Dear Minister,

**Park homes**

We write as representatives of both residential park homeowners and businesses in Wales; this is the first time we have made a joint submission and do so given the gravity of our concerns.

We are unanimous in asking that you give priority to addressing the rogue activity of unscrupulous residential park owners in Wales. These rogues cause misery to homeowners and undermine the reputation of park business. This work is needed urgently, and we stand ready to lend all support to you in this.

We also record our unanimous and deep concern at your decision to reduce commission income on the sale of park homes by 1% per year, for five years from 2019.

Homeowners fear the cost of rising pitch fees would be unfair and unaffordable. There is concern that a tribunal would feel compelled to allow increases in response to this legal change. It would mean homeowners paying commission charges through their pitch fee although there had been no sale. Nevertheless, park owners fear that tribunals may not support them and that, even where they secure pitch fee increases, these could not sufficiently compensate for the loss of income so threatening the viability of park businesses, particularly small and micro-businesses. We have each written to you explaining our concerns.

We also share concern at the anxiety and cost that would be created by your decision as it would probably require referrals to the Tribunal to resolve pitch fee reviews each year, for
five years. Whatever the Tribunal decided, this would damage relationships for years to come, create great cost for both homeowners and park owners and cause untold worry.

In the interests of all homeowners and park owners in Wales, we ask please that you reconsider your decision.

Yours sincerely,

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NAPHR The NCC BH&HPA IPHAS

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Park Homes Commission

We valued our meeting with you last week to discuss your decision regarding reducing park homes commission as we remain deeply concerned to ensure the viability of residential park business in Wales. Park owners and homeowners share the same interest in well-managed, sustainable parks which are home to 3,430 Welsh households.

Therefore, we very much appreciated your undertaking to revisit the question whether pitch fee reviews may take into account the income lost to park business due to your decision.

In your statement on 5 June 2018, you said to the Assembly that, 'Reducing the commission rate gradually will help reduce the risks to the viability of some sites by providing site owners the time to adjust their business models to reflect this change, and I do accept that this adjustment may include increases in pitch fees for some.'

We are grateful for your acknowledgement to the Assembly that your decision risks the viability of parks. However, park owners do not have the right to increase pitch fees in existing agreements. The only rights they have are to seek the agreement of the homeowner or a tribunal, which may or may not be given.

We are very concerned therefore that the risk your decision creates to the viability of a park is not compensated directly and in some cases, may not be compensated at all.
Our concern is heightened because we see no criteria within the Implied Terms governing pitch fee reviews which would enable the business to replace this income which, as your own evidence shows, is necessary for business survival. The pitch fee review process considers other, different factors – all of which a tribunal must weigh in the balance – and is not a mechanism established to compensate for the effect of your decision.

We would therefore be grateful for your advice at the earliest opportunity about how the Welsh Government is guaranteeing appropriate compensation for this loss to parks.

We would also record our concern that your decision is made in the face of considerable evidence which the Welsh Government has not taken into account, and this over many years:

2013 The Revised Explanatory Memorandum at Stage 2\(^\text{nd}\) of the Mobile Homes (Wales) Bill confirmed:

- extra costs associated with the introduction of licensing fees … may make the park homes business unviable in some areas
- the switch to linking pitch fee income to CPI may lead to less money being invested in park facilities. If a park were to become unprofitable in the long run this could lead to a site owner considering changing the status of their parks or leaving the industry.

2016 The Welsh Government PACEC study ‘Understanding the economics of the park homes industry in Wales’ found:

5.25 … Thirty-six per cent of parks in 2014/15 (eight parks) and 32 per cent of parks in 2013/14 (seven parks) reported a loss for those financial years. In 2014/15 the median loss reported was £82,800 and in 2013/14 the figure was £83,400. The losses ranged from £2,500 to £298,000 in 2014/15 and from £3,500 to £189,100 in 2013/14.

