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# Mobile Homes (Wales) Act 2013 – Information Sheet

## Going to a Tribunal

### Applying to the Residential Property Wales Tribunal

October 2014





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

It gives some basic guidance to people who use residential property tribunals, what they deal with and how they deal with applications made to them under the Mobile Homes (Wales) Act 2013.

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

## **Introduction**

The Residential Property Tribunal Wales (“the tribunal”) is an independent tribunal that has been set up to resolve disputes relating to private rented and leasehold property.

The Mobile Homes (Wales) Act 2013 (“the Act”) was passed by the National Assembly for Wales in November 2013. This new law is designed to give greater protections to occupiers of residential mobile homes in Wales. It restates a number of existing appeal mechanisms to the tribunal (previously set out in the Mobile Homes Act 1983) and introduces new grounds for applications to the Tribunal.

## **Residential Property Tribunal Wales – an overview**

The tribunal is funded by the Welsh Government as an independent tribunal that adjudicates over rental, leasehold and service charge cases within the social and private housing sectors.

A tribunal normally has three members. A legally qualified person will usually act as chair. The second member will normally be a qualified surveyor with expertise in the area of housing. The third member will usually be a lay person with some knowledge of the area or other expertise. Sometimes a tribunal will sit with two members to decide on an application, more often where the case is to be decided without a hearing. Sometimes a chairperson 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 chairperson sitting alone can determine the application.

## **Types of sites over which a tribunal can make decisions**

The tribunal has the power to deal with an application that relate to a ‘regulated site’, or a ‘protected site’ within the meaning of the Act. These include:

- A residential mobile home site (and any home or pitch within it);
- A mobile home or pitch within a mixed residential or holiday site as long as it is within the residential (protected site) part;

The tribunal will not be able to deal with applications for homes or pitches about sites that:

- Are made up of holiday lodges, touring caravans, mobile holiday homes or holiday chalet accommodation;
- Have planning permission for holiday use only;

- Are transit pitches on a local authority or county council site providing accommodation for gypsies and travellers.

### Contacting the tribunal

If you have any questions or need further information about how to make an application or appeal, the tribunal can be contacted:

**By Phone** - 029 2092 2777

**By E-mail** - [rpt@wales.gsi.gov.uk](mailto:rpt@wales.gsi.gov.uk)

**By Fax** - 029 2023 6146

#### By Mail:

The Residential Property Tribunal Wales  
1st Floor, West Wing,  
Southgate House,  
Wood Street,  
Cardiff CF10 1EW.

Further information about the Residential Property Tribunal Wales can be found on their website at: <http://rpt.wales.gov.uk/?lang=en> . This website includes further guidance notes and application forms for making an appeal to the tribunal.

### Applications that can be made to a tribunal

The applications that can be made can be found in the table below.

Type of application	Who can make the application?	Is there a fee?	Is there a time limit to apply?
If the site owner fails to provide a written statement	The resident	No	No
To add extra terms in an agreement	The resident or the site owner	Yes	Yes
To change or delete express terms in an agreement or for an order to enforce terms	The resident or the site owner	Yes	Yes
For authorisation to end an agreement because it has been broken or because it is not the resident's main home	The site owner	Yes	No

(See note 1 below.)			
For authorisation to terminate an agreement as a home is having a negative effect on the site	The site owner	Yes	No
For a refusal order preventing a sale or gift of a mobile home going ahead	The site owner	Yes	Yes
To re-site a home in order to carry out essential repairs or emergency works	The site owner	Yes	No
Pitch Fee Reviews (See note 2 below)	The resident or site owner	No	Yes
Appeal a decision not to issue a site licence	The site owner	Yes	Yes
Appeals relating to conditions of a site licence	The site owner	Yes	Yes
Appeals against a compliance notice	The site owner	Yes	Yes
Appeal against decision to take emergency action	The site owner	Yes	Yes
Appeal against demand for expenses	The site owner	Yes	Yes
Application for an order to revoke a site licence	Local authority	Yes	No
Appeal against a decision of whether a person is a fit and proper person.	Person applying to be the site manager	Yes	Yes
Appeal against an appointment of an interim manager	An aggrieved person	Yes	Yes
Applications relating to repayment order where site is unlicensed	The residents	Yes	Yes
Appeals relating to Site Rules	The residents or a qualifying residents' association	Yes	Yes

**Note 1:** *The tribunal can only deal with termination cases (other than the first stage for proceedings for reasons of its negative effect on the site) if the agreement contains a binding condition that termination will be dealt with by an arbitrator. In all other cases, proceedings must be taken in the county court.*

**Note 2:** *A resident can only apply to the tribunal if the site owner has served a notice of the review. However, in any case the review cannot be put into practice unless the resident agrees to it or a tribunal makes a decision to do so.*

### **Applying to the tribunal**

Both a resident or a site owner can apply to a tribunal or can ask someone to make the application on their behalf. If you are acting for yourself and cannot, or find it difficult to read or write English, you may ask the tribunal office staff for help in filling in the application. However, they cannot offer you any legal advice or help on the contents or merit of your proposed application.

