisions appeared sufficient.

58. The key difference between the existing requirements and the proposed new regime is that for the existing regime the licence relates solely to the physical characteristics of the site which would be the same irrespective of licence holder. The new regime is also concerned with the management of the site and, in particular, the suitability of the person managing it to hold the licence. It would not therefore be appropriate for a licence to be transferable. We therefore propose that a site licence is automatically revoked when a site is sold. On taking over ownership the new owner must immediately apply for a site licence as otherwise he will commit an offence of using land as a caravan site without a site licence which could result in a fine of up to £50,000.

59. As explained in paragraph 8 there may be occasions where a prospective purchaser of land or a site would wish to determine whether a site licence would be granted and on what terms. They can apply for a site certificate in advance of taking over ownership. However, once a change of ownership has taken place the new owner must immediately apply for a site licence. If a certificate has previously been granted a site licence should quickly be granted. If a certificate has not yet been granted an interim licence must be given. We propose that the existing licence holder may apply to the local authority to have his licence revoked.

Q15. Do you agree with the proposed arrangements that deal with change of licence holder?

\textsuperscript{14} Section 10(1) of the 1960 Act
Death of a licence holder

60. Currently in the event of the death of a licence holder the licence automatically transfers to the person entitled to the estate or interest in land. That person can then apply to the authority to have his name endorsed on the licence.

61. The 2005 consultation paper and response did not suggest changes to this part of the licensing regime.

62. In terms of the new regime a site is required to be licensed (or alternatively have a management order in place) at all times. We, therefore, believe this means that a licence cannot cease to have effect on the death of a licence holder. Therefore where the licence holder holds an estate or interest in the site at the time of his death, the licence must vest in his representatives, until such time as the estate is disposed of. At such a point the existing licence would automatically be revoked and a new licence would need to be applied for. Where the licence holder does not hold an estate or interest in the site at the time of his death, e.g. because he is a nominated person, the licence will, until an application for a new licence is received, vest in the site owner.

Q16. Do you agree a licence should vest in the personal representatives of a deceased licence holder? If not what other effective arrangements do you think should be put in place?
Section 3

Enforcement of licences

Duty to monitor and power of entry

63. Currently, local authorities have powers to monitor and enforce compliance with site licence conditions. However, they are not required to do so. As agreed in the response we intend to impose a duty on local authorities requiring them to monitor compliance with site licence terms and conditions, and to have a power to take enforcement action.

64. Under the proposed regime we intend to impose on local authorities a number of duties in order to ensure the regime works effectively. These would include a duty on local authorities that requires them to monitor site licence conditions.

65. In addition to this we believe a local authority should be under a general duty to promote licensing in its area and to ensure it receives applications promptly and deals with them speedily. However, the responsibility for applying for a licence rests on the site owner and, therefore, it is not suggested that the duty of the local authority should in any way dilute the owner’s responsibility to comply with the regime.

66. On receipt of an application the local authority will be under a duty to deal with it as soon as reasonably practicable. However, we do not propose that the authority should be under a duty to issue a site licence (or take other action) within a specified period. Local authorities will also be under a duty, in relation to licences granted, to keep them under review. We believe that duty should include a requirement to actively consider the appropriateness of conditions attached to a licence and whether they need to be updated, changed or deleted.

67. Local authorities will also wish to consider from time to time whether new conditions should be attached to licences. Moreover, the authority must monitor the licence holder’s compliance with the licence and his management of the site, including investigating relevant complaints from residents and other persons with an interest in the management of the site. Thus, a local authority must adopt a clear policy on how it will manage the licences it grants and comply with that policy.

68. A local authority will continue to have the necessary powers of entry to a site in order to carry out its site licensing functions.
Q17. Do you agree that the authority should have the duties in relation to licensing as proposed?

Enforcement notices

69. Currently, there is no formal system of notices that a local authority can use when taking enforcement action. The response to the 2005 consultation paper said that we propose to give powers to serve formal Improvement Notices with regard to contraventions of legislation and site licence conditions.

70. We have built upon this and propose a system whereby a local authority may serve an enforcement notice (EN) requiring specific action or works to be carried out in order to comply with any licence condition.

Issuing an EN

71. We propose that the authority should consult with the licence holder and such other persons that may be affected by the notice, such as the residents, before serving an EN. The consultation should be an opportunity for the licence holder and others to say why the proposed action or works are or are not necessary, what alternatives might be available and how the works might be completed. The authority must offer the licence holder an opportunity to take such reasonable action as is necessary to remedy the matter of concern to the local authority before formally serving an EN. A licence holder may appeal against an EN.

72. We believe it is important that any person affected by the EN should see a copy of it, so they know what is required and when it should be completed. Such persons include any person other than the licence holder who has an interest in the land, e.g. in a leasehold site the freeholder, or any mortgagee and the residents of the site. It is not proposed that any of those persons should have a right of appeal against the EN.

73. We intend that the authority should be able to recover all of its reasonable costs and expenses in serving the EN. These include such matters as inspection costs, legal costs, administration costs, cost of expert advice etc and any costs incurred in connection with the prior consultation. The Government considers the EN regime should be self-financing and we consider it is appropriate that the costs should be borne by the person against whom the notice has been served. However, the costs must be reasonable and only incurred in relation to the particular notice. It is proposed that the licence holder will have a right of appeal against the amount of costs claimed (whether or not those costs have actually been paid). In addition, we intend to include provisions within the legislation to prevent a licence holder automatically passing on the authority’s costs and expenses of an EN to the residents.
Enforcement of an EN
74. It is proposed that it will be an offence not to comply with an EN, either by failing to do the action or works specified in the notice or not completing it to the satisfaction of the local authority. It is proposed that the offence should carry a maximum fine of £20,000.

75. It is also proposed that the EN may be registerable as a local lands charge, to ensure the authority is able to recover its expenses and any costs incurred in issuing the EN or carrying out the actions or works in default through the proceeds of any future sale of the land on which the site is situated.

76. We intend to give the local authority a power to enter the site and to carry out the actions or works itself, if the licence holder is in breach of the EN. The authority will be able to recover its costs in doing the actions or works from the licence holder (and may take action in the county court for recovery). The costs must be reasonable. We think it is important that the licence holder should be able to challenge the reasonableness of the costs. For that reason we intend to provide licence holders with a right of appeal against any demand. If the demand is not paid (and there is no appeal against it) the authority may take action in the county court to recover the debt or if that fails make an interim management order and recover its expenses and costs from the income it receives through the management of the site.

Revocation, variation and suspension of an EN
77. We propose that a local authority may revoke an EN at any time. An authority must revoke an EN if it is satisfied that the actions or works required under it have been completed to its satisfaction. Where an authority revokes the EN it ceases to be a local land charge and it must write to the licence holder informing him that it has revoked the EN. A copy of the letter must be sent to all the persons who received a copy of the EN. We do not propose there will be a right of appeal against revocation of an EN.

78. We also propose that an EN can be varied by agreement between the authority and the licence holder. The terms of the variation shall be set out in writing and copies of that document must be sent to all persons who received copies of the EN.

79. We propose that an EN may be suspended where it is connected to a particular event or time, for example, a requirement to correct a particular breach might only apply when the current resident in question leaves. This might arise, for example, if works are required to the base of a park home and completing the works with the resident in situ is impractical or would cause undue hardship. An EN would not normally be capable of being suspended if the works are required because there is a significant risk to the health and safety of the residents.
Q18. Do you agree with the consultation and notification arrangements in making an EN?

Q19. Do you agree that the local authority should be able to recover its expenses in making an EN?

Q20. Do you agree that the local authority should be able to enter the site and do the necessary action or works in default of the EN being complied with?

Q21. Do you agree that an EN can be suspended in the types of circumstances illustrated? Do you think there are any other circumstances in which an EN should be suspended?

Emergency Remedial Action

80. Currently a local authority has limited scope for entering a site and carrying out work where there is an immediate and significant threat to the health and safety of residents of the site because there has been a breach of a licence condition. The 2005 consultation paper and the response did not consider these issues.

81. We now propose that a local authority may enter the site (or any part of it including a pitch) at any reasonable time for the purpose of undertaking any emergency remedial action (ERA). It shall be an offence subject to a Level 5 (£5000) fine to obstruct a person carrying out such work for the authority.

82. The normal practice would be to serve an EN. An ERA can only be carried out if the local authority considers there is an immediate and significant risk to a person’s health and safety which is caused by a breach of the licence, in such circumstances that it is not practicable to serve such an EN. However, an authority should not be out of pocket because it carries out the works itself. It may, therefore, recover its costs from the licence holder. We propose that an ERA notice be a local land charge until it has been discharged. The local authority may take action in the county court to recover the debt, or if appropriate, may make an interim management order.

83. Entering a site, without notice, and undertaking works the costs of which are to be borne by the licence holder is a significant interference with the management of the site. On the other hand the authority has a duty to ensure a licence is being complied with and, therefore, it may need to take measures to protect residents where there are problems and those cannot be dealt with through an EN. In order to strike a balance between the rights of a site owner (through the licence holder) and adequate protection to the residents we propose that prior to entering a site to undertake ERA an authority should serve a notice on the licence holder no later than the day it commences works on the site. We also intend to give the licence holder
Section 3 Enforcement of licences

certain rights of appeal against the reasonableness of the authority’s decision to proceed with an ERA or the reasonableness of the sums incurred.

84. Essentially we propose three strands to this:

- that any appeal must be brought within seven days of the service of ERA notice
- the tribunal may stop any ongoing work pending a full hearing (a stop order) where there is clearly an arguable case that the authority has acted unreasonably in serving an ERA notice, and
- if the works have not been stopped pending the full hearing, the tribunal can order reinstatement or compensation where tribunal considers the ERA was unreasonable and this would also mean the local authority would not be entitled to its costs in undertaking the ERA.

85. We believe an appeal should be made within seven days for two reasons. First, as the work is being undertaken on an emergency basis the authority should be able to get on and do it. Secondly, we consider seven days is a sufficient time for the licence holder to evaluate whether the works specified in the ERA notice are indeed necessary or whether it would have been more appropriate to serve him with an EN.

