

Title: Transferring jurisdiction of mobile home disputes to Residential Property Tribunals Lead department or agency: Department for Communities and Local Government Other departments or agencies:	Impact Assessment (IA)
	IA No:
	Date: 01/01/2010
	Stage: Enactment
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: Robert Skeoch 03044 43401 Robert.skeoch@communities.gsi.gov.uk

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

At present, disputes between owners of park home sites and residents must be resolved in the County Courts. The process is time consuming and expensive, which deters many residents from pursuing complaints. Following public consultation a confirmed need has been established to transfer the jurisdiction of the County Courts under the Mobile Homes Act 1983 to the Residential Property Tribunal - a low cost specialist housing tribunal.

What are the policy objectives and the intended effects?

To provide access to justice for both site owners and residents which is quicker and cheaper than at present. By making it easier for residents to pursue complaints (particularly older and more vulnerable residents) this should also help to tackle poor management and harassment in the sector.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing (i.e. retain and rely on continued use of existing provisions without amendment or changes).
2. Transfer jurisdiction of the Mobile Homes Act 1983 to the Residential Property Tribunals.
3. Create a new park homes tribunal service.

Given the needs and benefits outlined above, and in the evidence base and annex, Option 2 is confirmed as our preferred choice.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 4/2014

What is the basis for this review? PIR. **If applicable, set sunset clause date:** Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Ministerial Sign-off For enactment stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Rt Hon Grant Shapps
 MP

Date: 26th January 2011

Summary: Analysis and Evidence

Policy Option 1

Description:

Transfer of the jurisdiction of the courts to Residential Property Tribunal Service

Price Base Year 2009	PV Base Year 2009	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £1.2m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£170.520	£1.4m

Description and scale of key monetised costs by 'main affected groups'

Application fee for resident/site owner applying to the Residential Property Tribunals significantly less than going to court. Fee for an individual Residential Property Tribunal Service application will be c£150 per case, i.e. less overall than under the current arrangements (c£4,215 per court case). Costs to Government (at c£152,520pa) also reduced.

Other key non-monetised costs by 'main affected groups'

Residential Property Tribunal Service (Specialist tribunals); Park home residents; park home site owners; park home sector generally – cost of becoming aware of and familiar with the new arrangements.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£316,980	£2.6m

Description and scale of key monetised benefits by 'main affected groups'

Significant cost savings to residents and site owners via savings in court costs. Legal representation costs, if used, will also be greatly reduced.

Other key non-monetised benefits by 'main affected groups'

Residents/site owners/sector/society benefit from quicker decisions; better access to justice; more parity in dispute resolution. No costs awarded against loser. Indirectly, better management/standard/safety/security/less criminal activity short/longer term

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Assumed that Residential Property Tribunals case numbers will be higher than those currently heard by courts given easier access. Range of 150-200 used. Proposals should prove successful in scope and operation as designed to ensure effective results – Residential Property Tribunals have long experience and expertise in the field.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		England			
From what date will the policy be implemented?		30/04/2011			
Which organisation(s) will enforce the policy?		N/A			
What is the annual change in enforcement cost (£m)?		N/A			
Does enforcement comply with Hampton principles?		Yes/No			
Does implementation go beyond minimum EU requirements?		Yes/No			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs:		Benefits:	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	20
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	20
Small firms Small Firms Impact Test guidance	No	20
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	20
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	20
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	20
Human rights Human Rights Impact Test guidance	No	20
Justice system Justice Impact Test guidance	No	20
Rural proofing Rural Proofing Impact Test guidance	No	21
Sustainable development Sustainable Development Impact Test guidance	No	21

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Mobile Homes Act 1985 (as amended) – see http://www.legislation.gov.uk/ukpga/1983/34/contents
2	A new approach for resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended), May 2008, see http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/consultation.doc
3	Dispute resolution under the Mobile Homes Act 1983 (as amended) – Summary of responses and further consultation, May 2009 - see http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/consultation.doc
4	Further consultation on termination provisions in Mobile Homes Act 1983 (as amended): Government response, December 2009 - see http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/publications/housing/terminationprovisionsresponse
5	Section 318 of the Housing and Regeneration Act 2008 – see http://www.legislation.gov.uk/ukpga/2008/17/section/318

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17
Annual recurring cost	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17	0.17
Total annual costs										
Transition benefits										
Annual recurring benefits	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32
Total annual benefits	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32	0.32

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Inserting text for this section:

