

# Residential Property Tribunal Service

Park Homes



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# Part One

## Introduction

### **What is the purpose of this Guidance?**

This guidance explains the procedures that will be followed by a Residential Property Tribunal (“the tribunal”) when dealing with applications to the tribunal under the Mobile Homes Act 1983 (“The Act”). Those applications deal with an agreement under which a person (“the occupier”) is entitled, under an agreement with the site owner (“the owner”), to station a park home on land forming part of a protected site and to occupy the home as his or her only or main residence (“an agreement”). The term ‘park home’ is used here for a home referred to and defined in the Mobile Homes Act 1983 as a ‘mobile home’.

A ‘protected site’ is any land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960. From 30 April 2011 the definition extends to local authority provided gypsy and traveller sites.

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

### **Assistance to Parties**

If a participant in proceedings informs the tribunal that the participant is unable to read or speak or understand English, the tribunal must make arrangements for that person to be provided, free of charge, with the necessary translations and assistance of an interpreter.

If a participant is unable to read English as a consequence of being temporarily or permanently blind or partially sighted the tribunal must make arrangements for that person to be provided, free of charge, with the necessary assistance (including Braille) for him or her to participate effectively in the proceedings.

If a participant is able to speak in English but is unable to read or write in English, the tribunal must provide that person with the services of somebody to read and explain the nature and context of any documents, and to write any documents on behalf of the participant that he or she reasonably requires for the purpose of enabling his or her effective participation in the proceedings. This does not include a requirement for the tribunal to give legal advice save as to explain the procedural steps involved in the proceedings).

If a participant is without hearing or speech the tribunal must make arrangements for that person to be provided, free of charge, with the services of a sign language interpreter, lip speaker, or palantypist, to help him or her to participate effectively in the proceedings.

If a person requires assistance under this regulation he or she must tell the tribunal office at the earliest opportunity.

## **What is a Residential Property Tribunal?**

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

Tribunals are organised by Rent Assessment Panels which are part of the Residential Property Tribunal Service "RPTS"). There are five Panels in England. Their addresses and telephone numbers can be found in the Annex to this booklet. Information is also available on the RPTS national help line on 0845 600 3178 and at the RPTS web site on [www.rpts.gov.uk](http://www.rpts.gov.uk).

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

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

### **The Case Officers**

The case officers are the administrative staff who will deal with the correspondence and other paperwork in the case from start to finish. The case officers are able to speak to parties about the processes and procedures relating to the application. They cannot give general legal advice or advise about the law relating to the matter in question. Each Rent Assessment Panel has a Regional Manager who is responsible for the work of the case officers. Their names are included in the Annex.

### **The TRIBUNAL Members**

There are two types of member:

1. The Chairman: he or she is appointed to be a Chairman by the Lord Chancellor. The Chairman, who will usually be a lawyer or a surveyor, is responsible for the smooth running of the proceedings and will write up the reasons for the tribunal's decision.
2. Other members: these are appointed by the Secretary of State for Communities and Local Government. They may be lawyers, surveyors, other professional persons or lay persons. When a tribunal is set up to consider an application there will usually be three, but occasionally two, members including the Chairman. Sometimes a chairman sitting alone will exercise the powers of the tribunal. This will usually be when dealing with procedural and related matters although in limited instances a chairman sitting alone can hear and determine the application.

### **The Panel President**

Each Panel has a President, assisted by one or more Vice Presidents, who is responsible for the members and in particular decides which member(s) should be appointed to hear and decide a particular case. They will not be involved in the decision in a case unless they are a member of the tribunal dealing with the case. Their names are given in the Annex.

## Part Two

# Applications to the tribunal

### What types of application can be made to a tribunal?

The following types of application are covered by this booklet.

1. An application, under section 1(6) of the Act, by an occupier, for an order requiring the site owner to give him a written statement as to the terms of the agreement to occupy as required by the Act. *(An application under section 1(6) is not available to an occupier of a transit pitch on a local authority (including county council) gypsy and traveller site).*

\*2. (1) An application, under section 2(2) of the Act, by either party to an agreement, for an order that there shall be implied into the agreement terms concerning the matters mentioned in Part 2 of Schedule 1 to the Act.