Q22. Do you agree with the proposed circumstances in which a local authority can take ERA?

Q23. Do you agree that seven days is a reasonable time for appealing against ERA?

Removal orders

86. Currently the conditions that may be attached to a licence include: when park homes may be sited or occupied, how many and what size park homes may be sited, the lay-out and the provision of facilities, services and equipment for the site. As set out above (paragraph 10) we intend to extend the range of conditions to include management of the site and whether a licence holder is fit and proper. Compliance with the conditions attached to a licence is currently and will continue to be the responsibility of the licence holder and enforcement in relation to breach of conditions may be taken by the local authority against the licence holder.

87. In many circumstances breach of licence conditions will have a detrimental effect on the residents of the site. For example inadequate or poorly maintained drainage may have an impact upon the living conditions of the residents. This may in turn have an impact upon the value of a resident’s main asset – their park home. In the majority of circumstances local authority action to enforce conditions will have benefits that far outweigh disbenefits for residents. However, there may be occasions where
enforcement of certain conditions would have disproportionate impact upon a resident/residents. The existing model standards guidance states that before the local authority undertakes any enforcement action it should consider the benefit of the works against the potential impact on the residents’ enjoyment of their homes and the cost to the licence holder.

88. A particular area of enforcement that we consider may be problematic is where the number of park homes on a site exceeds the number that the site is licensed for.

89. It is, of course, fundamental to the licensing regime that sites are only licensed for the number of park homes they can safely and appropriately accommodate. For that reason all licences must specify the maximum number of park homes that can be stationed on the site. It is also fundamental that if a site is required to be licensed and is not licensed (and not subject to management order) it should have no park homes on it.

90. We propose that it will be an offence for the site owner to allow more park homes to occupy a site than is permitted under the licence conditions. This would attract a maximum £50,000 fine, including the situation where a licence holder, site owner or a person authorised by the licence holder or the site owner is found guilty of bringing in and stationing, or permitting the bringing in and stationing by others of park homes on the site in excess of the number permitted under the licence.

91. In addition, we propose that licensing authorities should have powers to require action to be taken to reduce the number of park homes (or in the case of a non licensed site to remove altogether), or mitigate the impact of the higher number, on a licensed site. We are not suggesting that it would always be necessary to take these actions. What the authority must consider is the impact of stationing the additional park home(s) on the site in terms of the health, safety and welfare of its residents and others on the site and the general amenity of the site. If the impact is minimal or there is none at all, then there would be no need to take action other than to regularise the new number by varying the licence. Although licence holders should not “get away” with breaching this fundamental condition, the interests of the residents must also be taken into consideration, if there is no harm being created.

92. We believe it is necessary to provide for such circumstances in order to ensure the regime is effective, enforceable but fair.

Q24. Do you agree with the proposed offence and fine?

93. Where a site owner has allowed more park homes to occupy a site than is permitted under the licence conditions we intend to provide for a procedure by which a local authority can require the removal of park homes from a park home site. However, uppermost it is important to ensure that the residents are fairly treated.
94. Firstly, as mentioned above the authority must consider first and foremost whether the impact on the site in terms of the health, safety and welfare of its residents and the general amenity of the site of the additional park home(s) outweighs the interests of the residents of the park homes in question. If a local authority considers it essential for a home to be removed we intend to require that it must seek a removal order from the RPT in order to proceed with enforcement. However, we anticipate that a local authority cannot seek a removal order unless they have previously secured a conviction for breach of the site licence condition or a conviction for failing to have the appropriate site licence.

95. As a resident's home is at stake and the licence holder's business would be affected by the decision we anticipate requiring the RPT to invite views from those parties.

96. We intend that an RPT would be able to confirm a removal order including a suspended order. In addition, we intend that the RPT would be able to order a licence holder to pay expenses, costs and compensation to a resident whose home has to be removed in order to implement the order. Factors that an RPT would be likely to take into account would be:

- the conduct of the licence holder and the resident at the point of contract and subsequently thereafter
- the hardship the order would have to the resident
- the availability of alternative accommodation for the resident
- the age, disability or family status of the resident
- the length of time the resident has lived on the site.
- the costs likely to be incurred in moving (including, but not limited to removal expenses, storage expenses, furnishings of any new home, the cost of temporary accommodation)
- the market value of the park home, disregarding any diminution in value because of the removal notice, on the site and at its current location, having regard to the actual price paid
- any value attached to the pitch
- the loss of security of tenure (if any)
- the value (if any) of the right to sell, assign or otherwise transfer (including on death) or otherwise dispose of the park home
- the date which the agreement to occupy could have been terminated but for the order; and
- duration and terms of a suspended order.
97. We anticipate that the tribunal’s order should be a local land charge, thus enabling it to be enforced on any sale of the site.

98. We believe that where a licence holder has deliberately breached the licence condition or attempted to evade licensing, the interests of the resident must be protected, but at the same time the licence holder should not benefit from any pecuniary advantage in not complying with the statutory requirements. We believe the potential penalties (through fines, cost of removal and payment of expenses and compensation) should act as a serious deterrent to any licence holder or site owner who was intent on not complying with the law.

Q25. Do you agree with the circumstances in which a removal order may be sought?

Q26. Do you think the factors in paragraph 96 are appropriate in deciding whether to suspend a possession order or determine the amount of expenses or compensation payable to the dispossessed resident? Are there others?
Section 4

Management Orders

99. The 1960 Act is silent on what is to happen after a site licence is revoked.

100. The response to the 2005 consultation paper agreed that provisions should be introduced to ensure that the use of the power to revoke is made easier. It said that, for example, local authorities should be given a power to install a temporary site manager, where a licence has been revoked and there is no realistic prospect of site improvement in the near future. That manager could, for instance, be allowed to receive pitch fees, pay for the cost of essential works (refunding any balance to the site owner) and consequently protect the interests of residents. Provisions should also be introduced that ensure that key services and utilities will continue to be available to park home residents.

101. We believe that the best way to implement this is through two schemes of management orders, Interim Management Orders (IMOs) and Final Management Orders (FMOs).

102. Subject to the specific rules governing IMOs and FMOs the general effect of a management order is to place the authority (and through it's agent) in the shoes of the licence holder, exercising the same rights and obligations that he could have exercised if the order was not in force. In particular, a management order deprives the site owner of his right to enter the site and manage it.

Interim Management Orders (IMO)

Duty to make an IMO

103. We anticipate that a local authority must make an IMO if it is:

- satisfied the site requires to be licensed and no application for a licence has been received and it considers there is no reasonable prospect that a licence will be granted in the near future, or
- about to refuse to grant a licence and it considers that at the date that refusal comes into force an IMO should take effect, or
- about to revoke a licence and it considers that at the date of revocation an IMO should take effect.
104. We propose that a licence holder, a site owner or relevant person may appeal against the IMO or any of its terms.

105. We intend that the local authority should notify the residents of the site that it has made the order, when it comes into force, and the main terms of the order and its effect.

106. We intend an IMO to be a temporary measure to allow a local authority to undertake a review of the situation that gave rise to it making the order, take immediate steps to deal with significant problems and to secure the effective, long term management of the site. Thus, we propose that an order may not last more than twelve months and should normally not last as long, since the authority should be looking to grant a licence either to an appropriate person to hold the licence or failing that to make an FMO.

Q27. Do you agree with the circumstances in which an IMO can be made?

Q28. Do you agree with the proposed maximum duration of an IMO?

Local authority’s powers of management under an IMO
107. We anticipate that once an IMO is in force the local authority would be entitled to possession of the site, subject to the rights of existing residents. The authority may do (and may authorise its manager to do) anything in relation to the site that the site owner could have done if the IMO had not been made, including in particular to:

- obtain possession of park homes on the site
- let, licence or sell any vacant park homes on the site (which would otherwise be the possession of the site owner)
- agree to the assignment of any pitch on the sale or proposed sale of a park home
- receive any income from any sale or commission payment
- receive and review any pitch fees payable or any other charges payable by residents
- enforce, make and amend site rules
- consult with residents and residents’ associations
- recognise residents’ associations
- maintain the site and carry out all necessary or required repairs
- carry out any improvements to the site; and
- act in the capacity of the site owner in any proceedings in a court or before an RPT initiated by or brought against a resident.
108. The authority does not acquire by virtue of the order any right of ownership over the land.

109. We propose that the authority may not let, licence or sell a park home or assign a pitch without first obtaining the consent of the site owner to do so, which cannot be unreasonably withheld. Notwithstanding that the authority acquires no estate in the site it may grant such estates and licences as if it were the legal owner of the site (but subject to any restrictions of any superior landlord or a mortgage). The authority may assign a pitch as though it were the legal owner.

**The effect of an IMO on the site owner, persons with superior interest and mortgagees**

110. The site owner and any person acting on his or their behalf, whilst the order is in force, will not be entitled to:

- manage the site, carry out any works on it or have any dealings with the residents therein
- carry out any works to the site
- sell or offer for sale a park home on the site or advertise the sale of park homes on the site
- let or licence or offer to let or licence a park home on the site or advertise the availability of park homes for hire or letting on the site
- demand or receive any pitch fees or other charges from residents of the site, or
- demand or receive any commission on the sale of a park home on the site.

111. We propose that an order may place restrictions upon any person on his right to enter the site.

112. A site owner will however be able to sell his site. In such a circumstance the IMO will continue in place.

**Financial arrangements under the IMO**

113. The response to the 2005 consultation paper raised particular concern about any possible financial arrangements where a temporary manager was installed on a site.

114. We propose to allow a local authority to recover any expenditure it incurs in the management and maintenance of the site or the provision of services thereto under the IMO, including premium for insurance of the site, any mortgage, loan charge, rent payable, or compensation payable and its administrative costs. We propose that this also includes any expenditure planned to be incurred during the period of the IMO, but does not include any contingency for unforeseen expenditure.
115. We intend that the authority should recover its relevant expenditure from any income it receives from any pitch fees, commission payment or price achieved on a sale of a park home. After deducting its expenditure the authority would pay to the site owner any surplus on account (at such rate of interest, if any as the authority determine).