5.26 The majority of parks recording a loss in 2014/15 (87.5 per cent, n=7) were micro or small parks which is similar to 2013/14 (86 per cent, n=6). Micro and small parks represent 83 per cent (73 parks) of the sector.

2017 The report by GVA\(^\text{\textregistered}\) for Welsh Government commissioned by BH&HPA, whose findings were confirmed by the Welsh Government’s MHA Broomfield Alexander found:

1. a. Micro parks with the lowest levels of pitch fee are already unviable when all proper costs are taken into account.
   b. Micro parks which charge the average pitch fee for the industry are profitable at an operational level but do not provide a return on capital.
   c. In both these cases, any reduction in commission rate will make a bad position even more precarious and the businesses are likely to fail.

2018 The report for Welsh Government by MHA Broomfield Alexander\(^\text{\textregistered}\) confirmed:

5.2.2 … businesses do not have significant levels of headroom within their balance sheets to absorb any significant changes in income streams or one-off costs.
The Welsh Government evidence outlined above confirms that your decision will send park businesses to the wall, with consequences for all concerned in the inevitable ‘race to the bottom’. Failing parks coming onto the market at depressed values would mean no fit person would invest, a scenario which is confirmed by Welsh Government’s own evidence.

We fear market failure for Welsh residential parks as a result of your decision. Given this, we request for your urgent consideration and advice please.

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1 Statement 5 June 2018 http://record.assembly.wales/Plenary/49874A44971


3 Understanding the economics of the park homes industry in Wales, 2016 https://gov.wales/docs/caesr/research/2016/161005-economics-park-home-industry-en.pdf


The Independent Park Home Advisory Service

REDACTED: SECTION 40

Rebecca Evans AM
Minister for Housing and Regeneration

Ref: RA61W/005
Date: 19 June 2018

Dear Rebecca Evans,

CHANGES TO THE PARK HOMES COMMISSION RATE
IPHAS COMMENTS ON STATEMENT BY THE WELSH GOVERNMENT dated 5 June 2018

Although the Statement appears to be a major step forward for the park home industry, further study reveals that there would be serious consequences if the proposals were implemented. The reasons are as follows.

The Statement includes the comment that the value of a park home is a combination of the value of the home plus the pitch on which it is sited. This is agreed. Of course, a park home is of little use without a pitch to place it on but neither is a mobile home park of any great value without homes on it.

When a resident buys a park home, he/she pays the sited price of the home which consists of the ex-works price of the home plus the cost to the park owner of making the base, transporting the home to the site and siting and commissioning the home, plus the park owner’s profit. The ex-works price could be up to £100k although a site owner usually has a deal with the manufacturer for a reduction in price in exchange for the owner only allowing homes on his site from one manufacturer. The cost of transportation and siting could cost up to about £50k. The home is then sold to the buyer at anything up to £250k so the site owner makes a profit of up to £100k on the sale. It is incorrect to say that the commission goes towards the siting costs. All the siting costs are paid by the buyer, either as part of the buying price or later in separate bills for landscaping, patios, etc.

It is difficult to see how the commission can be an important element in the site owner’s income as stated in the Statement. A resident can decide to sell for any number of personal and unpredictable reasons. At the beginning of a financial year, a site owner does not know how many sales, if any, will occur during the year so he cannot include commission in the list of predicted incomes for the year. Therefore, commission can only considered as an unpredictable bonus, part of the ‘roundabouts and swings’ of running a business.

The Statement mentions the risk of the park business becoming unviable and having to close making the residents homeless. This is extremely unlikely. A site owner has a captive clientele who pay a regular pitch fee which increases with inflation. He therefore receives a guaranteed inflation-proof income which would be the envy of most other businessmen.

Furthermore, the residents would not be homeless if a site owner had to sell the park; it would have to be sold as a park complete with residents because the residents have indefinite security of tenure under the Mobile Homes Act.

