

Park Home Factsheet

Selling a Park Home



Housing

This factsheet is one of a series of factsheets which have been published by Communities and Local Government concerning the rights and obligations of park home owners in England. This factsheet gives some basic guidance to park home owners who use their home as their permanent residence on park home sites about selling a park home under the Mobile Homes Act 1983 (as amended).

Throughout this factsheet any reference to "site" includes a park home site (including a mobile home site) and to "park home" includes a mobile home or caravan.

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, a Citizen's Advice Bureau or a solicitor should be contacted.



Preparing to sell a park home

Is a park home resident allowed to sell their park home on a site?

Yes. Park home residents have the right to sell their home on a site and transfer the benefit of their agreement with their site owner to the person who buys their home. The process of passing on the agreement is called 'assignment'. The sale must be to a person approved by their owner but the site owner cannot withhold his approval unreasonably. If a resident considers that the site owner is withholding their approval unreasonably, a resident can apply to the court or to an arbitrator for an order requiring the site owner to give approval.

Does a resident have to give the site owner first refusal to buy the park home?

There is no requirement for a resident to give the site owner first refusal - even if their agreement says there is. The site owner may make an offer for the home like any buyer and the resident may choose to sell to them but they are under no obligation to do so.

Does a resident have to tell the site owner that they are proposing to sell their home?

No. There is no legal requirement for a resident to tell the site owner that they are proposing to sell their home, though they are free to do so if they wish. However, once they have found a buyer they must seek the site owner's approval of that person.

What happens if the occupier dies?

If the pitch agreement was entered into with the site owner by the two or more persons living in the park home, then the surviving persons continue to be bound by, and have the benefit of the agreement.

If the agreement was only between the site owner and the deceased, and the deceased was living with their spouse (or, in the case of a same sex relationship, their civil partner) at the time of their death, the surviving spouse (or, in the case of a same-sex partnership, the surviving civil partner) will automatically take over the pitch agreement and be able to continue to occupy the park as their only or main residence. The agreement will be fully binding as between the site owner and that surviving person. If there is no widow or widower, or surviving civil partner, any member of their family who was living with them at the time they died will have the benefit of, and be bound by the agreement.

Where the park home owner was living with a common law partner, that person will be treated as a part of his family.

If no spouse, civil partner or member of their family was living with the park home owner at the time of their death then the pitch agreement will have effect and be binding on the person entitled to the park home under the will (or under intestacy law if the owner did not make a will). However, in this situation the agreement does not have effect, or is not binding in some respects. First, although that person inheriting the home becomes the new owner, they do not automatically have the right to occupy, but would need to obtain the consent of the site owner, which must not be unreasonably held. Secondly, that person cannot be required by the site owner to live in the home, nor can the site owner seek termination of the agreement on the ground that the new owner is not occupying it as his only or main residence. Thirdly, the person inheriting cannot dispose of the home by way of gift to another person, so if they cannot or do not want to occupy it themselves, they are only able to sell it. In all other respects the agreement is binding on the person inheriting the park home.

Does a resident need to use an estate agent?

A resident may use an estate agent if they wish to do so and, if they do so, they are free to choose which estate agent to use. Further advice about using an estate agent is available at www.consumerdirect.gov.uk , www.direct.gov.uk or from a Citizens Advice Bureau.

The site owner may offer a sales service through their office on the site. They may charge a fee (which may be subject to VAT) for the sales service. This will be in addition to any commission that the site owner is entitled to receive on the sale price – see section below on completing the sale.

The site owner cannot require any resident to sell their home through an estate agent or a particular estate agent or through the site office.

Is a solicitor needed when selling a park home?

It is recommended that residents obtain legal advice as selling a park home can be as complicated and time consuming a process as the sale of conventional housing and few people would sell such a bricks and mortar home without professional assistance.

Is a Home Information Pack or an Energy Performance Certificate needed?

No. Neither Home Information Packs nor Energy Performance Certificates are required for the sale of park homes. However, in order to aid the selling process it would be helpful for a resident to put together a package of information for a potential buyer that may include: the written agreement and any amendments to it; the current pitch fee and any other charges payable to the site, any park rules, any warranty and maintenance information about the home; and information about Council Tax, annual water, gas and electricity charges where appropriate.

Is it necessary for the home to be surveyed?