116. We expect that any payment of a surplus would be accompanied by a statement of account, detailing the income the authority has received and relevant expenditure incurred in the period to which the statement relates.

117. Where after deducting its relevant expenditure from the income received the account is in deficit, the authority would be entitled to recover from the site owner on service of a statement account, that deficit and if necessary would be able to take debt recovery action. In addition we would propose that the deficit could be:

- carried forward in any FMO which makes provision for the treatment of deficits incurred under the IMO or
- required to be paid before a local authority grants a site licence or
- recovered from any person as a condition for the grant of a licence or as a condition of that licence or
- recovered on any disposition or sale of the land on which the site is situated.

118. We anticipate that an IMO would be a local lands charge.

**Right to see and challenge accounts etc**

119. We propose requiring a local authority to keep accurate and up to date accounts of all income received and relevant expenditure incurred under an IMO, including invoices and other supporting documentation (including details of any expenditure planned to be incurred, but not yet so incurred). We think it is important that the site owner should have a reasonable right to inspect the accounts and to take copies of them. If he is dissatisfied with the claimed expenditure he would be entitled to challenge the expenditure at the RPT. He would not have to wait until he receives a statement of account before making that challenge.

120. We do not intend mortgagees and superior interests to be affected by the IMO, except to the extent that those interests cannot prevent the operation of the order. What we mean by this is that if the site is held on a leasehold basis, the local authority in effect stands in the place of the leaseholder. To the extent that the lease does not conflict with any requirement of the IMO the local authority should comply with the terms of the lease.

Q29. Do you agree that the proposed powers and rights conferred on an authority under an IMO are appropriate?

Q30. Do you agree with the proposed financial arrangements for an IMO?
Variation, end of and revocation of an IMO

121. We propose allowing for IMOs to be varied by the local authority either on its own volition or upon application of a relevant person. (No fee is payable on an application.) Any person who is entitled to apply for a variation of an IMO may appeal to the RPT against any decision to vary or refuse to vary the IMO.

122. We propose that an IMO ceases to have effect on earliest of the following:

- when the local authority revokes the IMO because a new licence is granted or an FMO is made for the site
- when the period stated in the IMO (or any extension under the variation power) ends, if this happens an FMO automatically comes into being.

123. Where an IMO ends on the date specified in the order or if no date is specified twelve months after it has been made the end of the IMO automatically causes an FMO to come into being. We propose that an IMO may be revoked at any time by the local authority on its own initiative or upon application of a relevant person. It may only revoke the order on application of such a person if it is satisfied that it can grant a licence to that person or some other person nominated by the applicant. We intend providing any person who is entitled to apply for revocation the right of appeal to the RPT against any decision to revoke or refuse to revoke the IMO. If there is an appeal against the revocation of the IMO, the making of an FMO or the grant of a licence the IMO continues in force until the appeal is disposed of and if there is no appeal before the period for lodging any appeal, the revocation and the new licence or FMO must come into force immediately after that date.

Final Management Orders (FMOs)

124. A final management order (FMO) is intended to secure the long term and effective management of a site where in the foreseeable future a licence cannot be granted. Under an order an authority is required to devise a management plan for the site, including any major works it intends to carry out.

125. We propose that an FMO may not be made unless it is made immediately following an IMO. An FMO will have fixed duration, but it may be reissued for further periods, again of fixed duration, each time the fixed period comes to an end. Essentially an FMO has the same characteristics as an IMO, but whereas an IMO is intended to secure the immediate management of the site an FMO must be developed in the context of a long term strategy management plan for the site. Often an IMO will be made so as to allow the authority to plan for the FMO. Because the characteristics of the respective orders are similar, this part off the paper only discusses the proposed rules about FMOs where they are different from an IMO between the orders.
**Duration of an FMO**
126. An FMO is of fixed duration of up to seven years (but may be made for a shorter period).

**General effect of FMOs**
127. The rights, liabilities and obligations of all the parties are the same as under an IMO, with one crucial difference, which is that under an FMO the local authority does not require the agreement of the site owner to any let, license or sale of a park home or assignment of a pitch.

**Management Plan**
128. We anticipate that under an FMO a local authority must include a management plan which should specify:

- the manager (or managers) and his/their contact details
- the functions of the manager(s)
- the general operational plan for the management of the site
- any non-routine works that the authority intends to undertake during the lifetime of the order
- the authority’s estimate of income from the site
- its estimated relevant expenditure (including capital costs)
- its administrative charge and
- the system for paying or recovering any surplus or deficit from monies received.

129. We intend an FMO to be a local lands charge.

**Appeal against an FMO including the management plan**
130. We propose that any relevant person may appeal against the making of an FMO or extending it for a new fixed period, its terms or the contents of the management plan.

131. We anticipate that at any time a site manager may appeal to an RPT where the person appealing considers that:

- the site is not being managed in accordance with the FMO
- that the relevant expenditure is excessive
- that the works specified in the plan are not required
- that the surplus has not been paid or is not being paid in accordance with the FMO.
132. Any order made by the tribunal may include an award for any loss incurred and it may also award compensation if it considers the authority has acted unreasonably in relation to management of the site and that the applicant has suffered because of it.

Variation of FMO and management plan

133. We propose that the management plan in the FMO be a “living” document, which needs to be kept under review to reflect the prevailing requirements of the site. As such, an authority will be able to vary an FMO e.g. the management plan, at the request of an applicant or on its own initiative. Any person who is entitled to apply for a variation of an FMO may appeal to the RPT against any decision to vary or refuse to vary the FMO.

Q31. Do you agree that the proposals for FMOs, including the management plan, are appropriate?
Section 5

Licence fees

134. Currently under the 1960 Act no fee is payable by the person applying for a site licence. This is unusual, with most regulatory licensing regimes enabling the regulatory authority to recover its costs in administering the regime.

135. We propose that the local authority should be able to cover its costs in administering the licensing regime (but not the enforcement costs or MO costs, which are borne by the particular licence holder or landowner), through charges for licence applications and an “on-going” licensing fee. We expect that the “on-going” fee could be payable annually or at other intervals determined by the local authority (of not less than once a year).

136. We intend the site licensing regime to be self-financing. Therefore we intend to give local authorities the power to set their own licence fees in order to recover all the costs they are likely to incur in operating the licensing scheme, through charges from applicants for licences and on-going charges on licence holders. Those costs will need to be kept under review to reflect accurate charges. It is intended that licence fees will be ring-fenced so the authority will not be able to use income received for any purpose other than the administration and enforcement of the site licensing regime. It is expected that different local authorities are likely to charge different fees.

137. We consider that the actual sums charged in each case should reflect the average costs across the board. We do not believe licensing authorities should charge at differential rates in relation to the complexity of the application or in setting annual fees between those site licences that require lower management input from the authority from those that require more detailed management. However, we think it may be appropriate for different fees to be payable for size and/or type of sites, and numbers on units on the site.

138. Site residents are, of course, the leading beneficiary of a well run properly enforced licence scheme. We do not, therefore, propose to prevent a licence holder from passing on the costs of a licence fee with residents. However, we do not believe that a licence holder should be able to recover any other costs incurred in relation to enforcement action or fines through the pitch fee or otherwise.
139. Finally we propose to give the Secretary of State a power to set the maximum level of fees and/or make rules about how these are calculated by local authorities and about the passing on of them by licence holders to residents. We propose this should be a reserve power, only to be exercised if authorities and licence holders do not act responsibly in the exercise of their powers and rights.

Q32. Do you agree with the proposed licensing fee structures?

Q33. Do you agree, as a matter of principle, that the licence holder should be able to recover a licence fee through the pitch fee?

Q34. Do you think the Secretary of State should have a reserve power to regulate fees payable and/or the manner of their recovery?
Appendix A

List of Questions

Q1. Do you agree that an interim licence needs to be provided for?

Q2. Do you agree that a certification procedure would be useful?

Q3. Do you agree that a local authority must grant a licence in the circumstances described? Should other circumstances be included?

Q4. Do you agree with the above criteria for determining whether an applicant is a fit and proper person?

Q5. Do you agree with the above criteria for determining whether the management arrangements are suitable?

Q6. Do you agree that the licence holder should be the person with overall responsibility for the site?

Q7. Do you agree with the range of conditions that must be attached to a licence?

Q8. Do you agree that jurisdiction in relation to site licensing appeals and approvals should fall to the RPT?

Q9. Do you agree with the proposed arrangements for dealing with refusals?

Q10. Do you agree with the points at which a licence holder must reduce the numbers of park homes in order to comply with the licence variation?

Q11. Do you think the proposed circumstances in which a licence can be revoked are appropriate?

Q12. Do you agree that the local authority should be able to revoke the licence and make an Interim Management Order or do you think those matters should be decided by an RPT on the application of the authority?

Q13. Do you think it is right that the local authority should be able to dispense with the requirement to consult on a revocation if it considers there is an imminent threat to the health, safety and welfare of residents?
Q14. Do you agree that it is right that the local authority does not have to consult in cases of unlawful transfer?

Q15. Do you agree with the proposed arrangements that deal with change of licence holder?

Q16. Do you agree a licence should vest in the personal representatives of a deceased licence holder? If not what other effective arrangements do you think should be put in place?

Q17. Do you agree that the authority should have the duties in relation to licensing as proposed?

Q18. Do you agree with the consultation and notification arrangements in making an EN?

Q19. Do you agree that the local authority should be able to recover its expenses in making an EN?

Q20. Do you agree that the local authority should be able to enter the site and do the necessary action or works in default of the EN being complied with?

Q21. Do you agree that an EN can be suspended in the types of circumstances illustrated? Do you think there are any other circumstances in which an EN should be suspended?

Q22. Do you agree with the proposed circumstances in which a local authority can take ERA?

Q23. Do you agree that seven days is a reasonable time for appealing against ERA?