You can get an application form from the residential property tribunal page on the website at <http://rpt.wales.gov.uk/?skip=1&lang=en> .

For most types of application, you will need to supply other information to support your application. Specific information about each type of application that can be made can be found from the tribunal office and on the website.

### **Paying the fees**

For some types of application, for example on pitch fee reviews, you do not have to pay a fee. For others, such as applications to move a home, you will pay a fee. The table provided above sets out which types of applications involve a fee.

If you are, or your partner, are receiving certain state benefits, you will not have to pay a fee. You can get more information on the fee for your application or whether you do not have to pay a fee from the tribunal office.

### **Making several applications and references**

An application relating to a single pitch or home may be concerned with more than one issue under the Act. For example, it may concern both terms to be implied in an agreement and deleting express terms.

On the other hand an application on a single issue may involve more than one home or pitch, for example, an application to move homes. The maximum number of homes that can be included in one application is 20.

These applications and references have a higher fee than single applications and the tribunal office will be able to tell you what the fee is.

You cannot make an application for two or more homes if it concerns two or more issues.

### **Responding to an application**

When a tribunal receives an application, they will serve a copy of it on the respondent. If you are the respondent and you are acting for yourself and cannot, or find it difficult to read or write English, you may ask the staff at the tribunal office for help in reading the application and in completing the reply. However, they cannot offer you any legal advice or help or advise on the contents or merit of the proposed application or how you should respond to it.

At this stage the tribunal must ask you (the respondent) whether you plan to oppose the application or not. The tribunal must give you at least 14 days in which to respond. It is important for you to reply.

### **If you do not object to the application**

If you tell the tribunal you do not oppose the application, they may allow it without further enquiry or proceedings (but they do not have to do so).

### **Directions**

Sometimes the tribunal will want more information about the application or the reply, so that they, and the parties involved can fully understand the issues and have access to the evidence.

As a result, they may issue what are called 'directions' telling you to supply the information, and sometimes they may tell you to send it direct to the other side. It is important to follow any directions within the time given. If you don't, the tribunal may find the case against you and sometimes the application will be allowed in part or whole, or dismissed.



## Case-management conferences

In more complicated cases the tribunal might decide to hold what is called a case-management conference. The purpose of the conference is to:

- clarify the issues that need to be dealt with;
- identify what other documents are needed (see the information above on directions);
- decide on procedural matters and decide the time needed to be allocated to a case.

A case-management conference is **not** a hearing. Sometimes the conference will be in the form of a meeting or it can be carried out over the phone. A conference is usually carried out by a tribunal chair sitting alone.

## Withdrawing an application

If you are the applicant and settle the issue or do not want to go ahead with the case, you can usually withdraw the application, or a specific part of it. However, in certain circumstances the tribunal will not allow you to withdraw the application if there are issues still to be dealt with or they consider you should pay the costs of the other side.

You can normally withdraw the application (or in part) before the tribunal starts to consider the evidence (whether at a hearing or at a meeting), as long as you let the tribunal and the respondent know in writing that you are doing this.

You can only withdraw an application after the tribunal has begun considering the evidence, if the tribunal is satisfied that the respondent agrees to the application being withdrawn and the tribunal approves the withdrawal.

## Representatives

You can ask someone to represent you in connection with the proceedings or to speak for you or present your case at a hearing. This could be a relative, a friend, a residents' association or a solicitor, or anyone authorised to act on your behalf.

If you appoint a representative to act for you in connection with the proceedings, all the paperwork, including notices about hearings and the decision itself, will be sent to your representative (unless you tell the tribunal that the representative is no longer acting for you). It is your representative's responsibility to keep you informed about the progress of the case and to get your instructions on how to go forward.

You should also bear in mind that, if you appoint a professional representative, you will be responsible for paying their fees and costs. You will not be able to recover these costs from the other side if the tribunal finds in your favour.