The British Holiday and Home Parks Association (BH&HPA) have explained the need for commission by stating that commission is one of the three elements by which residents pay for the right to station their home on the park. The three elements are the initial purchase price, the pitch fee and the commission (or exit fee). As explained above, a site owner makes a good profit on the initial sale, he gets a guaranteed profit from pitch fees, so to demand an exorbitant exit fee as would appear to be sheer greed.

The Statement proposes a reduction in the maximum rate of commission by one percent per year over five years with no alteration to the rules on pitch fee reviews. Pitch fees are reviewed annually in accordance with the implied terms in Mobile Homes (Wales) Act 2013 Schedule 2 Part 1 Chapter 2. Your attention is drawn to implied term 18. “18(1) When determining the amount of the new pitch fee particular regard shall be had to – (d) any direct effect on the costs payable by the owner in relation to maintenance or management of the site of an enactment which has come into force since the last review date.”

This means that for each of the five years a site owner can use this term to claim an amount over the rate of inflation to compensate him for the reduction in commission. If the residents object, he could apply to the tribunal for a resolution.

Honorary Vice-President: Lord Graham of Edmonton
President: Mrs. J. A. Aylott
It is probable therefore that, over the five year period, there will be a number of applications to the First-tier Tribunal on this subject. Residents will be faced with the choice of accepting an increase of pitch fee in exchange for a reduction in commission or disputing the claim at a tribunal hearing.

We disagree with the statement that the proposal strikes a reasonable balance in protecting the interests of all parties. It would inevitably lead to increases in pitch fees and probably pitch fee disputes resulting in applications to the First-tier Tribunal. I suggest that this would result in an unacceptable situation for park home residents in Wales.

Yours sincerely,

REDACTED:SECTION 40

IPHAS
Dear Rebecca Evans,

CHANGES TO THE PARK HOMES COMMISSION RATE RESPONSE TO THE STATEMENT MADE BY THE WELSH GOVERNMENT Dated 5th June 2018.

The Statement is made in an attempt to make a forward step for the Park Home Industry which if legislated would without doubt create serious problems to the Residential side of the industry.

Back in the late 1950’s and early 1960’s Park Home Owners were selling their Caravan’s/Mobile Homes at a profit the Park Owner’s decided that the said profit was being made because the Home was sited on their land and therefore should have part of that profit so they invented a Charge on Sales that they called Commission and were charging between 20 to 30% these charges did not come under any form of Legislation so the charges were outrageous.

Because of many concerns by Home Owners being made to Government sources a New Act was made as the Caravan Sites Act 1975 which included this Commission Charge but legalised it at 15% and then when the Mobile Home Act 1983 was enacted the Commission was reduced to 10% and has stayed at that figure ever since.

As I have stated the original claim for the Commission by Park Owners was that the profit on sales entitled them to a substantial part of the profit as it was being made through the use of their land as that is what sells the Home however the Commission is not now based on the profit margin of a sale it is based on the Sale Price of the Home of up to 10% as per Legislation and should therefore reflect the Home Owners contribution to the Home’s value by it’s upkeep and maintenance by that Owner.

Further to the above the Park Owner makes a substantial profit when selling a New Home for example a Home costing £75,000 from the manufacturer less the trade discount will be sold by the Park Owner for £180,000 if that Home Owner then wishes to sell at a later date and the Home is valued at £170,000 (as Park Homes barely make profits as prices are high) they have lost £10,000 plus they have to give £17,000 to the Park Owner which means that they have a loss of £27,000 to the Park Owner plus a large profit he has had from the original Sale of approx. £90,000 or more.
It is therefore an obvious fact that the Park Owner is not having Commission Payments based on the profit margin of the sale but is taking the Home Owners Capital which is Legally Permitted by Government Statute at 10% of the Sale Price therefore the Government Legislation allows a Park Owner to Profit from his Sales Profit from his Pitch Fees and Profit from Home Owners Selling their Homes and losing their Capital which cannot be fair nor reasonable.

