

**Briefing**

# Strengthening the law for mobile home residents

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# Shelter

## Strengthening the law for mobile home residents

### Introduction

The Housing (Scotland) Bill contains provisions to extend legal protection for people who own their mobile home while renting a stance from the site owner. While these proposals are welcome, Shelter believes that they should be part of a broader strengthening of legal protection for people who live in mobile homes, to include those who rent the home as well as the site. The legislation is complex and fails to protect people who rent mobile homes. They should have equivalent rights to those who rent a bricks and mortar house and **Shelter wants the Executive to make a commitment to a comprehensive review of the legislation on mobile homes regardless of the tenure.**

There are 4,500 people in Scotland living in mobile homes as their permanent residence, and for many an accommodation of last resort. An acute lack of affordable housing, especially in rural areas leaves some people with no choice but to live in unsuitable caravans that are often damp, cold and unstable, and which are often not connected to basic amenities such as water and electricity. To compound the misery of their physical conditions, residents of mobile homes have limited legal protection in comparison with households in bricks and mortar homes. Those renting or living on unlicensed sites have no security of tenure and no ability to demand an improvement to their living conditions. Such leaves occupants open to harassment from unscrupulous site operators.

In general, there are two groups of households who live in mobile homes in Scotland. The first are those who have chosen to live on protected and well-maintained sites for a number of reasons, one of which is an inability to buy their own home. This group has a considerable amount of legal protection, but faces problems in ensuring these laws are enforced, and in responding to rent increases from landlords. The second group are those who are forced to live in mobile homes because of homelessness, an ability to find suitable rented housing. In general, this group lives on unprotected sites, in poor quality homes, and are not counted by census figures, so the actual size of the group is unknown. People who live on unprotected sites have very little legal protection, and generally have little knowledge of their rights. Legislation on mobile homes should protect and respond to the needs of **both** these groups of residents.

**Shelter calls on the Scottish Executive to commit to a review of the current legislation on mobile homes. A strategic approach to the inequalities faced by mobile home residents in Scotland should consider:**

- **generating a profile of mobile home use in Scotland**
- **ensuring enforcement action on poor site standards**

- **scrapping the 10% commission on the sale of mobile homes**
- **increasing physical standards in rented mobile homes**
- **improving security of tenure for people who rent mobile homes.**

A policy focus on improving the lives of people who live in mobile homes is long overdue. Shelter therefore welcomes the provisions in the Housing (Scotland) Bill to improve the rights of people who own their mobile home while renting the pitch it stands on. However, little time and attention is given to the wider problem of mobile home living and the proposals miss the opportunity to take a comprehensive approach to improving the rights and conditions of everyone living in a mobile home in Scotland.

### How many residential mobile homes are there?

The 2001 Census does not identify mobile homes as a separate category, but records that there are 6,931 household spaces that are caravan or other mobile or temporary structures. Of these, 4,547 are occupied and 1,819 are second residence/holiday accommodation. This is likely to be a considerable underestimate of the numbers of mobile homes in Scotland. Further research is needed to provide accurate information about the scale of mobile home usage across Scotland.

Of all the 4,547 households in Scotland who live in a caravan or other mobile or temporary structure:

- 2,547 (56%) are owner occupied, of which 2,235 (49%) are owned outright
- 1,424 (33%) are privately rented, of which 1,217 (27%) are rented from a private landlord or letting agency
- 514 (11%) are social rented

Across Scotland, the highest proportion of the 4,547 households living in a caravan or other mobile/temporary structures is in:

	Households	Owned outright	Rented from Private Landlord	Social Rented
<b>Highland (11%)</b>	501	55%	26%	2.8%
<b>Midlothian (8%)</b>	365	70%	16%	5%
<b>Aberdeenshire (8%)</b>	345	50%	29%	3%
<b>Glasgow City (7%)</b>	321	34%	34%	24%
<b>Argyll &amp; Bute (6%)</b>	293	46%	31%	10%
<b>Moray (6%)</b>	261	51%	32%	7%
<b>Fife (6%)</b>	283	58%	16%	13%

## The Scottish context

Provisions in the Housing (Scotland) Bill are similar to the provisions contained in the Housing Act 2004 for England and Wales. Whilst these changes are welcome for Scotland, the context of mobile home use in Scotland is significantly different from that in England and Wales. Merely attempting to apply these English changes to Scotland will not be sufficient to improve standards for mobile home occupants north of the border.

In Scotland, the profile of mobile home occupancy is unlike that of England and Wales. The majority of people who live in mobile homes in England and Wales make a choice on retirement to move to a 'park home'. They often buy a mobile home and let a stance from a site operator. These homes can cost anything from £20,000 to £200,000 and are on well-maintained and desirable sites. The changes introduced in the Housing Act 2004 gives improved rights to bequeath or pass on their mobile home to family members, security of occupation and allows for secondary legislation to improve the terms of tenancy.

In Scotland the profile of occupancy is different and many people are forced to live in caravans due to a lack of affordable accommodation. Well-maintained 'park home' sites are less common, and many sites are unlicensed and unprotected. Caravans can be on unlicensed sites at the edges of agricultural land, and so be invisible to housing plans and census data collections. The climate in Scotland also has a significant impact on the choice of mobile home as a permanent dwelling and the conditions that residents suffer.

## The current legal framework

Legislation relating to mobile homes in Scotland is complex; governed by a number of pieces of legislation passed decades ago. The ineffective operation of this legislation was confirmed when changes to English and Welsh law made by the Office of the Deputy Prime Minister in the Housing Act to 2004 unwittingly amended Scottish legislation on mobile homes. There are also problems relating to how the law is applied in Scotland and with enforcing standards on sites.