Q24. Do you agree with the proposed offence and fine?

Q25. Do you agree with the circumstances in which a removal order may be sought?

Q26. Do you think the factors in paragraph 96 are appropriate in deciding whether to suspend a possession order or determine the amount of expenses or compensation payable to the dispossessed resident? Are there others?

Q27. Do you agree with the circumstances in which an IMO can be made?

Q28. Do you agree with the proposed maximum duration of an IMO?

Q29. Do you agree that the proposed powers and rights conferred on an authority under an IMO are appropriate?

Q30. Do you agree with the proposed financial arrangements for an IMO?
Q31. Do you agree that the proposals for FMOs, including the management plan, are appropriate?

Q32. Do you agree with the proposed licensing fee structures?

Q33. Do you agree, as a matter of principle, that the licence holder should be able to recover a licence fee through the pitch fee?

Q34. Do you think the Secretary of State should have a reserve power to regulate fees payable and/or the manner of their recovery?
Appendix B

List of key organisations to be consulted

Administrative Justice & Tribunals Council
Association of Chief Police Officers
Age Concern England
All Local Authorities in England and Wales
Bar Council
Better Government for Older People (BGOP)
British Chamber of Commerce
British Holiday & Home Parks Association
Canterbury Gypsy and Traveller Support Group
Care & Repair England
Chartered Institute of Environmental Health
Chartered Institute of Housing
Community Law Partnership
Confederation of British Industry
Derbyshire Gypsy Liaison Group
East Anglian Gypsy Council
East Notts Traveller Association
East of England Black and Minority Ethnic Network
Elderly Accommodation Counsel
Equality and Human Rights Commission
Federation of Small Businesses
Foundations
Friends, Families & Travellers
Friends of the Elderly
Gypsy Council
Gypsy Council for Education, Culture, Welfare and Civil Rights
Gypsy and Traveller Federation
Help the Aged
HM Courts Service
Home Space Sustainable Accommodation CIC
Housing Ombudsman
Hull Gypsy and Traveller Exchange
Independent Park Home Advisory Service
Institute of Directors
Irish Community Care Merseyside
Irish Traveller Catholic Chaplaincy
Irish Travellers Movement in Britain
Justice for Travellers
LACORS
Law Commission
Law Society
Legal Services Commission
Leeds Gypsy and Traveller Exchange
Leicestershire Gypsy Council Liaison Group
Lincolnshire Gypsy Liaison Group
Local Government Association
London Councils
London Gypsy and Traveller Unit
Ministry of Justice
National Association of Citizen’s Advice Bureaux
National Association of Gipsy and Traveller Liaison Officers
National Association of Park Home Residents
National Housing Federation
National Park Home Council
National Travellers Action Group
One Voice
Ormiston Children’s and Families Trust
Park Home Residents Action Alliance
Residential Property Tribunal Service
South West Alliance of Nomads
SPARC (Society for the Promotion and Advancement of Romany Culture)
Surrey Community Action
The Clearwater Gypsies
The Forum for Private Business
The Gypsy Council Ltd
The Redbridge Traveller Women’s Group
The Residential Property Tribunal for Wales
The Social Enterprise Coalition
The Southern Network
Traveller Law Reform Project
The Tribunals Service
UK Association of Gypsy Women
We’re Talking Homes/Northern Network
Which?
Youth Division
Appendix C

Consultation stage Impact Assessment

<table>
<thead>
<tr>
<th>Summary: Intervention &amp; Options</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Department /Agency:</strong></td>
</tr>
<tr>
<td>Communities &amp; Local Government</td>
</tr>
<tr>
<td><strong>Stage:</strong></td>
</tr>
<tr>
<td>Consultation</td>
</tr>
</tbody>
</table>

Related Publications: Park Homes Site Licensing Proposals For Reform Consultation (CLG 2005)

Available to view or download at:
www.communities.gov.uk

Contact for enquiries: Stephen Clarke | Telephone: 020 7944 3663

What is the problem under consideration? Why is government intervention necessary?

The current site licensing system is nearly fifty years old and fails to meet the needs of this part of the housing sector in the 21st century. Authorities in general are obliged to grant licences to any one owning a park home site regardless of their suitability. In addition they cannot impose any condition relating to its management. As a result a number of sites are run by unscrupulous or incompetent persons. Residents’ rights and expectations are often not met and some are victims of exploitation and intimidation.

This problem is particularly acute because residents in the sector tend to be older and potentially vulnerable persons, and local authorities need the proper resources and tools to ensure residents and their assets are properly protected from exploitation.

What are the policy objectives and the intended effects?

We want a thriving and well run park homes sector that provides sites where people want to live. We want a licensing system that raises and maintains the standards on sites and ensures sites are safe, well planned and well managed with appropriate facilities and services. The effects on the sector will be removal of criminal and incompetent site owners from it by introducing a fit and proper test in order to obtain a licence; higher standards within it by enabling LAs to impose management conditions in licences and more effective enforcement of standards in the sector by giving authorities the resources and tools to ensure compliance with licences.
### What policy options have been considered? Please justify any preferred option.

1. Do nothing (i.e. retain and rely on continued use of existing provisions without amendment or changes). 2. Introduce revised and improved site licensing regime subject to a suitable legislative opportunity. 3. Voluntary compliance with a code of conduct or similar facility, either instead of, or in addition to the existing legislative provisions.

Given the needs and benefits outlined above, and in the evidence base and annex, including improved management standards in the sector and better protection for residents, Option 2 is our preferred choice.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Policy will be reviewed 3 years after introduction.

### Ministerial Sign-off For Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

Date: 4 May 2009
## Summary: Analysis & Evidence

<table>
<thead>
<tr>
<th>Policy Option: 2</th>
<th>Description: Introduction of new Licensing System for Park Homes in England</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### COSTS

<table>
<thead>
<tr>
<th>ANNUAL COSTS</th>
<th>Description and scale of <strong>key monetised costs</strong> by ‘main affected groups’. Figures represent estimated overall costs to site owners of (a) applying for a one-off site licence and (b) retaining the licence through the payment of an annual fee. In relation to (b) the amounts assume that 10% of total sites transfer once within the ten year period. Site owners may incur enforcement costs attributable to their non-compliance with licences granted.</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off (Transition)</td>
<td><strong>Yrs</strong></td>
</tr>
<tr>
<td>Average Annual Cost (excluding one-off)</td>
<td><strong>£1.9m</strong></td>
</tr>
<tr>
<td>Total Cost (PV)</td>
<td><strong>£19m</strong></td>
</tr>
</tbody>
</table>

Other **key non-monetised costs** by ‘main affected groups’. PH Site owners or sector generally: need to acquaint with and comply with revised requirements. The same could also partially apply to some residents and residents associations.

### BENEFITS

<table>
<thead>
<tr>
<th>ANNUAL BENEFITS</th>
<th>Description and scale of <strong>key monetised benefits</strong> by ‘main affected groups’. LAs are presently obliged to issue and administer licences free of charge. These figures represent savings to them on basis that they can charge for their functions and fully recover such costs through licence fees. “Good” site owners should benefit from fairer competition. Residents and local communities will gain by better site management &amp; quality.</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off</td>
<td><strong>Yrs</strong></td>
</tr>
<tr>
<td>Average Annual Benefit (excluding one-off)</td>
<td><strong>£3.5m</strong></td>
</tr>
<tr>
<td>Total Benefit (PV)</td>
<td><strong>£31m</strong></td>
</tr>
</tbody>
</table>

Other **key non-monetised benefits** by ‘main affected groups’

**Residents**: Protecting interests, needs, aspirations (many are older/vulnerable people); health & safety, security, well-being, dignity & respect; prevent criminal activity against people/property. **LAs**: clearer & rigorous procedures & powers for effective licensing system; can recover enforcement costs for non compliance; some deregulation. **PH Industry**: general raising of standards benefit PH industry overall (better reputation, improved consumer confidence); some de-regulation. **Public**: communities/neighbourhoods via reduction in problem sites.
### Key Assumptions/Sensitivities/Risks

The overall costs (not withstanding specific savings) incurred by local authorities are recoverable from site owners through the payment of a one-off fee and thereafter an annual retention one. The site owner in turn will be able to recover these charges through the pitch fee that residents pay.

<table>
<thead>
<tr>
<th>Year</th>
<th>Time Period</th>
<th>Net Benefit Range (NPV)</th>
<th>NET BENEFIT (NPV Best estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>10 years</td>
<td>£</td>
<td>£12m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Questions</th>
<th>Answers</th>
</tr>
</thead>
<tbody>
<tr>
<td>What is the geographic coverage of the policy/activity?</td>
<td>England</td>
</tr>
<tr>
<td>On what date will the policy be implemented?</td>
<td>Subject to legislative opportunity</td>
</tr>
<tr>
<td>Which organisation(s) will enforce the policy?</td>
<td>Local Authorities</td>
</tr>
<tr>
<td>What is the total annual cost of enforcement for these organisations?</td>
<td>£N/A</td>
</tr>
<tr>
<td>Does enforcement comply with Hampton principles?</td>
<td>Yes</td>
</tr>
<tr>
<td>Will implementation go beyond minimum EU requirements?</td>
<td>No</td>
</tr>
<tr>
<td>What is the value of the proposed offsetting measure per year?</td>
<td>£N/A</td>
</tr>
<tr>
<td>What is the value of changes in greenhouse gas emissions?</td>
<td>£N/A</td>
</tr>
<tr>
<td>Will the proposal have a significant impact on competition?</td>
<td>No</td>
</tr>
<tr>
<td>Annual cost (£-£) per organisation (excluding one-off)</td>
<td>Micro</td>
</tr>
<tr>
<td>Are any of these organisations exempt?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Impact on Admin Burdens Baseline (2005 Prices)

<table>
<thead>
<tr>
<th>Increase £</th>
<th>Decrease £</th>
<th>Net £</th>
</tr>
</thead>
</table>

**Key:**
- **Annual costs and benefits:** Constant Prices
- **(Net) Present Value**
Background on the policy
1. The park home sector comprises about 85,000 units on 2,000 sites (laid out as estates) in England. It is a small but valued part of the housing market. All park home sites are required to be licensed by local authorities under the Caravan Sites and Control of Development Act 1960 (the 1960 Act).