(2) An application, under section 2(3) of the Act, by either party to an agreement for an order:

- (a) varying or deleting an express term of the agreement or
- (b) providing for an express term that would otherwise be unenforceable to have effect in full or subject to any variation specified in the order'

*((An application under section 2(2) or 2(3) is not available to an occupier of a transit pitch on a local authority (including county council) gypsy and traveller site).*

\*3. An application, under section 4 of the Act, by either party in relation to any matter under the Act or the agreement. *(Note that the court retains exclusive jurisdiction to deal with termination orders save in the case of applications 5 and 12 below).*

4. An application, under paragraph 5A(2)(a) of Chapter 2 or under paragraph 6(1)(a) of Chapter 4 of Part 1 of Schedule 1 to the Act, by a site owner who wishes to terminate an agreement for occupation on the ground that having regard to its condition the home is having a detrimental effect on the amenity of the site.

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

*(Note also that if there is a pre-existing arbitration agreement at the time any question under the Act or any agreement to which it applies arises, and the agreement applies to that question, the agreement will be ineffective and the tribunal and not the arbitrator or the court will have jurisdiction to determine that question. This applies also to decisions on termination matters that would otherwise have been for the court to determine, if the arbitration agreement applies to that question (See further application 12 below).*

5. An application, under paragraph 8(1E) of Chapter 2 of Part 1 of Schedule 1 to the Act, by an occupier for the tribunal's approval of a buyer for the purposes of a sale of the mobile home and assignment of the agreement under section 8 of the Act.

6. An application, under paragraph 9 of Chapter 2 of Part 1 of Schedule 1 to the Act, by an occupier for the tribunal's approval of a donee for the purposes of a gift of the mobile home and assignment of the agreement under section 9 of the Act.

\*7. An application, under paragraph 10(1)(a) of Chapter 2 or under paragraph 8(1)(a) of Chapter 4 of Part 1 of Schedule 1 to the Act, by a site owner, for the tribunal's approval for temporary relocation of the home on another pitch forming part of the site.

8. An application under paragraph 10(2) of Chapter 2, or under paragraph 8(2) of Chapter 4 of Part 1 of Schedule 1 to the Act, by an occupier, for an order that, where the owner has required the home to be stationed on another pitch so that he can replace or carry out repairs to the base on which the home is stationed, the owner must secure that on completion of the replacement or repairs the home is returned to the original pitch.

9. An application, under paragraph 16 of Chapter 2, or under paragraph 14 of Chapter 4 of Part 1 of Schedule 1 to the Act, by a site owner for an order that the pitch fee be reviewed and a determination of the amount of the new pitch fee.

10. An application, under paragraph 18(1)(a)(iii) of Chapter 2, or paragraph 16(1)(a)(iii) of Chapter 4 of Part 1 of Schedule 1 to the Act by a site owner for an order that proposed improvements be taken into account when the pitch fee is reviewed.

\*11. An application, under paragraph 28(1)(h) of Chapter 2, or under paragraph 26(1)(h) of Chapter 4 of Part 1 of Schedule 1 to the Act, by the secretary of a residents association for an order recognising the association as a qualifying residents' association.

\*12. An application by a site owner under paragraph 4, 5 or 5A of Chapter 2, or paragraph 4, 5 or 6 of Chapter 4 of Part 1 of Schedule 1 to the Act for a termination order on the ground that (a) the occupier has breached a term of the agreement and after having been given notice to remedy the breach has failed to do so within a reasonable time or (b) that the occupier is not occupying the home as his only or main residence or (c) that having regard to its condition the home is having a detrimental effect on the amenity of the site. In all of these cases the ground also requires that the tribunal considers it reasonable for the agreement to be terminated.