1. The park home sector is a small, but valued part of the housing industry, usually catering for older people in the community. In law, a park home is a “caravan”, but in reality they are more akin to prefabricated bungalows, many of which are often of very high quality. Park home sites are laid out as private estates, with most services and amenities to the home being provided by the site owner.
2. The tenure arrangements for homes is also unusual in that the resident owns the home, but rents from the site owner the plot of land on which it is situated. Since a park home is a “caravan” and not therefore attached to the land in the usual sense of the word, the resident does not possess a legal estate in it, unlike, for example, a leaseholder. The home is legally a “chattel”, and the resident only has permission, i.e. via a “licence”, to station it on the plot. This puts the site owner in a very strong position vis-à-vis the resident. To a degree this imbalance has been addressed by the Mobile Homes Act 1983, see <http://www.legislation.gov.uk/ukpga/1983/34/contents> which confers security of tenure to residents, and regulates many contractual dealings between them and the site owners. This includes conferring on a resident, a right to sell his/her home to a person approved by the site owner.
3. Notwithstanding the provisions in the 1983 Act, there still exists a problem of unreliable or unscrupulous site owners continuing to act outside of the spirit, or often, the letter of the law. This can involve a number of different things, for example, by providing false or misleading information to potential purchasers of homes, unreasonable behaviour in running, or rather, what can usually amount to mis-management of a site, or outright harassment of residents not to exercise their right of sale. These activities are usually motivated for financial gain.
4. The Government does of course view such situations and related activities as being unacceptable, especially as they usually affect or target elderly and vulnerable people. We therefore believe that a clear and compelling need exists for a more effective disputes resolution system.
5. The current rights, liabilities and obligations of site owners and residents are regulated through the Caravan Sites and Control of Development Act 1960, The Caravan Sites Act 1968 and the Mobile Homes Act 1983 (as amended). Park home sites are permanent residential sites, but do not include sites which are used exclusively for holiday purposes. However, some of the provisions in the legislation do apply to these types of sites. From 6 April 2011 it is proposed that most of the provisions in the Mobile Homes Act 1983 will apply to local authority owned Gypsy and Traveller sites, including the new proposed dispute resolution system.
6. Further background and key facts and figures on Park Homes is given in the Annex to this Impact Assessment.

Evidence to support the proposals:

7. The Government attaches great importance to a well run sector in which disputes (which as in any sector, inevitably arise) can be resolved informally by negotiation and agreement. There is evidence that such good practice is carried out in this sector. Inevitably, it will not always be

possible to resolve disputes in this way, and so an effective and meaningful third party resolution system needs to be available to the parties.

8. DCLG published consultation papers in May 2008 and May 2009 regarding these proposals as follows: *A new approach for resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended)*, May 2008, see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/consultation.doc> and *Dispute resolution under the Mobile Homes Act 1983 (as amended) - Summary of responses and further consultation*, May 2009 - see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/1241096.doc>

9. The key question which these consultation papers sought to elicit views on was what is the most appropriate system. The results of these consultations have shown that there is broadly strong support for implementing the Government's proposals as soon as possible.

10. We have also been made aware of further information and feedback from partners which confirms our earlier belief that there are sharp practices, where impediments are put in place by unscrupulous site owners to prevent residents exercising their lawful rights under the current system. There are also examples where certain site owners liberally and inappropriately use the threat of court action to coerce, often older and vulnerable residents into agreeing to things they might not otherwise have agreed to.

11. However, we would re-emphasise that these problems are not in one direction only. There are examples where site owners have been unable to exercise their rights because of the uncooperative and unreasonable attitude of some residents, and for which the only practical remedy is to go to court, which due to the expense and delay, in some cases is not always a viable option. For example, if a site owner wanted to secure a modest increase in the pitch fee and the resident refused to agree to it, he/she is currently obliged to apply to a county court to secure the increase. On balance, the expense and delay in that process may not be worth the effort in enforcing the right to obtain a revised charge.

12. The Government continues to believe that there should be a level playing field between residents and site owners in resolving disputes which cannot be achieved by negotiation and agreement. We consulted on 3 options to take the proposals forward - see *A new approach for resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended)*, May 2008, see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/consultation.doc> :

Option 1: Jurisdiction to remain vested in the county court. This would maintain the status quo, and residents would continue to have to apply to the court for a determination of an issue under the Mobile Homes Act 1983.

Option 2: Transfer of the county court's jurisdiction to Residential Property Tribunals. This would mean that cases under the 1983 Act, with the exception of termination of agreement cases, would transfer to the Residential Property Tribunals.

Option 3: Transfer of the county court's jurisdiction to a dedicated tribunal, dealing exclusively with park home issues.

What difference will it make?

13. As already indicated above, the measures will directly or as part of a package of other related policy initiatives, give overall support or meet the need to:

- Provide fairer and more equal access to justice through a significantly lower cost hearings system which will be quicker in achieving desired results, easier to access and more user friendly and convenient for the majority of people.
- Protect the general interests, needs and aspirations of park home residents, many of whom are older and vulnerable people. The needs and rights of site owners will also be addressed in some cases where necessary.
- Ensure park home residents are afforded greater confidence and assurances on matters relating to health, and safety, security and general wellbeing, and treated with dignity and respect.
- Help to prevent or discourage criminal activity and other extreme behaviour against residents by some (albeit a minority of) site owners, such as harassment, blackmail, fraud, threats or actual harm to people and property.
- Help to improve and drive up management standards in the Park Homes sector generally, which will benefit not only residents and local neighbourhoods, but all site owners who already operate in a reputable and honest way, together with other business and trade interests directly or indirectly linked to the provision and operation of park homes.

Other recent developments

14. The second (smaller) consultation of May 2009 set out the Government's response to the previous May 2008 consultation, (*Summary of responses and further consultation*, May 2009 - see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/1241096.doc>) and also included a "mini consultation" on termination provisions in the 1983 Act as a follow up to May 2008 paper. In May 2009 DCLG also published an equality impact assessment in relation to the proposals impact on Gypsies and Travellers in England (Part 3 of *Summary of responses and further consultation*, May 2009 - see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/1241096.doc>).