Park Owners are making a good living from owning a Mobile Home Park without the Income from Commission as this is an unpredictable part of his Income and he never knows when a Sale will be made. Quite a number of Residents do not sell their homes because the Commission figure is too high and therefore makes any move unaffordable as their loss is so great but a reduction of the Commission Rate would be a step forward for Residents as the Homes have a greater Sale Value now than they ever have had the Park Owners are getting more Commission on Sales than they had at the commencement of the 10% Rate 32 years ago in 1983 Commission Rate as legally stated by Statute is up to 10% but sheer greed to them means 10% no less.

Further to the above it is obvious that the Park Owners make substantial profits from their inflation proof business but the statement suggests that the reduction in Commission would make the Business unworkable and having to close down making the Residents homeless this is unlikely as the Park Owner would Sell the Park as a Business and as the Residents have indefinite security of Tenure under the Mobile Home Act 1983.

The Government Statement Proposes to reduce the Commission Rate by 1% per year over a period of 5 years with no protective terms made within the Rules on Pitch Fee Reviews. The Pitch Fees are Reviewed Annual as per the Implied Terms and under the Mobile Homes Act 2013 (Wales).
I refer you to Implied Term 18/1 which states:- When determining the amount of the new Pitch Fee particular regard shall be had to (d) any direct effect on the costs payable by the Owner in relation to Maintenance or Management of the Site of an Enactment which come into force since the last Review Date which means that the Owner can use this Term to Claim an extra Increase to the Pitch Fee above Inflation to compensate for the Commission Loss and can continue this Claim over the 5 year period. However the Residents could object and apply to the Tribunal to resolve the matter in which the Judges normally will make their decision in line with the Law which would give Park Owners a further Profit. Therefore there has to be a clause within the Proposal which will state “ That when Reviewing the Pitch Fee NO Regard is to be had when determining the Amount of the new Pitch Fee of any Costs or loss as Determined by the New Commission Order.

Further the Government have recognised that the Commission Rate of 10% is unsatisfactory and therefore should be reduced of which we agree however it is obvious that if your Proposal stays as it is it will give the Park Owners an easy way of getting their 5% back through the Pitch Fee Increases this means Residents will be paying Commission Charges within the Pitch Fee whether they sell their Home or not and the 5% that you have reduced
the Commission by will give the Owners an excessive increase which you as a Government have Sanctioned and made it Legal.

I also have to draw your attention to the fact that the current Legislation only allows a Commission Payment on the Sale Price of the Home so to allow a Tribunal to decide whether a Park Owner can have an Increase in his Pitch Fees because the Commission is reduced cannot be Justice as no Sale has taken place.

Finally this Proposal is unacceptable for the Mobile Home Residents in Wales and for all of the above reasons it is neither fair nor reasonable.

Yours Sincerely

REDACTED: SECTION 40

NAPHR
Rebecca Evans AM
Minister for Housing and Regeneration
Welsh Government
5th Floor Ty Hywel
Cardiff Bay CF99 1NA

July 2018

Dear Minister,

Changes to Park Homes Commission

The NCC (National Caravan Council) is the UK trade association representing the collective interests of the leisure accommodation vehicle industry (touring, motorhome, caravan holiday home) and the residential park home industry.

Following the statement issued by the Welsh Government in June 2018 we are writing to express our concern about the decision to reduce the rate of commission on the sale of park homes by 1 percent per year until it is reduced to 5 percent.

On behalf of our membership comprised of residential park owners, residential park home manufacturers and related suppliers and service providers we would like to draw your attention to the following observations:

- With reference to the MHA Broomfield Alexander report and the analysis of the information provided by site owners, “over a 5-year period each of the businesses reviewed would have seen a significant deterioration in their financial position and liquidity if the commissions were removed……” (paragraph 5.2.2). “This indicates that the businesses do not have significant levels of headroom within their balance sheets to absorb any significant changes in income streams or one-off costs”.