## Time Limits

### Time limits for making an application

For most cases there are time limits for making an application. The table of applications at paragraph 5 states those applications where time limits apply and the tribunal team will be able to advise you upon the time limits for each particular application. Below are some common examples of applications where a time limit for making an application applies.

### Selling or giving away a home

If a resident has served upon the site owner a notice of proposed sale or gift and the site owner objects to the sale going ahead, they must make an application to the tribunal for a refusal order and must also notify you in writing of their application. A site owner must do these two things within 21 days of the mobile home owner serving the notice of proposed sale upon the site owner. If the mobile home owner is not given the notice within the 21 day period their application will not be valid.

### Pitch fee reviews

If the site owner has served a pitch fee review form on the resident to review the pitch fee due and:

- the resident does not agree to the new pitch fee within 28 days of the review date given in the notice, the site owner (or the resident) will have to apply to a tribunal **no earlier than the 29th day following the review date and no later than three months from the review date; and**
- the review is proposed to come into force 28 days from the date the notice was served and you have not agreed to the new pitch fee the site owner (or the resident) may not apply to the tribunal **earlier than 56 days from the date of the notice and no later than four months from that date.**

(It is more usual for an application to do with a pitch fee review to be made by a site owner than a resident. This is because a site owner cannot charge the new amount claimed unless the resident agrees to it or the tribunal approves a change.)

A tribunal may accept an application outside the time limits shown above, but will only do so if they are satisfied that the applicant can show good reason for not making the application in time and also for the delay in making the application since it should have been made.

### **Applying for extra implied terms or to change or delete an express term or to enforce a term**

If the resident and site owner have entered into an agreement to keep a home on the site, the resident or site owner can ask a tribunal to imply extra terms in the agreement (as set out in Part 2 of Schedule 2 of the Act) or to change or delete express terms in the agreement or for an order to bring into force a term.

You need to act quickly because a tribunal can only deal with the application if it is made within six months of the agreement being entered into. Or, if the written statement under Section 49 of the Act is given later, the application must be given within six months of the statement being given. The time limits in these cases are strict as the tribunal cannot extend them.

Neither a resident nor site owner can apply to a tribunal about these matters if the resident has taken over an existing agreement (an assignment) because they have bought a home from someone who was living on the site.

## **Hearings and paper decisions**

### **Deciding whether to hold a hearing or to make a paper decision**

The tribunal will ask both the applicant and the respondent if they want the case dealt with through a hearing, in which either side (or their representatives) can make spoken representations and give evidence to the tribunal. If either side asks for a hearing, the tribunal must hold one. The tribunal may also decide to hold a hearing (even if neither side has asked for one).

If there is going to be a hearing, the tribunal will give you at least 21 days' notice of it, with details on the time and place where it will be held.

### **Paper decisions**

If there is not going to be a hearing, the tribunal will meet to decide the case using the paper evidence they have. The tribunal will give you at least 14 days' notice if they plan to decide on the case in this way. However, you can, at any time before the end of that period, ask the

tribunal to hold a hearing instead. This may be, for example, because there is something in the papers that would benefit from a fuller discussion or which you want to challenge in more detail.

## **Hearings**

If either side has asked for a hearing, or the tribunal has decided to hold one, it will normally be held close to the mobile home site. If you do not want to represent yourself at the hearing, you can be represented by anyone you choose, whether or not they are legally qualified. If you are representing yourself and you have previously told the tribunal that you need help in reading and writing English, the staff will make arrangements to provide that help.

The chair of the tribunal will decide on the procedure for the hearing. They will decide who presents their side of the case first. Usually you will have the opportunity to summarise your side of the case after all the evidence has been heard.

At the hearing the tribunal will make sure that both sides (whether or not they are represented) are on an equal footing in terms of understanding the procedure and each other's issues. The tribunal members may also ask you questions about your case. You can ask questions of the tribunal if there is anything you are not sure about, but you must remember the tribunal cannot give you any legal advice or help to present your case.

It is very important at the hearing to focus on the specific matter. The tribunal will not allow you to raise matters that are not relevant to the case. They will also not usually allow you to introduce evidence which you have not told the other side about unless they agree that you can present it, or the tribunal is satisfied they can deal with it.

## **Hearing two or more cases together**

Usually the tribunal will hear all multiple application and reference cases (explained above) at the same hearing. They may also decide to hear two or more separate applications together if they involve related issues on the same site or involve similar issues on two or more sites which are owned by the same person or organisation.