2. The tenure arrangements for park homes is unusual in that the resident owns the home, but rents from the site owner the plot of land on which it is situated. Since a park home is a “caravan” under the 1960 Act and not therefore attached to the land in the usual sense of the word, the resident does not possess a legal estate in it, unlike, for example, a leaseholder. The home is legally a “chattel”, and the resident only has permission, i.e. via a licence, to station it on the plot. This puts the site owner in a very strong position vis-à-vis the resident, which is somewhat regulated by the provisions of the Mobile Homes Act 1983 (the 1983 Act), including security of tenure. Residents are not easily able to move from one site to another, and so there is a market failure from the market power of the site owner compared to the resident.

3. However, the 1983 Act cannot regulate who manages a site or impose conditions on that person’s management of it. These objectives can only be secured by an effective licensing regime managed by local authorities. Under the 1960 Act licensing regime neither of these objectives can be secured because local authorities cannot refuse to grant a licence to anyone owning a site (except in very exceptional circumstances) and cannot impose or enforce management conditions.

4. Residents in this sector tend to be older persons and are thus often more vulnerable than other members of the community. It is, therefore, very important to have in place a licensing regime which helps protect their interests and assets. However, because the 1960 Act cannot act as any barrier to the sector some park home sites are owned by unscrupulous and in some instances criminal persons and more often persons incompetent to manage sites effectively. This means that often residents’ rights and expectations are not met because of poor management practices and that in some cases residents are targeted for intimidation and exploitation to give up their rights and sometimes even their assets by site owners.

5. The policy will, therefore, replace the largely ineffectual licensing system under the 1960 Act by the introduction of a more robust regime which will require that only “fit and proper persons” can hold park home site licences. It will also give local authorities powers to impose conditions in licences to ensure sites are properly managed for the benefit of residents and the wider community. They will also be given a range of enforcement tools to ensure that site licensing conditions are complied with.
6. Under the 1960 Act regime local authorities may not charge for issuing licences (or taking any enforcement action). We intend to ensure that they are able to recover their costs in connection with their duties under the new provisions by charging an appropriate fee for considering the application and an annual “running” charge to cover costs of monitoring etc. The Government does not propose, as it would be inappropriate to do so, to set those fees and charges. It will be for local authorities to determine appropriate fee structures having regard to the circumstance and size of the park home sector in their areas.

7. Evidence to support the proposals:

   **Legislation and provisions:**
   - It is clear that many of the existing legislative provisions are out of date, and need updating so that the licensing regime becomes a modern and effective system. For example, the local/licensing authority (LA) has no power to consider the suitability of a person to hold a site licence, to include any conditions in the licence as to management standards, or to revoke a licence on the grounds of unsuitability (e.g. where a licence holder has committed a serious criminal offence)
   - It is known from feedback via Parliament, correspondence, media and complaints from various people linked to or affected by the park homes sector (including of course residents) that although the majority of licence holders are suitable persons, carrying out their management functions in a competent and professional manner, there are a minority who behave in an unprofessional and disreputable way
   - In addition to the above, some licence holders also act in an entirely unscrupulous and criminal way. This has been highlighted by past and recent cases involving police enforcement actions
   - All of the foregoing has also been made evident to us via previous consultation exercises and points emerging from previous work linked to the Park Homes Working Party

8. Previous consultations

In January 2005 CLG issued a consultation paper *Park Homes Site Licensing Proposals for Reform* (the 2005 consultation paper) and published the summary of responses to the consultation (the response) in July 2005.

It has been clear that there were and continue to be concerns from almost all areas with an interest in park homes about the existing arrangements and calls for reform of the system were very evident and quite strong in some quarters. Since then the Government has continued to discuss with stakeholders and their representatives concerns and possible solutions in relation to poor management of some park home sites and unacceptable and, in some cases, illegal, practices of some licence holders.
The stakeholders involved in our consultation and liaison have included the key park home industry and residents groups, advisory and local government representatives, and members of the police service who have expertise and experience in these areas.

9. Proposed actions/initiatives

**General**
The proposals relate solely to "protected sites" i.e. Park Home sites and "mixed use" sites where any of the homes included are protected under the Mobile Homes Act 1983. They are not intended to apply to sites which are not required to be licensed under the Caravan Sites and Control of Development Act 1960, e.g. LA owned sites.

The new regime will need to apply to existing sites and existing site licence holders, as well as any new ones. It is therefore intended to ensure that there will be appropriate transitional provisions to ensure that over a reasonable time period, the new regime will be applied to existing sites and site licence holders. We envisage that this would include requiring all existing site licence holders to apply for a new licence and in doing so meet the requirements of the new regime.

**Key proposals**
Measures to ensure that site licence holders will be “fit and proper persons” and that the proposed management arrangements are suitable for the site:

LAs (i.e. councils) will be given wider discretion on the grant of licences and powers to revoke them.

**Licence Fees**
It is proposed that the site licensing regime should be self-financing and that the LA should be able to cover its associated administration costs through charges for licence applications and an on-going licence fee. This would not apply to the costs of enforcement or Management Orders, which are to be borne by the licence holder or site owner.

There would be a one-off licence (and associated fee) valid for the duration that the relevant site owner remains the owner and in charge of and running the site. The practical arrangements would involve the licensing authority writing out to individual site owners advising them of the need to apply for a new one-off licence. The relevant information and application form would thus be sent to site owners in this way. The site owner would then need to fill in the application form and return it to the LA with the appropriate one-off fee as would have been notified. If the application is found to be satisfactory, the new licence would then be issued by the LA and sent to the site owner. Revocation of the old licence would in effect happen at the same time the new licence is issued.
An annual licence fee would also apply which is intended to pay for ongoing inspection and enforcement procedures and would be proportionate in nature. It is envisaged that once receiving a licence, a site owner would need to pay an ongoing (annual) fee as a condition attached to the one-off licence. If not paid, then this would constitute a breach of the licence conditions.

The fees charged should reflect the actual costs across the board. It is envisaged that a licence holder should be able to pass on the costs of the licence fees to residents, since they are the main beneficiaries of a well run and enforced licensing regime. It is not however proposed that any other costs relating to enforcement or Management Orders should be allowed to be passed on to residents.

It is also intended that the Secretary of State should have a reserve power to regulate and set the maximum level of fees. This would only be exercised if LAs or licence holders fail to act responsibly in these areas.

**Site Certificates**

It is proposed that there should be a system in place allowing for the issue of a site certificate to cover the situation where, for instance, a prospective land purchaser wishes to ascertain whether a site licence would be granted and on what terms. Such a site certificate would be valid for two years from the date of issue and a fee would be payable for such an application.

**Monitoring**

To place a duty on licensing authorities to keep site licences under review and to monitor compliance with site licence conditions:

- LAs will need to have and comply with clear policies on managing licences granted and comply with new duties to ensure the regime works effectively, including monitoring compliance, promoting licensing in its area, and to ensure applications are received and dealt with promptly, investigating relevant complaints from residents or others with an interest in a site’s management.
Enforcement
To give licensing authorities the ability to serve enforcement notices on site owners where appropriate:

- LAs will be given the power to serve formal enforcement notices or actions (ENs) regarding contraventions of site licence conditions and requiring works to be carried out to comply with licence conditions. The LA would be required to consult with licence holders, residents and any others affected by such notices before serving a formal EN.

- LAs will be given powers to take action where the number of homes on a site exceeds those specified in a licence.

- LAs will be able to recover all of their reasonable costs and expenses in serving an EN, such as expenses linked to inspections, legal and administration costs, obtaining of expert advice etc.

- LAs will also be given the power to enter a site to carry out works itself if a licence holder is in breach of an EN.

- LAs will also be given the power to enter a site to carry out works to undertake Emergency Remedial Action if there is an immediate and significant threat to health and safety of residents on site.

Management Orders
To give LAs powers to put alternative management arrangements in place, to protect the interests of licence holders and residents when a licence cannot be granted or is revoked. To ensure that the provisions and facilities will be practical and workable, two types of management order schemes are proposed for this purpose: Interim Management Orders (IMOs) and Final Management Orders (FMOs).

The IMO is intended to be a temporary measure allowing the LA to install a temporary site manager to secure the immediate management of the site. In addition, it allows the LA to undertake a review of the situation which gave rise to the order, to take immediate steps to deal with significant problems and to secure the effective long term management of the site. The permitted duration of an IMO should not last longer than twelve months.

The FMO has the same essential characteristics as an IMO but may not be made unless it immediately follows an IMO. Whereas an IMO is intended to secure the immediate management of a site, an FMO must be developed in the context of a longer term management strategy for the site. An FMO may be made for a period not exceeding seven years, but may be made for shorter periods.
**Fines**

To increase the level of fines, including for breaches of licence conditions it is intended to set the following system and levels:

1. The current fine of £2,500 for a landowner causing or permitting land to be used as a caravan site without a licence from an LA (with some exceptions). It is proposed to increase this to £50,000 to provide sufficient deterrent.

2. It would be an offence for site owners to allow more park homes to occupy a site than is permitted under the licence conditions. This would attract a £50,000 fine, including the situation where a licence holder, site owner or a person authorised by the licence holder or the site owner is found guilty of bringing in and stationing or permitting the bringing and stationing by others of park homes on a site in excess of the permitted limits under the licence.

3. It would be an offence for a licence applicant to provide false or misleading information or fail to knowingly disclose information which the LA has asked for in relation to their consideration of the application and offenders would be subject to a Level 5 fine (£5,000).

4. It would be an offence not to comply with an EN and offenders would be subject to a fine of up to £20,000.

5. It would be an offence to obstruct a person carrying out any emergency remedial action (ERA) for the LA and offenders would be subject to a Level 5 fine (£5,000).