15. The nature and shape of the comments received to the May 2008 consultation were set out in DCLG's May 2009 paper as referred to above. As was indicated, the consultation was welcomed by park home residents and the industry alike, and many useful comments were provided, including examples of how disputes had previously been dealt with.

16. A number of respondents raised queries in relation to how a proposed transfer of jurisdiction to either Residential Property Tribunals or a dedicated tribunal would work in practice. As a result a number of respondents gave qualified support or opposed the proposal. Specific concerns were raised by members of the travelling community in response to the consultations. The summary of the responses as provided aimed at dealing with those queries and concerns. An equality impact assessment also set out measures that will be put in place to mitigate or eliminate any potential disadvantage that some members of the travelling community might encounter by a transfer of dispute resolution to tribunals, as the jurisdiction will apply to 2,970 pitches on 195 local authority sites in England.

17. The general consensus through the responses was an overall welcome to the proposals and the Government has, therefore, decided to transfer dispute resolution and other proceedings arising out of the provisions of the Mobile Homes Act 1983 (as amended) to

Residential Property Tribunals. In summary, the main proposals include the following:

- Residential Property Tribunals will be given powers to determine any issues arising out of the express and general jurisdictions.
- Subject to the later May 2009 consultation it was decided to either transfer termination fact finding cases to Residential Property Tribunals or leave that role within the jurisdiction of the county courts. It was decided not to transfer the “fact finding” role in termination cases to Residential Property Tribunals, other than in repair cases, for the reasons set out in the December 2009 consultation response. With that exception all matters relating to termination will remain with county courts.
- Time limits will be imposed on making certain applications and appeals to Residential Property Tribunals. Urgency procedures will be available in respect of certain appeals to Residential Property Tribunals.
- Residential Property Tribunals can award costs in certain circumstances limited to a maximum sum of £5,000.
- Residents and site owners will have a right to apply for permission to appeal Residential Property Tribunals decisions to the Lands Tribunal and to renew such applications to that tribunal itself within specified time limits.
- New rules for the provision of arbitration, as announced in the December 2009 consultation response.

18. Few consultees commented on the draft Impact Assessment and there were few, if any, significant or clear objections or differences of opinion expressed on the costs and benefits identified in the preliminary impact assessment. The previous impact assessment has accordingly been reproduced below again for ease of reference.

Way forward

19. Our conclusion therefore is that the Government’s proposals (our preferred Option 2 in this assessment) should go ahead and that there are no significant changes to the facts and figures provided in the previous consultation impact assessment.

20. Regarding the proposals dealt with in part of the May 2009 summary / consultation paper on terminations, it should be noted that the Government has also decided not to transfer the fact finding role in such termination cases brought under paragraphs 4 or 5 of schedule 1 to the 1983 Act to the Residential Property Tribunals. Cases brought under those provisions must be commenced in the county court. We will, however, transfer the court’s jurisdiction to determine whether a home is detrimental to the amenity of a site and its power to make a repair order to remedy the defect. Proceedings under paragraph 6 will, therefore, need to be commenced in the Residential Property Tribunals and no application to a county court for termination can be made until that tribunal authorises it.

21. The Minister for Housing and Local Government announced on 14 July 2010 that the Government proposed to transfer the jurisdiction of the courts to Residential Property Tribunals, subject to Parliament’s consent.

22. The Government, therefore, intends to introduce the necessary measures in Parliament to make the necessary changes to legislation to give effect to these proposals at the earliest opportunity, with a view to bringing into operation the new jurisdiction as soon as possible. The necessary regulations are due to take effect in April 2011, subject to the necessary measures obtaining legislative consent.

REVIEW OF THE OPTIONS IDENTIFIED

Option 1 – Jurisdiction to remain vested in the County Court

23. By doing nothing the current legal situation would remain in place, namely that the jurisdiction of the Mobile Homes Act 1983 would remain with the county court.

Benefits of the county courts

- The courts have historically had jurisdiction over the law relating to park homes and, therefore, built up an appropriate level of expertise in this area.
- The courts have, in any case, a wide range of expertise in the field of landlord and tenant law and in dispute resolution generally.
- The courts are “self regulatory” to the extent that within the existing procedural rules, the court manages its own proceedings.
- Proceedings before the courts are adversarial in nature and the presiding judge hears the evidence of the parties and evaluates it impartially, without generally engaging in the opposing arguments.
- The courts can award costs against the losing party.
- The courts can enforce their own decisions and judgement.
- Legal aid may be available for some residents.

Disadvantages of the county courts

- The adversarial nature of court proceedings largely (but not formally) acts as a deterrent to some people from appearing in person who will, therefore, usually require legal representation, which can be costly.
- The formality of court proceedings can also be daunting to a litigant in person.
- Generally the court awards costs against the losing party, which is often significant if the winning party was legally represented.
- Cases may take a significant time to be heard by the court and may also take a lengthy period before judgement is obtained.
- The courts are not a court of record and decisions are not binding on other courts.