A reduction in the rate of commission represents a significant change for residential park owners and operators who fear that the loss of this recognised income stream could lead to a deterioration in their ability to adequately maintain appropriate standards and the overall infrastructure of the park. The costs associated with operating a residential park, including appropriate insurances as well as servicing bank loans needed to carry out essential works and development on parks for the benefit of the home owners will remain an expense which generally increases year on year. Many small and micro parks rely heavily on commission income on the sale of homes, and particularly where income from the sale of new homes (one of the three recognised income streams for park businesses) is not a regular option.

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The UK trade body for the tourer, motorhome, holiday home and park home industries.
Reg. No. 519228 England & Wales
Any reduction in the commission payment is likely to mean a reduction in funds to reinvest into the facilities and features on the park. Any deterioration in standards and services is likely to impact on the overall value of parks and, inevitably, the park homes sited there.

- In relation to existing funding and future finance for parks, members have reported that major lending institutions are already reviewing their terms of lending in anticipation of changes and a reduction to a park’s income stream. Such a decision is likely to adversely affect the business relationship between the park and their chosen lending institution – some of which have been built over generations – and this apparent loss of confidence in the industry could lead some businesses into receivership for failing to meet their repayment obligations.

- With reference to the pitch fee review criteria enshrined in the 2013 legislation, there is deep concern that there is currently no mechanism available to replace the income lost through the reduction in the rate of commission. Without a change to the pitch fee review criteria in the legislation which takes into account your recent decision on commission, park owners could be left without an appropriate means of recovering this loss of income.

- If residents do not agree a proposed change to the pitch fee it is for the First Tier Tribunal (FTT) to make a determination on receipt of a relevant application. In order to try and protect the long-term viability of the park, park owners are likely to be forced to make an application against all home owners who have challenged a proposed increase, otherwise the right to enforce any review is lost. This issue is regarded by many parks as too great to ignore and to make the most appropriate representations to the Tribunal would include considerable administrative, legal and accounting support – a process which attracts significant cost – in addition to the application fees payable to the FTT which are in themselves not insignificant.

Park owners could be left in a situation where they have spent a significant amount of money trying to secure a change to the pitch fee to protect the long-term viability of the park, only for the FTT to consider it within the confines of the law as it stands and rule that no change is appropriate. Alternatively, a change may be ordered, but at a level which does not address the loss of income suffered. The park owner will have lost out financially both through the process itself and on the outcome which taken together is likely to compound the impact on the park owner.

- At present the number of pitch fee review referrals made to the FTT in each year is growing, and the NCC is concerned that the likely increase in referrals which may follow the decision on commission income will add unnecessary pressure on the already stretched service and raise the cost to the public purse.

- Should there be a determined increase in the pitch fee, we are concerned about the long-term impacts on some residents’ ability to meet such pitch fee payments, and also how some park owners may review the status of their parks as owner-occupier park home estates.

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In the private sector housing sector, pitch fee payments are generally low compared to the rents imposed in the private rental market. Despite this some park home residents struggle now to meet their outgoings from their ‘fixed’ income.

Equally, where a pitch fee increase does offer some form of compensation for the loss of commission income, there is some concern amongst park owners about the home owners responsibility and ability to pay the increase (and when the payment will be made), and also of the impact this will have on their relationship with residents (given that the majority of park operator members have good relationships with most of their residents).

- It should not be forgotten that aside from park owners and park home residents there are a number of other stakeholders in the park home industry who may be impacted by your decision. The loss of an income stream for park owners may be felt further along the supply chain; less income could mean less investment in the park and related supplies and services, and the park’s ability to replace older homes bought back in with new homes could have a knock on affect on manufacturing and production levels.

We appreciate that striking a balance between the payment of commission on the sale of a park home and the possible impact on pitch fees is not straight forward and there a number of relevant and competing interests, however we would ask you to reconsider your decision.

Yours sincerely

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