## **Hearings in public or private**

Hearings are normally held in public. Sometimes all or part of the hearing can be held in private, but the tribunal must be satisfied there is very good reason to exclude the public.

## **Postponing and adjourning a hearing**

Either side can ask the tribunal to postpone a hearing date. However, the tribunal will normally only do this if there is good reason why the person who asked for the postponement cannot come on that date and the other side would not be at a disadvantage or too inconvenienced by the postponement.

Either side can also ask the tribunal to adjourn (put on hold) a hearing either at the start or at any time during it. Usually the tribunal will not agree to an adjournment unless there is good reason to do so and the other side does not object. In some cases the tribunal may decide to adjourn the hearing if, for example, they think both sides need more time to consider some of the evidence or to allow time for one or both of the sides to keep to the terms of an order the tribunal may have made.

## **If you fail to go to the hearing**

If you fail to go to the hearing, whether or not you have asked for it, the tribunal may hear the case without you there, using the documents and evidence they already have. This applies whether or not you asked for a postponement which was turned down, or asked for an adjournment of a hearing which has been refused.

If you had told the tribunal that you did not want a hearing, but they decided to hold one, you may still attend the hearing to present your case.

## **Inspection**

The tribunal may want to visit the site or the home if an inspection would help them reach their decision. If the tribunal decides to do so, they must give you 14 days' notice.

## **Decisions and orders**

### **Interim orders**

In some cases the tribunal may make a decision, for example, to say one or both sides have to do something or stop doing something or pay the other side some money, before they make their final decision on the case. This is known as an 'interim order'. An interim order includes a

repairs order where the tribunal has made a finding that the home is having a negative effect on the site but can be repaired and the resident is willing to do so.

### **Final decisions**

If there is a hearing, sometimes the tribunal will give their decision at the end of it. However, they will usually meet separately to make their decision on the basis of the evidence they have heard and the papers they have read.

The decision will be recorded in a document which will also give the reasons for it (even if they gave the decision at the end of the hearing). Unless the decision says otherwise, it will apply from the date shown in the decision document (depending on any application to appeal).

## **Refunding fees, dismissing applications and penalty costs**

### **Fees**

If you are the applicant and you have paid a fee to make the application, you can ask the tribunal to order the other side to pay it back to you. The tribunal may order them to refund you all or some part of the fee that you paid to make the application. However, they do not have to and cannot order them to pay your fee if the other side would have been entitled to be exempt from the fee if they had made the application.

### **Dismissing an application**

A tribunal may dismiss an application, or part of it, if the person applying for it has failed to comply with an order to supply information and documents given by the tribunal.

A tribunal may also dismiss an application (or part of it) if they feel the application is:

- frivolous (unnecessary);
- vexatious (made just to cause inconvenience); or
- otherwise is an abuse of the process.

If the tribunal dismiss an application for one or more of these reasons, they must give the applicant notice and the reasons for dismissal. The applicant will have at least 14 days in which to ask for a hearing at which they can make comments against the proposed dismissal.

If you are the applicant and ask for a hearing, the tribunal will invite the other side to come to the hearing and the tribunal will decide whether or not to dismiss the application on the basis of comments they receive from the people who attend (if any). If you (as the applicant) do not ask for a hearing within the time allowed by the tribunal, they may dismiss your application without further questions.

## **Costs**

A tribunal will not award costs against you because you lose the case, whether you are the applicant or the respondent. Each side will have to pay their own legal (if any) and other costs.

However, there are certain circumstances in which a tribunal can charge penalty costs against one side in favour of the other, whether or not they have asked for this. In summary, this can happen if the tribunal dismisses your application (as set out above); or the tribunal believe that, in connection with the proceedings of the case, you acted in one or more ways

- frivolously;
- vexatiously;
- abusively;
- disruptively; or
- unreasonably.

The tribunal can make the applicant or respondent pay penalty costs of up to £10,000. However, they may only do this if they have given you the opportunity of giving comments against making the proposed order.

## **Appeals and enforcement**

### **Appeals against the tribunal decision**

Neither side has an automatic right to appeal against a decision they do not like. If you want to appeal, you must get the tribunal's permission to do so and you must do so within 21 days of the date of the decision. It would be normal to get independent advice on the reasons you can use to appeal.

The tribunal will normally consider your reasons without holding a hearing.