Costs

Costs to the individual

24. The costs of going to court are significant for the individual. The estimated costs for a single case going to court, including all application fees and legal costs (where used) are as follows:

Table 1. Option 1 Costs to the individual	
Source of Cost*	Sum
Applying to the Court (based on a non money case).	£150
Hearing Preparations	£200
Obtaining copies of documents from the court	£15 total
Legal Costs (see note below)	£4,000
Total cost of case with Legal Representation for the individual	£4,365

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

25. The application cost, hearing preparation fee and obtaining copies of document figures were based on information obtained from HM Court Service.

26. Although the court system does not require the use of legal representation, the majority of people applying to the court will use a lawyer, given the adversarial nature of the court. Figures from HM Court Service estimate the average legal costs of all cases heard by the county courts to be approximately £4,000.

27. The figures do not include cases where one of the parties appeals the decision, nor does it include any monetary awards that the courts may decide to issue.

Costs to Government

28. HM Court Service advises that the overall cost to Government per hour for a county court case is £709. We estimate that an average park home case at county court would last some two hours, giving a gross hearing cost of £1,418. Taking off the fees payable by the individual from applying to the court and hearing preparations (see table 1 above) the net cost to Government for a park home case is £1,068.

Total Costs

29. The cost to the individual plus the cost to government give a total cost of £5,433 per case. We currently estimate (based on conversations with Local Authorities and HM Court Service) that 60 cases occur per year. This gives a total annual figure of £325,980 – see table 2 below.

Table 2. Option 1 Total Costs		
Source of Costs*	Annual Cost	One-Off Cost
To Individual	£261,900	Nil
To Government (HM Courts Service)	£64,080	Nil
Grand Total of costs	£325,980	Nil

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

Savings

30. Any savings on this option would be negligible, given that the court currently hears the cases. The only savings would be minimal in that the Residential Property Tribunals would not need to provide for training and development in order to understand the legislation. There would also be minimal savings for DCLG in terms of not having to publicise the change.

Option 2 – Transfer of the County Court’s jurisdiction to residential property tribunals

31. An alternative to the county courts for the determination of disputes would be the transfer of jurisdiction to a residential property tribunal. A Residential Property Tribunal is a specialist housing tribunal which is part of an umbrella organisation called the Residential Property Tribunal Service, which in addition to the Residential Property Tribunal administers the Leasehold Valuation Tribunal and Rent Assessment Committees. The Residential Property Tribunal and its sister tribunals have a wealth of experience in adjudicating on leasehold, rented sector and landlord licensing disputes and in valuation cases.

Benefits of residential property tribunals

- Residential Property Tribunals and their sister tribunals have a wealth of experience in adjudicating on disputes and in carrying out other functions in connection with housing and landlord and tenant matters.
- Hearings before Residential Property Tribunals are inquisitorial in nature and informal, with tribunal members taking an active role in the proceedings.
- Residential Property Tribunals are low cost tribunals and do not award costs against a losing party per se.

- Parties can and are encouraged to represent themselves, although legal representation is permitted.
- Cases can be determined on “paper” without the need for an oral hearing.
- Residential Property Tribunals hearings are usually held locally.
- Residential Property Tribunals will usually inspect the site as part of the decision making process.
- Residential Property Tribunals can deal with cases speedily and in some cases can be fast tracked.
- Residential Property Tribunals decisions are published and are available to members of the public.

Disadvantages of residential property tribunals

- Residential Property Tribunals do not currently have any experience in dealing with park home disputes.
- Legal aid is not available in connection with proceedings.
- Residential Property Tribunals cannot enforce their own decisions.
- The parties have to bear their own costs – win or lose.

Costs

32. The costs of going to the Residential Property Tribunals are significantly less than going to court. We are proposing that the standard fee will be in line with the cost of applying to the county court, so the cost of application will be, subject to the exceptions in Chapter 5 of the consultation document, (*A new approach for resolving disputes and to proceedings relating to Park Homes under the Mobile Homes Act 1983 (as amended)*, May 2008, see <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/documents/housing/doc/consultation.doc>) £150.

33. Given that the Residential Property Tribunal is inquisitorial in nature, rather than having the adversarial nature of the county court, there is no need for legal representation on either side, therefore saving both the resident and the site owner money.

34. We estimate that there will be approximately 150 to 200 cases per annum at the Residential Property Tribunal, the estimated total annual cost of applying (paid by the individuals) being £22,500 to £30,000, or an average of £26,250 as factored into table 4 below.

35. These costings do not of course include any cases that may be appealed on. We do not believe however that there will be a significant number of appeals, therefore any costs are likely to be minimal.

36. There will, of course, be costs in terms of any award made by the Residential Property Tribunal, but this is very hard to quantify.

37. There may be some start up costs in relation to the Residential Property Tribunal making themselves familiar with the Mobile Homes Act 1983, but we expect that these costs will be minimal.

38. The Department of Communities and Local Government (DCLG) will incur some costs in relation to ensuring that all park owners and residents become aware of the changes. However, we believe that this can be achieved with the assistance of our external partners and actual costs to DCLG will be minimal.