There is no legal requirement to have the home surveyed and the owner cannot insist on it. But if the home is more than a few years old, the buyer would be wise to ask for one. How this is arranged and paid for is a decision for the resident and the buyer. The owner is not involved.



Agreeing a sale with a buyer

Should a resident give the prospective purchaser a copy of their written agreement?

Yes. This will allow the buyer to familiarise themselves with the terms of the agreement. In addition, it would be helpful for a resident to give the buyer the information listed above. We recommend that the buyer is given a copy of the agreement at least 28 days prior to the completion of their purchase.

It is a resident's responsibility to ensure that they give full and accurate information to their buyer so that they can make an informed decision about whether to proceed. Failure to do so may result in the sale falling through at a later stage. Where the sale goes ahead, if a resident during the sales process fails to reveal relevant information that is available to them, they may be held liable for misrepresentation if the buyer encounters problems in the future.

How does a resident seek approval of their buyer from their site owner?

We recommend that a resident seeks the approval of their buyer in writing. A resident, or their legal adviser if they have appointed one, should either send a letter by post or hand, to the site owner. The letter should explain that the resident intends to sell the park home and assign their agreement and it should contain the name and current address of the prospective buyer. The letter should ask the site owner for their approval of that person. (NB: a resident is not seeking permission to sell the home and assign the agreement because the law already allows them to do that. However, a resident does need to seek the site owner's approval of the person that they intend to sell to).

The site owner must provide the resident with a reply in writing within 28 days. The 28 day period starts from the date the site owner receives the resident's request and ends when the resident receives their reply in writing. Residents may find it helpful to use a recorded postal service.

The site owner may only approve the person or refuse approval. They cannot attach conditions to the approval. If they refuse approval they must include the reasons for their refusal in writing in their reply.

If the site owner does not respond within 28 days or if they refuse approval or fail to give the reasons for the refusal in writing, a resident may apply to the court for an order that declares that the person they intend to sell to is approved. The court may accept or reject the application.

Does a site owner need to contact a buyer in order to approve them?

The law does not require a site owner to contact a buyer in order to approve them. The site owner may reasonably ask for references, for example, to establish the buyer's credit worthiness and that they comply with any park rules relating to the age of home owners.

A buyer may wish to meet the site owner in order to gain a greater feel for the site and to ask any specific questions they may have. Parties must act honestly in all their negotiations and communications. In particular site owners should note that if they knowingly and deliberately make a false representation to the prospective buyer (i.e. tell lies or mislead the prospective buyer), and that false representation results in either the site owner making a gain for himself or causing the seller or the prospective buyer to make a loss, then the site owner's actions may amount to a criminal offence under the Fraud Act 2006. He could also be guilty if he dishonestly fails to disclose information that he is under a legal duty to disclose, intending that by failing to do so he will

make a gain for himself or another or cause loss to another, or risk causing loss to another. An example of behaviour amounting to fraud would be if the site owner put a potential buyer off buying a mobile home by lying to him about noise levels, or proposals to vastly extend a site, or the amount of pitch fee.



Completing the sale

Can a site owner claim a commission on a sale?

Yes. The site owner can claim a commission up to a maximum fixed by law, currently set at 10 per cent of the sale price. Site owners can charge a lower percentage than the legal maximum if they wish but they cannot charge a higher one. The rate should be set out in the resident's written statement.

The park owner's entitlement to receive a commission on the sale of a home is an implied term in all agreements (see also ***Park Homes Factsheet – Consolidated Implied Terms*** which sets out all the implied terms that apply to residents' agreement) and may also be referred to in the park rules. There is no VAT payable on the commission payment.

Can a site owner change the terms of the agreement for the buyer such as increasing the pitch fee?

No. The terms of the agreement are assigned unchanged to the buyer and cannot be changed unilaterally by the resident, the site owner or the buyer. The site owner cannot change the pitch fee or levy any additional charges on assignment. However, the site owner and the buyer may agree to amend the express terms of the agreement between them if that is what they both wish. (For more information about express terms in the agreement, please see ***Park Home Factsheet – Residents’ Rights and Obligations.***)

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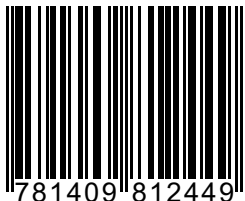
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