They will give you the decision on the application as soon as possible (with reasons) and send a copy to the other side. If the tribunal give

permission to appeal, you will then have one month to apply to the Upper Tribunal.

If the tribunal refuse permission to appeal, you can still apply to the Upper Tribunal to ask them to grant the permission. However, you must act quickly because you will need to make a renewed application to the Upper Tribunal within 14 days of the tribunal's decision to refuse permission.

You can find more details on applications to the Upper Tribunal (Lands Chamber) on the Lands Chamber page on <http://www.justice.gov.uk/tribunals/lands> .

### **Enforcement**

If the tribunal make a decision in your favour and the other side fails to keep to it, you can apply to a county court to enforce the judgement in the same way that you would have been able to enforce a court order.

You can find out more about enforcement and where your local county court is from [www.justice.gov.uk](http://www.justice.gov.uk) .

### **The courts power to transfer proceedings to the residential property tribunal**

If a court is considering a case which they have the power to deal with, but part, or all of it falls within the tribunal's jurisdiction, the court may transfer part or all of those proceedings to the tribunal. For example, if they are considering proceedings to end an agreement, the court might refer part of the case to the tribunal to carry out a fact-finding exercise before they decide whether it is reasonable to end the agreement. However, the court does not have to transfer the proceedings and may find out the facts themselves.

The court may send the papers directly to the tribunal office, but if they do not, and you are the applicant, you will need to fill in an application form and enclose a copy of the court order transferring the proceedings to the tribunal. You do not have to pay a fee for this application.

### **Special rules applying to certain applications**

The information in this fact sheet applies to all types of applications that can be made to a tribunal. However, there are extra rules in relation to applications to end an agreement because the home is having a negative effect on the site.



## **Applying to end agreements because the home is having a negative effect on the site**

If you are the site owner and want to end an agreement because the condition of the resident's home is having a negative effect on the site, you must apply to the tribunal in the first place.

The tribunal must hold a hearing about the application unless both sides have agreed that it is not necessary or the resident does not oppose the application.

The purpose of the hearing will be for the tribunal to hear evidence so they can decide if the home is having a negative effect on the site and if so whether it is reasonably possible for the resident to put the home in a condition so that it is no longer having a negative effect.

The tribunal may decide that the condition of the home:

- is not having a negative effect on the site, in which case they will dismiss the application and you may not apply to the court to end the agreement;
- is having a negative effect on the site and it is not practical to carry out repairs, or the resident is not willing or able to carry out the necessary repairs, in which case the tribunal will make a final decision and you may apply to the court to end the agreement; or
- is having a negative effect on the site, but it is practical for the resident to carry out repairs and the resident has said they are willing and able to carry out the work (and the tribunal accepts this), in which case the tribunal will make a 'repairs order' and you may not apply to the court to end the agreement.

The tribunal may give their decision at the end of the hearing, but in any case it will be recorded in a document, with the reasons for it. If the decision is to order that repairs are carried out, the tribunal must include the repairs order itself and say when those repairs must be completed.

If the tribunal makes a repairs order, they must hold a new hearing no later than seven days from the date given in the order to complete the repairs. Before that hearing, the tribunal will ask both sides to tell the tribunal whether the repairs have been carried out. The tribunal will normally inspect the home so it can form its own view on this too.

If both sides say that the repairs have been carried out, the tribunal will dismiss the application. If there is an issue on whether the repairs have been completed, the tribunal will deal with that at the new hearing and, after considering comments, they may either:

- make a further repairs order; or
- make a final decision that the home is having a negative effect, in which case you can apply to the court to end the agreement.

If the tribunal have made a decision allowing you to go to court for them to deal with the application, the court must decide whether it is reasonable to end the agreement and will take account of the tribunal's decision.

### **Arbitration Agreements**

Some agreements may say that all or certain disputes and proceedings between the parties are decided by an arbitrator (instead of a court or a tribunal). However, since 21 March 2012 in Wales, this does not apply to any disputes or proceedings arising on or after that date, which must instead be referred to a tribunal under the rules set out in this fact sheet. If the agreement says that any proceedings to end the agreement are dealt with by an arbitrator, these will instead be adjudicated on by a tribunal. In these cases, the tribunal must hold a hearing to decide the matter unless both parties ask the tribunal not to or the resident tells the tribunal that they do not oppose the application.

If the parties enter into arbitration under the agreement instead of going to the tribunal, the decision of the arbitrator has no effect and cannot be enforced.