Costs to Government

39. We estimate that 150 and 200 cases per annum will go to the Residential Property Tribunal, and that cases will normally last a day. We estimate the Government will incur the following costs overall:

Table 3. Option 2 Costs to Government	
Source of Cost*	Sum
Office Costs (including hiring of venues for hearings)	£5,000
Travel and Subsistence	£2,000
Training costs	£2,000
Pay for chairman of tribunal	£71,100
Pay for lawyer to sit on tribunal	£50,580
Pay for lay member of Tribunal	£21,840
Total Overall cost to Government (Residential Property Tribunal Service)	£152,520

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

Total cost

40. Depending on the number of cases, this would be between £175,000 and £182,000 (assuming number of cases lies between 150 and 200). However, taking account solely of the extra number of cases which will be heard by the Residential Property Tribunal Service, a reduced cost figure of some £18,000 will apply.

Savings

41. The savings will be to both the site owners and residents in terms of legal costs, as there is less need for legal representation at the hearings of the Residential Property Tribunal – see table 4 below.

Table 4. Option 2 Total Costs and Benefits		
Source of Costs/Benefits*	Annual Cost	One-Off Cost
Cost to individual (of extra cases i.e. (180–60 cases) x £150 = £18,000)	£18,000	Nil
Cost to Government (i.e. Residential Property Tribunal Service)	£152,520	Nil
Grand Total of costs	£170,520	Nil
Savings to individual on legal fees (Savings to applicant / individual on legal costs, i.e. (£4,000 legal fees + £200 hearing preparation costs + £15 cost of obtaining documents from court) x 60 cases per year = £ 252,900. NB: £150 application fee is excluded).	£252,900	Nil
Savings to Government on court cases (HM Courts Service)	£64,080	Nil
Grand total of annual savings / benefits	£316,980	Nil

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

42. Compared to the reference case, where hearings are heard in Court, there will be savings to the individual as indicated in table 4. However, there will be cases where residents and/or site owners may wish to use legal representation, which would incur additional costs.

43. It is not possible to quantify in terms of estimated savings how much would be saved if all those applying to court did not use legal representation, as the number of cases estimated appearing at the court is significantly less than that what we estimate for the Residential Property Tribunal.

44. There will, of course, be additional savings if an applicant wins the case since, in certain circumstances, the fee can be recovered. However, it is not possible to accurately quantify how large this saving will be, as it is impossible to estimate how many applicants will win their case.

45. There will of course be non-monetised benefits, most notably in the time it takes for a case to be heard at the Residential Property Tribunal. One of the major criticisms of the court system is the length of time it takes for the court to hear a case. In addition, the fact that the Residential Property Tribunal is an inquisitorial hearing, as opposed to the adversarial nature of the courtroom, will mean that residents are more comfortable in bringing forward cases.

46. There will also be savings in terms of travel and possibly subsistence for both residents and site owners in terms of travel to a county court. With the exception of the London Office, the

Residential Property Tribunal in the main holds its hearings at the nearest town hall, or in some cases, in a nearby village hall or other similar local facility, close to the location of the dispute. Savings are hard to quantify in terms of the number of cases.

Option 3 – Transfer of the County Court’s jurisdiction to a dedicated tribunal

47. An alternative option to transferring the county courts’ jurisdiction to the Residential Property Tribunal is the transfer of their jurisdiction to a dedicated tribunal. It has many of the advantages and disadvantages as Option 2, but in addition, there are some other drawbacks which need to be mentioned. First, the creation of a new dedicated tribunal would require primary legislation and, therefore, would not be established for some considerable time.

48. In addition, the cost burden discussed below is significantly high, when compared against the number of cases we estimate such a service would deal with.

Costs

49. There would be significant costs to the Exchequer in the setting up of a new tribunal. These costs assume that there would be some 150 to 200 cases going to the new tribunal, with two regional offices being set up where cases may be heard. They also assume that there would be a maximum of one case per day for the tribunal to hear. These include:

Table 5 Option 3 Costs		
Source of cost*	Annual Cost	One-Off Cost
Pay for chairman of tribunal	£71,100	Nil
Pay for lawyer to sit on tribunal	£50,580	Nil
Pay for lay member of tribunal	£32,760	Nil
Pay for administrative staff at tribunal offices	£160,000	Nil
Office costs (Including rent, IT etc)	£300,000	Nil
Travel & subsistence allowance	£20,000	Nil
Training costs	£2,000	£10,000
Creation of website	£5,000 (maintenance)	£250,000
Recruitment	Nil	£50,000
Setting up of contracts	Nil	£50,000
Total one off costs to Government (new Tribunal Service)	N/A	£360,000
Total Annual cost to Government (new Tribunal Service)	£641,440	N/A

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

50. The listed costs for the pay, along with the travel and subsistence allowances, for the members of the tribunal have been provided to us by the Residential Property Tribunal. The office costs would be much higher than in comparison with those for the Residential Property Tribunal. The projected list of costs should not be seen as exhaustive, and there may be other unseen costs that are not possible to quantify.

51. The costs of applying to a park home tribunal will still be significantly less than going to the court, and will be broadly in line with those outlined in Option 2 for transferring the jurisdiction to the Residential Property Tribunal.

Savings

52. The savings would be broadly similar in some areas to those identified with Option 2.

Table 6. Option 3 Total Costs and Benefits*		
Source of Costs/Benefits*	Annual Cost	One-Off Cost
Cost to individual (extra cases i.e. (180–60 cases) x £150 = £18,000)	£18,000	Nil
Cost to Government (New Tribunals Service)	£641,440	£360,000
Grand Total of costs	£659,440	£360,000
Savings to individual on legal fees	£252,900	Nil
Savings to Government (HM Courts Service) on court cases	£64,080	Nil
Grand total of annual savings / benefits	£316,980	Nil

*Costs based on data from HM Courts Service and Residential Property Tribunal Service.