*Note that application 12 only applies where there is a pre-dispute arbitration agreement that covers the question to be decided. This means that the tribunal will decide the matter irrespective of the arbitration agreement.*

**NOTE that Chapter 2 of Part 1 of Schedule 1 to the Act governs agreements relating to pitches in England on a protected site *except* pitches on local authority (including county council) provided gypsy and traveller sites and Chapter 4 of Part 1 of Schedule 1 to the Act governs agreements relating to *permanent* pitches on local authority provided gypsy and traveller sites.**

## Part Three

### How to Apply

#### How can an application be made to the tribunal?

An application must be made on the appropriate application form to the tribunal at the local Panel Office. Forms can be obtained from the Panel Offices, whose details are set out in the Annex. If you do not know which is the correct office please telephone the RPTS national help line on 0845 600 3178. Application forms can also be downloaded from the RPTS Website at [www.rpts.gov.uk](http://www.rpts.gov.uk).

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

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

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

#### Does a fee have to be paid for an application?

A fee is payable by an applicant in respect of any of the applications listed on pages 4 and 5 that are marked with an asterisk (\*).

No fee is payable to the tribunal in relation to an application made under the Act that has been transferred from a court to a tribunal.

There is no fee payable for any other application. Furthermore, even if a fee is payable it will be waived in the following cases.

#### Waiver of fees

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

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

(a) **either** that credit includes a disability element **or** severe disability element (or both) or it is combined with child tax credit **and**

(b) the gross annual income used to calculate the Working Tax Credit is £16,190 or less

- A Guarantee Credit under the State Pensions Credit Act 2002

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

Any person in doubt about fees should telephone the RPTS help line on 0845 600 3178.

**At what point must a fee be paid?**

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

**Is the tribunal empowered to order reimbursement of a fee that has been paid?**

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

## Part Four

# Procedure following application

### What will happen after the tribunal has received an application?

The case officer will write to the applicant acknowledging receipt and send a copy of the application to the respondent together with the accompanying documents. The case officer will also send to the respondent a notice specifying the date by which they must send the reply mentioned below.

A respondent who receives the notice must send the tribunal a written reply acknowledging receipt of the copy documents and stating whether or not they intend to oppose the application. If the application relates to a proposed sale or gift of the home and the tribunal is notified of the name and address of the person to whom the occupier wishes to sell or give the home (“an interested person”) the tribunal will send that person a copy of the application and explain the procedure for applying to be joined as a party.

### Joining an appeal or application

A person (“the potential party”) may make a request to the tribunal to be joined as an applicant or respondent to the proceedings. However, such a request must be made as soon as possible. The tribunal may grant or refuse such a request. As soon as possible after reaching its decision the tribunal must notify the potential party of the decision and the reasons for it and send a copy of the notification to the existing parties. Any potential party whose request is granted will be treated as an applicant or respondent.

### Next steps

The case officer will send all parties and interested persons, of whom it has been notified, a copy of the application and directions for a hearing together with a date for the hearing and inspection of the property. Interested persons will be given instructions on how they can apply to be joined as a party. Any such application should then be made within the next 14 days.

### What are Directions?

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

### Paper Determinations and Hearings

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

Alternatively, if a paper determination is not appropriate, the chairman may direct that there should be a Case Management Conference (CMC). If a CMC is not arranged and a party feels that they would benefit from one, they should write to the case officer and request a CMC.

Note that in the case of applications 4, 8 and 12 above, a paper determination may only be made (a) where the respondent has notified the tribunal that the respondent does not oppose the application or (b) all parties have notified the tribunal that they consent to the application being decided without an oral hearing. (See further Part Five below, for urgent cases of proposed sales or gifts of the home and assignment of the agreement, where an oral hearing must be held if the tribunal is satisfied that specified exceptional circumstances exist).

### **What is a Case Management Conference?**

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

### **What is a preliminary hearing?**

A preliminary hearing is different from a CMC. In some cases there may be doubt about the validity of an application or an issue as to whether the tribunal has jurisdiction to deal with an application. In such cases the tribunal may arrange and notify the parties of a preliminary hearing to consider this matter alone. In such a case the parties will be notified and a hearing may be arranged to consider this preliminary issue. If the tribunal decides that the application is valid or that it does have jurisdiction it may go on to consider the main issue on the same date (if this has been pre-arranged with the parties). If not the case will progress thereafter in the normal way.

### **Is an expert necessary?**

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

## Part Five

# Inspections and hearings

### **Will the tribunal visit and inspect the premises?**

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

### **Can the parties say anything at the inspection?**

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

### **What is a hearing?**

A 'hearing' is where the tribunal convenes at a particular time and place for the purpose of enabling the parties to put their respective cases to the tribunal. A party can speak themselves or somebody else, whether professionally qualified or not, can speak for them. It could be a relative or friend for example. Parties should produce documentation in advance of any hearing.