10. **What difference will it make?**

As already indicated above, the measures will meet the need to:

- protect the general interests, needs and aspirations of park home residents, many of whom are older and vulnerable people
- ensure park home residents and in some cases people living in neighbouring areas are afforded greater assurances on matters relating to health and safety, security and general wellbeing, and are treated with dignity and respect
- prevent criminal activity and other extreme behaviour against residents by some (albeit a minority of) site owners, such as harrassment, blackmail, fraud, threats or actual harm to people and property
- improve and drive up management standards in the park homes sector generally, which will benefit not only residents and local neighbourhoods, but all site owners who already operate in a reputable and honest way, together with other business and trade interests directly or indirectly linked to the provision and operation of park homes
• provide LAs with clearer and more rigorous procedures and powers to organise and administer an effective licensing system. The new licensing system will benefit LAs and remove administrative burdens since it will be self financing. LAs will be able to charge for the issuing of a licence and associated administrative, monitoring and enforcement work, whereas at present they are obliged to issue licences and carry out related work with no provision for cost recovery

• there will be a de-regulatory effect as other burdens on LAs and business will be removed by the reduction in the number of licences which have to be issued and potentially related monitoring work. This arises because small sites of less than four caravans and all sites that are owned and occupied by the same family will be excluded from the requirement for licensing, which currently applies

• the proposals will also contribute to the five principles of sustainable development to which the Government is committed, mainly in relation to the areas of ensuring a strong, healthy and just society; achieving a sustainable economy, and promoting good governance.

11. Voluntary Compliance
The possibility of allowing voluntary compliance with a code of conduct or similar facility, either instead of, or in addition to the existing legislative provisions was considered. However, we have concluded that this would not be appropriate because of a number of reasons:

• there are already some forms of code of practices in place within the industry, but even with these being augmented by the existing legislative provisions, it has not proved possible to remedy the current inadequate site management and associated problems prevalent in some areas of the industry

• some of these problems are very serious and can involve criminal activity as outlined above, which only a more effective and rigorous site licensing regime is likely to remedy. Voluntary measures have not been fully effective in this respect and the type of site owners who need to be tackled are unlikely to comply with such a light touch option

• since park homes are not real estate there is specific legislation designed to protect park home owners which regulates the contractual dealings between site owners and residents, but is sometimes seen by both parties as complex. More unscrupulous site owners have exploited the existing legislation and this has highlighted the need to ensure that site owners are suitable persons to manage dealings with residents – many of whom are elderly or vulnerable people. The need to regulate sites therefore continues to exist, but equally importantly, there is a need to regulate those persons running the sites
• apart from park home residents, local authorities, and MPs amongst others, the park home industry itself has called for a more strengthened licensing regime, including a fit and proper person requirement, to help deal with problems that can harm and adversely affect the good name and image of the sector as a whole.

12. Policy review
The Policy will be reviewed three years after the introduction of the proposed changes (which is anticipated when a suitable legislative opportunity arises) and in liaison with key stakeholders. To establish the actual costs, benefits and delivery of the intended effects a monitoring scheme is envisaged which will identify these factors, including the reduction or otherwise of park home disputes and court cases; numbers of enforcement actions by licensing authorities, IMOs, FMOs and numbers of tribunal cases; number of new sites or, if applicable, any permanent closures. We will also gauge the number and type of complaints, or other feedback from the industry, residents and local authorities from information linked to correspondence, representations, enquiries received by central and local government.

13. Summary of costs and benefits:

<table>
<thead>
<tr>
<th>Table 1: Monetised Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Groups Affected</td>
</tr>
<tr>
<td>Site owners</td>
</tr>
<tr>
<td>Site owners</td>
</tr>
</tbody>
</table>

Note: Consultees’ comments or suggestions are welcome on these estimated costs shown, or whether any others would arise and what these are likely to be.
<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of cost</th>
<th>Annual Cost Estimate (£)</th>
<th>One-off Cost Estimate (£)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1c. Site owners</td>
<td>Administration burdens linked to initial one-off licence application process.</td>
<td>N/A</td>
<td>100,000 (one-off)</td>
<td>Based on an average estimated £50 per hour cost of making and submitting a licence application. (£50 x (b), i.e. 50 x 2,000)</td>
</tr>
<tr>
<td>1d. Site owners</td>
<td>Estimated average cost of appealing against terms or conditions or refusal of licence for initial one-off applications</td>
<td>N/A</td>
<td>15,000 (one-off)</td>
<td>Based on 5% of applications being appealed at a cost of £150 per appeal. (i.e. £150 x 100)</td>
</tr>
<tr>
<td>1e. Site owners</td>
<td>Estimated average cost to site owners (who transfer sites) of one-off licence application fee.</td>
<td>150,000 (annual)</td>
<td>N/A</td>
<td>Based on an estimated 10% annual site transfer/turnover rate. (c x10%) x (f) (i.e. 200 x £750)</td>
</tr>
<tr>
<td>1f. Site owners</td>
<td>Estimated average cost of appealing against terms or conditions or refusal of licence for new licences</td>
<td>1,500 (annual)</td>
<td>N/A</td>
<td>Based on 5% of applications being appealed at a cost of £150 per appeal. (i.e. £150 x 10)</td>
</tr>
<tr>
<td>2a. Local Government</td>
<td>Estimated costs to LAs dealing with initial one-off licence applications</td>
<td>N/A</td>
<td>1,500,000 (one off)</td>
<td>Based on an average estimate of £750 per site. (i.e. £750 x 2,000)</td>
</tr>
</tbody>
</table>
Table 1: Monetised Costs (continued)

<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of cost</th>
<th>Annual Cost Estimate (£)</th>
<th>One-off Cost Estimate (£)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2b. Local Government</td>
<td>Estimated cost of annual ongoing costs of administering the revised licensing regime</td>
<td>900,000 (annual)</td>
<td>N/A</td>
<td>Based on an average estimate of £375 per site.</td>
</tr>
<tr>
<td>2c. Local Government</td>
<td>Estimated cost of enforcement actions against “bad” site owners</td>
<td>100,000 (annual)</td>
<td>N/A</td>
<td>Relates to cases which would not be dealt with via tribunals e.g. appeals by site owners. (5% of sites assumed at an estimated average cost of £1,000: (b \times 5% \times h) (i.e. 100 x £1,000)</td>
</tr>
</tbody>
</table>

Total 1,901,500 3,115,000

It should be noted that for park home residents, costs to them could arise if a site owner passes on some or all of a one-off initial licence application fee. The total one-off cost involved would amount to £1,500,000 if all of the fees were in effect transferred to all residents in this way. This is based on an average estimate of £750 per site \((f \times b)\), i.e. £750 x 2,000. Similarly, park home residents would also be subject to costs if site owners pass on annual licence fee annual costs. This is based on an average estimate of £375 per site, i.e. \((g \times b)\) (i.e. £375 x 2,000).
<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of cost</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>Start up “costs” or work for LAs implementing revised licensing regime.</td>
<td></td>
</tr>
<tr>
<td>Park Home Industry generally</td>
<td>Possible consequential knock-on “costs”, work etc e.g. need for acquainting with new provisions and increased advice and guidance to site owners by trade associations.</td>
<td>Excludes site owners themselves</td>
</tr>
</tbody>
</table>

Note: Consultees’ comments or suggestions are welcome on these estimated costs shown, or whether any others would arise and what these are likely to be.
<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of Benefit</th>
<th>Annual Benefit Estimate (£)</th>
<th>One-off Benefit Estimate (£)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>Removal of existing administrative burdens since system will be self financing.</td>
<td>2,572,500 (annual)</td>
<td>N/A</td>
<td>Based on 0.3 FTE (whose full cost is £35,000 pa) per LA. LAs will be able to charge for the issuing of a licence and associated administrative, monitoring and enforcement work, whereas at present they are obliged to issue and vary licences, monitor and enforce against licences and deal with often ongoing complaints about site management standards with no provision for cost recovery. Cost information is limited in relation to local authority administration and enforcement of the existing site licensing regime and will no doubt vary significantly from one authority to another. For the purposes of this exercise we have assumed that an average of 0.3 full time equivalent (whose full cost is approximately £35,000 per annum) is used per authority. (i.e. 245 x £10,500 = £2,572,500)</td>
</tr>
</tbody>
</table>

Note: Consultees’ comments or suggestions are welcome on these estimated benefits shown, or whether any others would arise and what these are likely to be.
<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of Benefit</th>
<th>Annual Benefit Estimate (£)</th>
<th>One-off Benefit Estimate (£)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>Fees from initial one off applications</td>
<td>N/A</td>
<td>1,500,000 (one off)</td>
<td>Based on an average estimated fee of £750 per site. $(f \times b)$ (i.e. £750 x 2,000)</td>
</tr>
<tr>
<td>Local Government</td>
<td>Fees from annual fees and new licences</td>
<td>900,000 (annual)</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Park Home Residents</td>
<td>Savings to residents from not having to take action via tribunals against site owners.</td>
<td>15,000 (annual)</td>
<td>N/A</td>
<td>Based on 1 case per site for 5% of sites annually at a cost of £150 per application. (Where average cost of tribunal case estimated at £150.) $((c) \times 5%) \times (£150) = £15,000$.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>3,487,500</strong></td>
<td><strong>1,500,000</strong></td>
<td></td>
</tr>
</tbody>
</table>
Table 4: Non-monetised Benefits