Overall conclusion

Option 1

53. There is much to be said for the use of the courts in this area. County courts have experience in dealing with disputes under the Act. They can enforce their own judgements. They can award costs against a losing party, which acts a deterrent to people bringing frivolous or vexatious claims. Persons who cannot afford to bring or defend proceedings may be entitled to legal aid.

54. However, there are disadvantages too, some of which are the flip side of the benefit coin. For example, if a person is not entitled to legal aid, he/she may incur a large legal bill in bringing or defending proceedings. That prospect can act as a disincentive to many. Coupled with that, the formality and adversarial nature of proceedings normally calls for (although it does not require) legal representation, which some people can ill afford.

55. There is some evidence to suggest that site owners routinely threaten court action in order to secure benefits and agreements from residents, which they might not otherwise achieve. This “threat” often works because residents sometimes find the prospect of court action daunting, and would rather agree to the demands than face proceedings, which if they lose, they may

have to pay for.

56. However, such threats are rarely carried out, and very few cases are brought by residents either. It has been estimated that in England, no more than about sixty cases under the Act are brought before the courts each year. This should not be seen, given the well documented difficulties in this sector, as an indication that residents and site owners are happy with their lot, but must reflect a reluctance to use courts.

57. Therefore the Government does not overall consider that the jurisdiction of disputes should remain vested with the county courts, because it is not user friendly and if anything, in this particular sector of the housing market, is seen to act as a barrier to access to justice. In addition, it is sometimes used as a tool of intimidation.

Option 2

58. There are clearly some perceived disadvantages in a transfer to the Residential Property Tribunal. It can be argued that Residential Property Tribunals do not have any relevant knowledge or experience in dealing with park home disputes. Insofar as that argument goes, that is true. However, Residential Property Tribunals have previously acquired new jurisdictions (which this one is not), such as licensing under the Housing Act 2004. Residential Property Tribunals, with their experience in housing and valuation disputes, are more than capable of taking on a jurisdiction like this, for which members will be given training and, in any case, where the tribunals will have the guidance of previous court decisions.

59. It may be argued that it is a disadvantage that the winning litigant cannot recover his/her costs in connection with the proceedings from the losing party, but that bar exists because this is a low cost tribunal, where parties are encouraged to represent themselves and, therefore, not incur substantial costs in any case. If a party to proceedings chooses to be legally represented, then he/she must be prepared to pay for that representation out of his/her own funds. It therefore follows that if legal representation is not required, then legal aid cannot be made available. (It should be noted, however, that the tribunal will be given a limited power to award costs in exceptional circumstances – see chapter 5 of the consultation document).

60. Finally on the disadvantages, Residential Property Tribunals cannot enforce their own decisions (as opposed to their own procedures). The reason for that is, of course, they are administrative tribunals rather than courts of law. A Residential Property Tribunal decision can, however, be enforced by a county court in the same way as a court judgement.

61. On the other hand, Residential Property Tribunals have a range of experience in dealing with housing and valuation issues. Cases are dealt with speedily and informally and, because legal representation is not required, cheaply. It can also deal with cases without the need for an oral hearing, and it operates under its own procedural rules, which are less complicated and more flexible than court rules.

62. In addition, the cost to government of this option, when compared to the cost of retaining of the courts' jurisdiction, is significantly less.

63. The Government does not believe that the disadvantages of using Residential Property Tribunals as a forum for dispute resolution and proceedings under the Act are so significant as

to call into question the viability of this option. In particular, we have every confidence in the tribunal service's capability to take on this jurisdiction, which is proven by its track record in relation to the other jurisdictions it exercises. In any case, the ease of access to justice, the informality of proceedings and their low cost, are clear indicators that the Residential Property Tribunal service is a competent body in which to vest the jurisdictions under the Act. This is, therefore, the Government's preferred option.

Option 3

64. An alternative option to transferring the county courts' jurisdiction to the Residential Property Tribunal is the transfer of its jurisdiction to a dedicated tribunal. It has many of the advantages and disadvantages as Option 2, but in addition, there are some other disadvantages which need to be mentioned. First, the creation of a new dedicated tribunal would require primary legislation and, therefore, would not be established for some considerable time. Secondly, the costs of establishing such a tribunal, estimated at a start up cost of £0.36 million, with annual costs of some £0.64 million, is disproportionate to the amount of work, estimated at 180 cases per annum, that it would undertake. Thirdly, it is difficult to see what particular additional benefits would be gained by use of such a tribunal, as against the use of a residential property tribunal (which will in effect be a "park homes" tribunal when hearing a case under the Act). Indeed, we cannot envisage that a newly established tribunal would do anything differently from a Residential Property Tribunal.

