



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Mobile Homes (Wales) Act 2013 – Information Sheet

Qualifying Residents' Associations

October 2014



This information sheet is part of a series about the rights and obligations of mobile home owners and site owners in Wales.

It gives some basic information to mobile home owners about Qualifying Residents' Associations under the Mobile Homes (Wales) Act 2013.

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

Introduction

The Mobile Homes (Wales) Act 2013 does not make any significant changes to the existing role of qualifying residents' associations on sites providing they comply with specific rules. The 2013 Act, however, enhances the role of the local authority in acknowledging the status of a resident's association, rather than the site owner doing so, as was the case prior to the 2013 Act.

A residents' association must meet relevant criteria in order to be considered a Qualifying Residents' Association. A site owner is required to consult the Qualifying Residents' Association (QRA) on certain issues as well as individual residents who are not members of a QRA about improvements to the site, especially any expenditure on improvements that the site owner wishes to take into account at the next pitch review.

Forming a Qualifying Residents' Association

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

The legal criteria for becoming a Qualifying Residents' Association are that:

- the association must represent the mobile home owners on the particular site
- at least 50% of the owners of the mobile homes on that site are members of the association. In calculating the percentage of home owners, each home is considered as having one occupant
- it must be independent from the site owner, who together with any agent or employee of theirs is excluded from membership
- apart from the site owner or any of their agents or employees, membership is open to all mobile home owners who own a mobile home on that site
- its rules and constitution must be open to public inspection and it must maintain a list of its members
- it must have a Chairman, Secretary and Treasurer who are elected by and from among the members
- with the exception of administrative decisions taken by the Chairman, Secretary and Treasurer acting in their official capacities, decisions are taken by voting. In any ballot, only one vote can be allowed for each mobile home, and
- an association is not a Qualifying Residents' Association unless an up-to-date list of members has been lodged with the local authority in whose area the site is situated;

- when a copy of the list of members is lodged with the local authority, the local authority must make sure that the association has at least 50% of the mobile homes on the site as members and must write to the association and the site owner confirming that it is satisfied
- an association must lodge an up to date list of its members as soon as is practicable after any changes to membership
- should membership fall below 50%, the local authority must give notice in writing to the association and the site owner that the association is no longer a Qualifying Residents' Association
- where there is more than one occupant of the home, the member of the association is whichever of them the occupiers agree should be the member. In the absence of any agreement, the person whose name appears first on the written agreement will be the member
- Any disclosure to the public of the list of association members will be treated a breach of the Freedom of Information Act 2000, to ensure the confidentiality. The details of the Chairman, Secretary and Treasurer of a Qualifying Residents' Association may be disclosed by a local authority, however, to help ensure transparency.

How does the Qualifying Residents Association seek the local authority's acknowledgment?

The association should write to the local authority setting out how it meets the above criteria and ask for their acknowledgement, in writing to the Secretary, of the Qualifying Residents' Association.

What happens if the local authority does not respond or fails to acknowledge the association?

The association should make a complaint to the relevant local authority regarding the request. Local authorities have their own complaints procedure and will be able to inform you about how to undertake a complaint. Should the matter remain unresolved then a complaint should be escalated to the Public Service Ombudsman for Wales. The association should be prepared to provide enough evidence to show that it meets the necessary criteria.

What happens if the local authority does not like the constitution of the association?

The law simply requires that the Qualifying Residents' Association has a constitution; it does not require the local authority to approve it. However, a suitable template for a constitution has been drawn up jointly by the Independent Park Home Advisory Service, the National Association of Park Home Residents, the British Holiday & Home Parks Association and the National Park Homes Council.

Please contact them for a copy of the template; for contact details please see below. By using this template the site owner is less likely to object.

Independent Park Home Advisory Service

Tel: 0800 612 8938

Email: info@iphas.co.uk

Website: www.iphas.co.uk

National Association of Park Home Residents

Tel: 01903 816 247

Email: bjdoick@btinternet.com

Website: www.naphr.org

National Caravan Council

Tel: 01252 318251

Email: info@thencc.org.uk

Website: www.thencc.org.uk

British Holiday & Home Parks Association

Tel: 01452 526911

Email: enquiries@bhHPA.org.uk

Website: www.bhHPA.org.uk

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

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

What happens where there is a change of site ownership?

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

What documentation can a site owner ask to see?

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

Rights of the Qualifying Residents' Association

What rights does a Qualifying Residents' Association have?

A site owner must consult a Qualifying Residents' Association about all matters which relate to the operation and management of, or improvements to, the site which may affect the site occupiers either directly or indirectly. The rules for consultation with the Qualifying Residents' Association require

the site owner to:

- give the Qualifying Residents' Association at least 28 clear days' notice in writing of the matters which relate to the operation, management or improvements to the site
- describe the proposed changes and how they may affect home owners either directly or indirectly in the long and short term
- take into account any representations made by the Qualifying Residents' Association before going ahead with the proposed changes.

Residents associations that do not qualify

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

Yes, an existing residents' association can continue or a new one can be set up where the criteria is not met. Residents' associations are frequently informal and many fulfil a number of roles, for example as a social club. One of the changes that the 2013 Act makes is that the consultation rights set out above associated with being a Qualifying Residents' Association apply to all mobile home owners of the site.

The benefits of a qualifying residents' association is that home owners can be represented by one single voice and be a more effective voice for residents on sites. In addition, the site owner must consult with mobile home owners on improvements which may result in a change to the pitch fee.