<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of Benefit</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Home Residents</td>
<td>Non-monetised benefits to residents as site management and quality improve.</td>
<td>Includes benefits such as improved quality of life and well-being, amenities, convenience, safety, security. Especially important to older, disabled or other vulnerable residents.</td>
</tr>
<tr>
<td></td>
<td>Protecting the general interests, needs and aspirations of park home residents, many of whom are older and vulnerable people.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensures park home residents (and in some cases people living in neighbouring areas)* are afforded greater assurances on matters relating to health and safety, security and general wellbeing, and are treated with dignity and respect.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Prevent criminal activity and other extreme behaviour against residents by some site owners, such as harassment, blackmail, fraud, threats or actual harm to people and property.</td>
<td></td>
</tr>
<tr>
<td>Park Home Industry generally</td>
<td>General raising of standards should benefit industry as a whole, e.g. better reputation and improved consumer confidence in products or services offered.</td>
<td>Includes positive impacts related to aspects such as rural proofing, environment, sustainability, health, disability, human rights, and equality.</td>
</tr>
<tr>
<td></td>
<td>Improving and driving up management standards in the park home sector generally will benefit not only residents and local neighbourhoods, but all site owners who already operate in a reputable and honest way, together with other business and trade interests directly or indirectly linked to the provision and operation of park homes.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>There will be a de-regulatory effect as other burdens on LAs and business will be removed by the reduction in the number of licences which have to be issued and potentially related monitoring work. This arises because small sites of less than four caravans and sites owned and occupied by a family will be excluded from the requirement for licensing, which currently applies.</td>
<td></td>
</tr>
</tbody>
</table>
### Table 4: Non-monetised Benefits (continued)

<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of Benefit</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Home Site Owners</td>
<td>Possible reduced non-benefits to responsible site owners who incur “costs” or dis-benefits of unfair competition from those operators who avoid compliance or commit acts of non-compliance.</td>
<td>Includes positive impacts related to some aspects of competition and small firms.</td>
</tr>
<tr>
<td>General public</td>
<td>Benefits to local communities and neighbourhoods in some areas as management of problem sites improved.</td>
<td>Includes positive impacts related to aspects such as rural proofing, environment, sustainability, health, disability, human rights, and equality.</td>
</tr>
<tr>
<td>Local Government</td>
<td>Provide LAs with clearer and more rigorous procedures and powers to organise and administer an effective licensing system. The new licensing system will benefit LAs and remove administrative burdens since it will be self financing. LAs will be able to charge for the issuing of a licence and associated administrative, monitoring and enforcement work, whereas at present they are obliged to issue licences and carry out related work with no provison for cost recovery. There will be a de-regulatory effect as other burdens on LAs and business will be removed by the reduction in the number of licences which have to be issued and potentially related monitoring work. This arises because small sites of less than four caravans and all sites owned and occupied by a family will be excluded from the requirement for licensing, which currently applies.</td>
<td></td>
</tr>
</tbody>
</table>
Table 4: Non-monetised Benefits (continued)

<table>
<thead>
<tr>
<th>Groups Affected</th>
<th>Source of Benefit</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government</td>
<td>The proposals will also contribute to the five principles of sustainable development to which the Government is committed, mainly in relation to the areas of ensuring a strong, healthy and just society; achieving a sustainable economy, and promoting good governance. (Also applies to all other categories of beneficiaries given the advantages to society as a whole.)</td>
<td></td>
</tr>
</tbody>
</table>

14. General key assumptions adopted in producing estimates (England only):

Number of licensing authorities: 245. (a)
Estimated total number of park home site owners: 2,000 (1 per site assumed). (b)
Estimated total number of park home sites: 2,000. (c)
Estimated total number of park homes: 85,000. (d)
Estimated total number of park home households: 85,000. (e)
Estimated average one-off set up fee: £750. (f)
Estimated average annual licence fee: £375 (g)
Estimated average cost of a park home court case to government: £1,000 (h)

Note 1: The scale of licence fees chargeable are to be set by the local licensing authorities (LAs) themselves, reflecting full cost recovery and taking account of the size and nature of each site. As such, these will vary from one LA to another, and only a very rough estimate can be provided, based on available data relating to average level of HMO licence fees to date.

Note 2: A rough estimate of the distribution of sites according to number of units or pitch sites is as follows:

<table>
<thead>
<tr>
<th>Size of site by units/pitches</th>
<th>Numbers of units/pitches</th>
<th>Percentage of sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large</td>
<td>&gt;50</td>
<td>32%</td>
</tr>
<tr>
<td>Medium</td>
<td>20-49</td>
<td>37%</td>
</tr>
<tr>
<td>Small</td>
<td>2-19</td>
<td>31%</td>
</tr>
</tbody>
</table>
15. Summary of other impacts

<table>
<thead>
<tr>
<th>Impact</th>
<th>Overall Effect of Initiatives</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Competition</strong></td>
<td>Possible adverse effect caused by stricter entry requirements But on balance no overall consequential effects expected.</td>
<td>Possible adverse effects caused by extra costs associated with introducing the new licensing regime, including the need for site owners to be “fit and proper people” and that although these will apply to all businesses equally, they would nevertheless restrict certain people from entering the market Apart from the above, should not directly or indirectly limit the number or range of suppliers, the ability of suppliers to compete or reduce suppliers’ incentives to compete vigorously. Any affects should be beneficial and apply to all businesses/bodies equally overall (Relates to improving existing site management).</td>
</tr>
<tr>
<td><strong>Small Firms</strong></td>
<td>Apart from factor identified above under competition, no overall consequential effects.</td>
<td>Should affect all businesses/bodies equally overall: the park homes site management sector comprises almost, if not entirely, small firms or equivalent of small firms. Relates to improving existing site management so those already following best practice should benefit by fairer competition.</td>
</tr>
<tr>
<td><strong>Legal Aid</strong></td>
<td>No overall consequential effects</td>
<td>No evidence seen or available to indicate any significant direct or overall effect.</td>
</tr>
<tr>
<td><strong>Sustainable Development</strong></td>
<td>Yes – some consequential positive effect overall.</td>
<td>Enables better services to made available to clients/residents with a clearer system of licensing for service providers and regulating bodies – resulting in better quality and more effective use of housing stock, park homes and sites within and for local communities.</td>
</tr>
<tr>
<td><strong>Carbon</strong></td>
<td>No overall consequential effects</td>
<td>No evidence seen or available to indicate any significant direct or overall effect.</td>
</tr>
<tr>
<td><strong>Other environment</strong></td>
<td>Yes – some consequential positive effect overall.</td>
<td>Should improve the effectiveness, use, safety, security etc of housing stock, park homes and sites within and for local communities.</td>
</tr>
</tbody>
</table>
Table 5: Proposed Park Homes Site Licensing Provisions (continued)

<table>
<thead>
<tr>
<th>Impact</th>
<th>Overall Effect of Initiatives</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>Yes – some consequential positive effect overall</td>
<td>Should improve health, safety and wellbeing via inclusion and prevention agenda, health and safety of housing, park homes and sites within and for local communities.</td>
</tr>
<tr>
<td>Race</td>
<td>Yes – some consequential positive effect likely.</td>
<td>Should make park homes, sites and services more secure, fairer, inclusive and accessible overall, especially to vulnerable people and those hardest to reach and in most need.</td>
</tr>
<tr>
<td>Disability</td>
<td>Yes – some consequential positive effect likely.</td>
<td>Should make park homes, sites and services more secure, fairer, inclusive and accessible overall, especially to vulnerable people and those hardest to reach and in most need.</td>
</tr>
<tr>
<td>Gender</td>
<td>Yes – some consequential positive effect likely.</td>
<td>Should make park homes, sites and services more secure, fairer, inclusive and accessible overall, especially to vulnerable people and those hardest to reach and in most need.</td>
</tr>
<tr>
<td>Human Rights</td>
<td>Yes – some consequential positive effect likely.</td>
<td>Should make park homes, sites and services more secure, fairer, inclusive and accessible overall, especially to vulnerable people and those hardest to reach and in most need.</td>
</tr>
<tr>
<td>Rural proofing</td>
<td>Yes – some consequential positive effect likely.</td>
<td>Likely to affect rural more than urban communities. Should make park homes, sites and services more inclusive and accessible in all locations overall, especially to those hardest to reach and in most need.</td>
</tr>
</tbody>
</table>

16. Consultation
We hope that this consultation can also help to provide further information on costs and benefits especially where there are gaps in monetised values as indicated. Consultees are therefore invited to comment or provide information which they feel should apply or be taken into account in this impact assessment. This applies especially to competition and small business, site owners and local authorities.
Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

<table>
<thead>
<tr>
<th>Type of testing undertaken</th>
<th>Results in Evidence Base?</th>
<th>Results annexed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competition Assessment</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Small Firms Impact Test</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Legal Aid</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Sustainable Development</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Carbon Assessment</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Other Environment</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Health Impact Assessment</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Race Equality</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Disability Equality</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Gender Equality</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Human Rights</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Rural Proofing</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
Annex A

Further Background on Park Homes

The park homes sector is a small but important part of the residential market in England. It is very diverse. Often the sector provides relatively affordable accommodation for persons with housing needs, whose access to traditional (social or private) housing is limited. On the other hand it often also provides housing to persons downsizing from traditional housing and freeing up, as a result, larger family accommodation.

There are approximately 2,000 park home sites in England, providing nearly 85,000 homes.

The diversity of the market is reflected in the quality (in terms of amenities, services and location) of sites and the homes within them. Some sites are laid out almost as self contained communities, whereas others are simply caravan "parks". This is reflected in the type and quality of the home – some akin to conventional good quality bungalows – and others being more traditional caravans. These differences are reflected in affordability with sited park homes costing anything from £10,000 to in excess of £250,000.

The majority of the residents of park home sites are elderly, although there are no statistics on this.

The main stakeholders groups are the local authorities who licence the sites, the British Holiday and Home Parks Association and the National Park Homes Council who represent the site owners and the National Association of Park Homes Residents and the Independent Park Home Advisory Service who represent the residents.

Other Key Facts/Figures

The Government has improved the rights of residents through making changes to the terms implied by statute into their agreements with site owners and which must be included in the written statement to be provided before the sale of a new home. These provisions came into force on 1 October 2006.

For the purpose of encouraging energy efficiency (following earlier consultation) the Government amended certain requirements relating to the maximum dimensions of a twin unit caravan, which also came into force on 1 October 2006.
Following consultation, Communities and Local Government (CLG) announced in March 2007 that proposals will be brought forward to make clearer the payments to site owners that residents can be required to make on the purchase or sale of their home. Details will be set out in a consultation paper due for publication later this year.