65. For these reasons Option 3 is confirmed as the Government's least favoured choice.

Specific Impact Tests

Statutory equality duties

66. Where racial groups are affected by the proposals they will be affected equally. There is no evidence to indicate that any particular racial group will be affected differently from any other, that it will affect relations between racial groups, or that any one racial group will be unlawfully discriminated against either directly or indirectly. All those affected will also have the same expectations. The proposals will not have any specific impact in relation to disability equality or older people. It will also affect those women and men that it applies to equally and will not affect either gender differently or disproportionately.

Economic impacts

Competition

67. We have considered the impact of the proposals against the Office of Fair Trading checklist criteria and believe that there is unlikely to be a negative competition impact as a result. The relevant legislation will generally continue to have some limited impact upon site owners of residential park home sites in England. However it is unlikely that this will lead to a significant reduction in the number of site owners in the sector or the ability of some of them to compete.

Small Firms

68. Some site owners of residential leasehold properties could be considered small businesses, but these provisions will generally apply equally to all regardless of size. See Annex 3 for further details.

Environmental impacts

Greenhouse gas assessment

The proposals will not have any discernable impact on the sectors or key sources of greenhouse gas emissions. We do not therefore believe there is a need to undertake a full carbon impact assessment.

Wider environmental issues

The proposals will not have an impact on other environmental issues identified in the environmental impact guidance published by DEFRA. Namely the predicted effects of climate change; a change in the financial costs or the environmental and health impacts of waste management; air quality; the appearance of the landscape or townscape; the degree of water pollution; levels of abstraction of water; exposure to flood risk; disturb or enhance habitat or wildlife; or affect the number of people exposed to noise or the levels to which they are exposed.

Social impacts

Health and well-being

The proposals would appear to have no direct impact upon the health of those that it is designed to benefit. However the greater availability of the relevant rights should tend to have a positive impact upon those able to benefit from the changes by helping to alleviate concerns that they may otherwise have experienced.

Human rights

The proposals will engage the rights of park home residents and site owners equally and no adverse impacts are envisaged. It is not anticipated that there should be any significant legal aid impacts as a result of increasing the access to justice. This will also mean that there should be no implications for the public purse in terms of funding the various bodies charged with determining disputes. The question of legal aid is considered together with a justice impact test at Annex 4.

Rural Proofing

The proposals will not have a different or disadvantageous impact on anyone in rural areas that will be affected by it. They will generally apply to everyone in exactly the same way, including those in urban areas.

Sustainable Development

The proposals which recognise the need for improving access to justice will not have any discernable effect on sustainable development issues.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)]; Political commitment to review.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To ensure the policy objective of providing cheaper, easier and quicker access to justice is achieved through the use of tribunals in that users are more able to enforce their rights and resolve disputes than they presently can do so through the county court.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] We will review the number of cases brought before the Residential Property Tribunal and the nature of the decision making process, including length of time from application to determination of decisions and the cost of complexity of bringing proceedings. We will survey the users to establish level of satisfaction with regard to the service provided.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The baseline will be the evidence from the consultees that suggest there is widespread dissatisfaction with the current process because of the complexity, cost and delay in enforcing rights and decisions through the courts. This (it is thought) is why very few cases are brought before the courts about 150 per year.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] The success criteria will be measured against the increased number of cases brought before the tribunal above 150 cases per annum and the satisfaction of users with the process, including whether the tribunal has delivered a low cost, fair, quicker and more accessible service than through the courts.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review] We will record number of decisions, review those decisions in light of the legislative framework and review the nature of decisions published.</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here] N/A</p>

Annex 2: Further background on Park Homes

The Park Homes sector is a small but important part of the residential market in England. It is very diverse. Often the sector provides relatively affordable accommodation for persons with housing needs, whose access to traditional (social or private) housing is limited. On the other hand, it often also provides housing to persons downsizing from traditional housing and freeing up, as a result, larger family accommodation.

- There are approximately 2,000 park home sites in England, providing pitches for about 85,000 homes.
- The diversity of the market is reflected in the quality (in terms of amenities, services and location) of sites and the homes within them. Some sites are laid out almost as self contained communities, whereas others are simply caravan “parks”. This is reflected in the type and quality of the home- some akin to conventional good quality bungalows- and others being more traditional caravans. These differences are reflected in affordability with sited park homes costing anything from £10,000 to in excess of £250,000.
- The majority of the residents of park home sites are elderly, although there are no statistics on this.
- The main external partners groups are the local authorities who license the sites, the British Holiday and Home Parks Association and the National Park Home Council who represent the site owners and the National Association of Park Home Residents and the Independent Park Home Advisory Service who represent the residents. Gypsies and Travellers are represented by a number of diverse groups and organisations.

Other Key Facts/ Figures

- The Government has improved the rights of residents through making changes to the terms implied by statute into their agreements with site owners and which must be included in the written statement to be provided before the sale of a new home. These provisions came into force on 1 October 2006.
- For the purpose of encouraging energy efficiency (following earlier consultation) the Government amended certain requirements relating to the maximum dimensions of a two-part caravan, which also came into force on 1 October 2006.
- Following consultation, the Department for Communities and Local Government (DCLG) announced in March 2007 that proposals will be brought forward to make clearer the payments to site owners that residents can be required to make on the purchase or sale of their home. Details will be set out in a consultation paper due for publication in the near future.
- In April 2008 DCLG published revised Secretary of State approved model standards and associated guidance which local authorities must take into account when attaching conditions to a site licence. The model standards specify best practice in relation to the standards expected in relation to layout, facilities and services on a site.
- DCLG launched a consultation on 30 May 2008 on a new low cost tribunal mechanism to resolve disputes on rights under agreements to occupy park homes. DCLG published a document setting out a summary of the responses received to the consultation and the proposed way forward in May 2009.
- A number of fact sheets setting out the rights of residents were published in the earlier part of 2009. These cover the following areas:
 - Qualifying Residents’ Association;
 - Residents Rights;

- Selling a Park Home; and
- Pitch Fees and other Payments to the Site Owner.