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

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

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

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

### **Can a hearing be postponed or adjourned by the tribunal?**

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

apply for a postponement you should write to the tribunal giving full reasons. You should copy your letter to the other party(ies) and they will be invited to comment.

### **Can an applicant withdraw his or her application?**

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

### **Urgent hearings**

In the case of a proposed sale or gift of the home where the site owner's approval has been withheld, and the tribunal is satisfied that the exceptional circumstances set out in the tribunal procedures regulations exist, the tribunal must order an oral hearing to consider the application as a matter of urgency under an accelerated procedure.

## Part Six

### The decision and after

#### **When will the tribunal make its decision?**

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

#### **What orders can the tribunal make?**

In determining an application the tribunal can make whatever decision is provided for by the relevant provision of the 1983 Act relating to that application.

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

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

#### **How will the tribunal give its decision?**

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

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

Yes, but only in exceptional cases. The Housing Act 2004 gives the tribunal a limited power to order that a party shall pay another party's costs. This power can only be exercised where a party has failed to comply with an order made by the tribunal, or where an application has been dismissed or a party has acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings. Such costs are limited to a maximum of £5000 per person. Furthermore, such an order cannot be made unless the party has been given an opportunity of making representations on the matter to the tribunal. In all other cases each party must bear their own costs. (But see the section above on reimbursement of fees).

**Can the tribunal's decision be challenged?**

The tribunal cannot reconsider its own decision. However, any party can appeal the decision to the Upper Tribunal (Lands Chamber). Permission to appeal must be given by either the tribunal or the Upper Tribunal. Any application for permission to appeal must be made to the tribunal within 21 days of the date specified in the decision notice as the date the decision was given, although the tribunal has power to extend that time in exceptional circumstances.

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

**Does the Human Rights Act 1998 apply to tribunal proceedings?**

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

## Annex Panel Information

### **Northern Rent Assessment Panel**

President: Martin Davey  
Regional Manager: Alison Lomax

1st Floor, 5 New York Street  
Manchester M1 4JB

Tel: 0845 100 2614  
0161 237 9491  
Fax: 0161 237 3656

### **Midland Rent Assessment Panel**

President: Simon Duffy  
Regional Manager: Maureen McCabe

2nd Floor, Louisa House  
92-93 Edward Street  
Birmingham B1 2RA

Tel: 0845 1002615  
0121 236 7837  
Fax: 0121 236 9337

### **Eastern Rent Assessment Panel**

President: Bruce Edgington  
Regional Manager: Mark Allbut

Unit 4C, Quern House  
Mill Court, Great Shelford  
Cambridge CB22 5LD

Tel: 0845 1002616  
01223 841 524  
Fax: 01223 843 224

#### [London Rent Assessment Panel](#)

President: Siobhan McGrath  
Regional Manager: Peter Frost

1st Floor, 10 Alfred Place  
London WC1E 7LR

Tel: 020 7446 7700  
Fax: 020 7637 1250

#### [Southern Rent Assessment Panel](#)

President: John Tarling  
Regional Manager: Jim May

1st Floor, 1 Market Avenue  
Chichester PO19 1JU

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01243 779394  
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#### [Corporate Unit](#)

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[RPTS website: www.rpts.gov.uk](http://www.rpts.gov.uk)

## [Disclaimer](#)

The contents of this publication are correct at the time of going to press.

## [Tribunal Decisions and the RPTS Website](#)

All decision and reasons documents made by Residential Property Tribunals are published on the RPTS website.

A request to remove a particular decision, or personal details in that decision, from the RPTS website must be made in writing to the RPTS Corporate Unit (see annex for address). The request should set out the reasons for wanting the decision removed. All requests will be considered on a case by case basis.

**Residential Property  
Tribunal Service**

10 Alfred Place  
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Facsimile: 020 7580 5684

**National Helpline**

0845 600 3178

**Website**

[www.rpts.gov.uk](http://www.rpts.gov.uk)

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