In April 2008 CLG published revised Secretary of State approved model standards and associated guidance which local authorities must take into account when attaching conditions to a site licence. The model standards specify best practice in relation to the standards expected in relation to layout, facilities and services on a site.

CLG launched a consultation on 30 May 2008 on a new low cost tribunal mechanism to resolve disputes on rights under agreements to occupy park homes. A document setting out a summary of the responses received to the consultation and the proposed way forward was published in May 2009.

A number of fact sheets setting out the rights of residents have been published; these cover the following areas:

- Qualifying Residents’ Association
- Residents Rights and Obligations
- Selling a Park Home; and
- Pitch Fees and other payments to the Site Owner.
Annex B

Park Homes Site Licensing Proposals: Competition and Small Firms Impact Assessment

**Competition Impact Assessment**

1.1 *Whether the measure will directly or indirectly limit the number or range of suppliers?* There is unlikely to be any material effect in this area – the measures would help ensure that bad management practices are driven out of the sector. In effect, only potential “bad suppliers” would be affected – see below also.

1.2 However, we understand that there could be adverse effects caused by extra costs associated with introducing the new licensing regime, including the need for site owners to be “fit and proper people” and that although these will apply to all businesses equally, they would nevertheless restrict certain people from entering the market. Since, however, the key objective of the measure, which is as light touch as possible, is to prevent “bad site owners” from operating in the sector, and will also raise standards and create a more level playing field, we consider that the benefits from the restrictions will outweigh the costs – see main Impact Assessment for currently available cost/benefit information.

1.3 It should also be emphasised that the proposed measures will not have any direct bearing on the number of park home sites which might be allowed by a local authority in its area on the grounds of whether or not they consider that there is unsatisfied demand in their area.

1.4 *Whether the measure will limit the ability of suppliers to compete?* As above, the proposals should create a more level playing field and enhance free and healthy competition in the sector.

1.5 *Whether the measure will reduce suppliers’ incentives to compete vigorously?* As above, the proposals should have no material adverse effect. If anything, these should foster fairer and more open competition.

**Small Firms Impact Assessment**

2.1 *Whether the measure affects small firms, either directly or indirectly:* There is likely to be some small effect in causing behavioural changes in respect of competitors, but this is unlikely for suppliers or customers. There are no expected differences in impact between large and small firms because the park home site management sector almost exclusively comprises small firms and so far as we are aware there are no middle or large firms involved. The consultation referred to at 2.7 below is expected to inform further on this.
2.2 Alternative approaches such as exemptions or flexibilities would not be appropriate in this case as all the operators involved in site management are likely to have fewer than 20 employees (the set level referred to in the BERR guidance on Small Firms Impact Assessments) and there would therefore be no differential impact as would occur where a sector comprised large and medium as well as small firms.

2.3 Similarly, the possibility of giving a “complete or partial” exemption from our proposed measures for small businesses (defined in the BERR guidance as those with fewer than 50 employees) would not be appropriate, for the same reason given in 2.2 above.

2.4 The other overriding factor which would preclude such alternative approaches being granted concern the need for and nature of the proposed licensing regime itself. For the proposed new system to be workable, the need to have a licence with set conditions would have to be universally applied to all site operators, as happens at present with the current regime. Such exemptions or flexibilities would result in a relaxation of the regime and defeat the purpose of a more rigorous and enforceable system.

2.5 Neither would possible non-regulatory alternatives, such as industry codes of practice be a viable solution; the scale and nature of the problem which the proposed new licensing regime seeks to address have been identified as being sufficiently serious to merit a regulatory approach and are highly unlikely to be resolved by voluntary codes. The industry supports better regulation to the extent of ensuring that people operating park home sites should be “fit and proper” persons.

2.6 **Consultation:** Through our consultation, we are aiming to establish and clarify information about other factors such as the relative sizes and number of small firms in the sector, administrative burdens, potential annual costs minus benefits and any unintentional effects of the measure.

2.7 With the above in mind, the following small business representative organisations have been included in our consultation:

Federation of Small Businesses
Confederation of British Industry
Institute of Directors
British Chamber of Commerce
The Forum for Private Business
The Social Enterprise Coalition
Appendix D

Legal Aid and Justice Impact Test

Section One – General Information

In brief, what is your proposal?
As part of a revised local authority (LA) administered licensing regime for park home sites, it is proposed to introduce an enforcement system and fines for offences committed in connection with these as briefly outlined below:

The LA would be given the power to serve enforcement notices (ENs) regarding contraventions of legislation and site licence conditions. The LA would be able to recover all of its reasonable costs and expenses in serving an EN, including inspections, legal and administration costs, obtaining expert advice etc. LAs would also have the power to enter a site to carry out works itself if a licence holder is in breach of an EN.

It is proposed to increase the level of fines, including for breaches of licence conditions, as follows:

1. All caravan sites must have a valid site licence. The current fine of £2,500 for a landowner causing or permitting land to be used as a caravan site without a licence from an LA (with some exceptions). It is proposed to increase this to £50,000 to provide sufficient deterrent.

2. Site owners must only station park homes in accordance with a permitted number of units on site as specified by the licence conditions. It would be an offence to contravene these conditions with a £50,000 fine if a licence holder, site owner or a person authorised by the licence holder or the site owner is found guilty of bringing in and stationing or permitting the bringing and stationing by others of park homes on a site in excess of the permitted limits under the licence.

3. Applicants for a licence would be required to provide certain prescribed information and to certify the information is correct. It would be a criminal offence for an applicant to provide false or misleading information or to fail to knowingly disclose information which the local authority has asked for in relation to their consideration of the application. Offenders would be subject to a Level 5 (£5,000) fine.
4. Site owners must comply with any Enforcement Notice issued by the LA, by carrying out actions or works specified in the notice and by completing these to the satisfaction of the local authority. It would be an offence not to comply with an Enforcement Notice and offenders would be subject to a fine of up to £20,000.

5. LAs need to be able to enter a site (or any part of it including a pitch) at any reasonable time for the purpose of undertaking any emergency remedial action (ERA). It would be an offence to obstruct a person carrying out such work for the authority. Offenders would be subject to a Level 5 (£5,000) fine.

In addition, the new proposals will also include provision for all civil appeals under the proposed licensing regime to be heard by the Residential Property Tribunal Service (RPT). The RPT is a specialist housing tribunal which is part of an umbrella organisation called the Residential Property Tribunal Service (in Wales, known as the Residential Property Tribunal Wales). RPTs and their sister tribunals have a wealth of experience in adjudicating on disputes and in carrying out other functions in connection with housing and landlord and tenant matters. The RPT currently have jurisdiction for a number of housing law issues including landlord’s rights of appeal in relation to licensing Houses in Multiple Occupation and Selective Licensing of residential properties under the Housing Act 2004 and we consider it appropriate for site licensing appeals to fall to the RPT. In addition, the RPT currently have jurisdiction for approving management orders in relation to Houses in Multiple Occupation. We propose also that the RPT are given jurisdiction for approval of management orders under the site licensing regime.

What is your proposal intended to achieve, over what geographical area (e.g. England, England and Wales) and in what timescale?

As part of the overall package of park home site licensing reform:

1. To ensure that site licence holders will be “fit and proper persons” demonstrating that they meet the relevant competences to manage sites.

2. To give local authorities (LAs) powers to put alternative management arrangements in place where above proves impossible.

3. To place a duty on LAs to monitor compliance with site licence conditions.

4. To give LAs the ability to serve enforcement notices on site owners where appropriate.

5. To increase level of fines for breaches of licence conditions.
The over-arching intended effect is to remedy the current problems and shortcomings of the current licensing system, ensuring that it is fit for purpose in the 21st century and safeguards residents’ rights, safety and security.

**Geographical area:** The proposals will cover England and Wales.

**Timescale:** Consultation to run from May to August 2009.

**What public commitments have been made and to whom?**
Public commitments have been made to consult on the proposals. A previous consultation in 2005 was followed up with a notification of our intention to pursue a number of proposals including those outlined here. Government Ministers have also signalled their intention to overhaul and improve the licensing regime, including statements made in Parliament.

**How does the proposal change what happens now?**
As indicated above, LAs will have more powers to ensure site owners are fit and proper people and comply with licensing conditions together with effective enforcement.

**Who will be affected and in what numbers?**
All park home site owners (currently around 2,000); residents/households (currently around 85,000); Local (Licensing) Authorities (245); Possibly the Police, Crown Prosecution and Court services (numbers involved or affected unknown at this stage), RPT.

Section Two – The impact of the proposal on the courts and/or Tribunals

**Do you expect there to be an impact on the Courts Service or on the Tribunals Service (or both)? Are those impacts likely to require new IT systems and/or new forms, training or guidance for court or tribunal staff?**
No. RPT is a tribunal NDPB sponsored by CLG.

**Do you expect more or fewer cases to come to the Courts Service or Tribunals Service as a result of the proposal?**
There might be a slight increase initially in appeals against refusal of a licence or other matters, but in the long run should not have an impact.

**Does your proposal create a new right of appeal or route to judicial review? If yes, how will these be handled? Has the use of alternative dispute resolution (ADR) procedures (including mediation, conciliation and ombudsman schemes) been considered?**
It is proposed that the appeal route for civil cases will be to the Lands Tribunal and for criminal cases, the Court of Appeal.
Section Three – The impact of the proposal on Judges

Are you able to estimate whether your proposal will lead to a change in the number or type of judges required? If yes, please explain these changes.

Not able to estimate at present, but we do not envisage any significant change in the number or type of judges required.

If more judges need to be appointed, when will they be needed? Not likely to be applicable.

Are there likely to be new judicial training requirements as a result of the proposals?

Not able to estimate at present, but we do not envisage any significant need for new judicial training requirements.

Section Four – The impact of the proposal on Legal Aid

Not likely to have any impact on Legal Aid.

If yes, which type of legal aid is likely to be affected: i) criminal or ii) civil and family or iii) asylum?

As above but any affect will relate to civil and family legal aid.

If yes, do you expect Legal Aid costs to increase or reduce as a result? Likely to reduce.