- These measures combined should complete an overall package of reforms to park home legislation.
- Section 318 of the Housing and Regeneration Act 2008 – see <http://www.legislation.gov.uk/ukpga/2008/17/section/318> - made provisions that would permit the Secretary of State, with the consent of Parliament, to extend the operation of the Mobile Homes Act 1983 by secondary legislation to local authority Gypsy and Traveller sites. Therefore, in addition to traditional park home sites the Act (and the Residential Property Tribunal jurisdiction) will apply to 2,970 local authority pitches on 195 sites in England.

Annex 3: Small Firms’ Impact Test (SFIT)

Most of the businesses affected by these proposals are small in nature. We do not feel that there will be any significant impact on them in the short term. As part of our policy development we have spoken to trade associations who represent small business and they agree that the proposals will not have a negative impact on their members. Indeed, we believe in the long term that the proposals will be beneficial, as they will save businesses money in terms of legal and other costs. We believe that small firms will not be adversely affected when compared to larger businesses in the market; therefore a full Impact Test is not required.

Savings to site owners if the proposed move to the Residential Property Tribunal came into effect would be significant; the majority of these savings would be saved by small business owners from not having to use legal advisers in disputes and hearings. In addition the costs of the hearing to site owners will be greatly reduced from those currently experienced when applying to the court.

Discussions have been had with trade bodies that represent the vast majority of site owners over our proposals. They have welcomed the proposals in principle and have visited the Residential Property Tribunal, along with residents’ representatives, to see a hearing taking place.

Annex 4: Legal Aid

A Legal Aid and Justice Impact test has been completed and is attached.

Legal Aid and Justice Impact Test

In brief, what is your proposal?
To transfer the jurisdiction relating to dispute resolution for mobile homes from the county court to the Residential Property Tribunal, which is a specialist low cost housing tribunal. This will require amendments to the Mobile Homes Act 1983. The County Court will still be responsible for possession cases under the Act.
What is your proposal intended to achieve, over what geographical area (e.g. England, England and Wales) and in what timescale?
The proposal intends to make the resolution of disputes in relation to agreements under the Act a more cost effective and speedier process for all sides. The proposal will cover

England and we intend bringing this into force in April 2011.

What public commitments have been made and to whom?

Public commitments have been made to consult on our proposals at the All Party Parliamentary Group for the Welfare of Park Owners meetings in Parliament. The Group is made up of Parliamentarians and external partners from the various sides of the park home industry.

In addition in response to various consultation exercises, we committed to exploring the concept of a low cost arbitration service.

How does the proposal change what happens now?

Currently under the 1983 Act, the county court deals with contractual disputes arising between site owners and residents, in such matters as reviews of rent and approval of sales of mobile homes etc.

The proposal would remove the jurisdiction of the county court and transfer it to the Residential Property Tribunal.

Who will be affected and in what numbers?

This proposal will affect approximately 85,000 homes on 2,000 residential park sites and 2,970 caravan pitches on 195 local authority Gypsy and Traveller sites in England. We estimate that approximately 150 to 200 cases per annum will be heard by the Residential Property Tribunal (this is estimated partly on the number of cases currently heard in the county court).

Do you expect there to be an impact on the Courts Service or on the Tribunals Service (or both)? Are those impacts likely to require new IT systems and/or new forms, training or guidance for court or tribunal staff?

There will be no impact on the Courts Service and if there is any impact upon the Tribunal Service (i.e. the Lands Tribunal) it will be de minimus. Our proposals have been agreed by MOJ Ministers and discussed with the Tribunal Service.

Do you expect more or fewer cases to come to the Courts Service or Tribunals Service as a result of the proposal?

There will be a reduction in the approximately 60 cases per annum that are heard at the county court. There may be a very negligible increase in the case load of the Lands Tribunal.

Does your proposal create a new right of appeal or route to judicial review? If yes, how will these be handled? Has the use of alternative dispute resolution (ADR) procedures (including mediation, conciliation and ombudsman schemes)

been considered?
It is proposed that current appeal route (i.e. to the Court of Appeal) will be changed to the Lands Tribunal.
Are you able to estimate whether your proposal will lead to a change in the number or type of judges required? If yes, please explain these changes.
Our proposal will not lead to a change in the number of judges.
If more judges need to be appointed, when will they be needed?
n/a
Are there likely to be new judicial training requirements as a result of the proposals?
No
Is your proposal likely to have an impact on Legal Aid?
No. Proceedings before the Residential Property Tribunal do not qualify for legal aid.
If yes, which type of legal aid is likely to be affected: i) criminal or ii) civil and family or iii) asylum?
n/a
If yes, do you expect Legal Aid costs to increase or reduce as a result?
n/a