The terms 'mobile home' and 'caravan' are used interchangeably in the legislation. It is defined as 'any structure designed for human habitation that is capable of being moved by road from one place to another'. The rights of the occupants depend on whether the mobile home is stationed on a protected site, whether it is occupied permanently and whether it belongs to an owner-occupier who rents the stance, or whether it is rented.

Any site that requires planning permission and requires a site licence is known as a protected site. The site licence is granted by the local authority, which has the power to attach conditions relating to the physical conditions of the site. However, these conditions are only enforceable by the local authority. Where a local authority unreasonably fails to

enforce site conditions, an expensive and lengthy judicial review is the only legal redress available to a mobile home occupier. There is, unsurprisingly, no precedent here.

The Caravan Sites Act 1968 (extended to Scotland by The Mobile Homes Act 1975) provides a minimum protection from eviction and harassment to all mobile home occupiers, whether they are owner or renters but only applies to people on protected sites. Under this Act, either the occupier or the site owner must give at least four weeks to terminate an agreement, and the Act gives protection from harassment including withdrawing or withholding services and interfering with the peace or comfort of the occupier.

Where a site owner applies for an eviction order against a caravan renter, provided that the correct notice to quit has been served, the courts have no option but to grant the order. The provisions of the Rent (Scotland) Act 1984 and of the Housing (Scotland) Act 1988 which protect tenants and other residential occupiers from unlawful eviction and harassment fully apply to people renting caravans, as long as the mobile home fits the classification of a dwelling house.

If a mobile home occupier falls outside the legislation for not being considered a dwelling house or not being situated on a protected site, they are covered by common law rights. These include the right not to be evicted without a court order and without proper notice, and the right to have the caravan kept in a habitable condition and to quiet enjoyment of a home. However, common law tenants have very limited security of tenure and therefore little incentive to enforce their legal rights.

## The problems experienced by mobile home dwellers

Many people live in mobile homes because they have no other choice, especially those residents in rural areas where there is an acute lack of affordable housing. Residents of mobile homes are not entitled to the same rights as people who live in bricks and mortar homes, and the conditions they live in are often extremely poor and even dangerous. To compound this, the indifferent attitudes of some local authorities and their lack of responsible enforcement of standards on sites, combined with residents' lack of awareness of their rights, ensure that families living in mobile homes continue to experience abysmal conditions.

- **Lack of security and rights.** If a resident lives on a protected site where the site owner has failed to apply for a licence or planning permission<sup>1</sup>, they may have no

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<sup>1</sup> Protected sites require a site licence and have planning permission for use as a caravan site. If the site requires a licence but the owner fails to apply for one they may face criminal proceedings. Sites which do not require protection include those owned by Local Authorities and where the caravan is not used as a principal residence.

security of tenure and no rights to demand an improvement in their living conditions. Licences can only be enforced on the site owner by the local authority and not the occupier. A resident may live in constant fear that local authority enforcement action on the site owner will cause them to lose their home. There is little or no alternative accommodation available in many areas where people have no choice but to occupy mobile homes, and residents will often endure poor standards and harassment from site owners to avoid becoming homeless.

- **Dangerous and poor housing conditions.** Mobile homes are much more likely to suffer devastating fires than traditional houses. Caravans are not suited to the wet and windy Scottish weather and caravans can be overturned and sites destroyed by gales. Many families live in extremely poor conditions because of rapid structural deterioration.
- **Health problems.** The health problems caused by caravan living are considerable. Overcrowding and lack of privacy have an effect on the physical and social development of all ages, causing depression, stress, illness and accidents. Intolerable levels of condensation and damp caused by poor insulation causes mould to grow and renders heating ineffective. Mobile home residents are also at greater risk of carbon monoxide poisoning.
- **Lack of basic amenities.** The difficulties of heating mobile homes are linked to other common problems, including overcharging by some site owners for the supply of electricity. Water supplies are often limited due to the low pressure and frequent freezing of pipes. Site owners often pay poor attention to repairs, which makes access to basic amenities insecure for residents.

**The current increase in mobile home use is clearly a response to the lack of affordable housing, particularly in rural areas of Scotland. Strengthening legal protection for mobile home residents should therefore be just one part of the policy response. As part of their local housing strategies, local authorities should be working to decrease the number of mobile home dwellers living on unlicensed sites, and increasing standards in mobile homes across the board.**

Shelter is calling for the Scottish Executive to:

- **Generate a profile of mobile home use in Scotland.**  
Responding to the needs of mobile home residents is next to impossible without a reliable profile of mobile home use. The current picture of mobile home occupancy in Scotland is incomplete and unreliable, with the result that the families that live in them and the problems they face are hidden from view. Census data is likely to provide a conservative estimate of the number of households living in mobile homes, and the Scottish House Conditions Survey continues to exclude mobile homes because they

are not considered part of the permanent housing stock. Yet in some rural areas, mobile homes are an essential source of accommodation available to families living on low incomes, and in some cases, local authorities rely on them to meet their housing obligations. The Scottish Executive should review how mobile home use is counted, placing particular emphasis on those on unprotected sites and unlicensed.

- **Ensure enforcement action on poor site standards.**

The Housing (Scotland) Bill should include provisions that would allow for formal recognition of residents' associations by site owners, and changes in Park Home Site Licensing to ensure higher standards on sites. In particular, Local Authority powers to regulate the conditions on sites through the licensing regime should be extended to a duty.

- **Scrap the 10% commission fee on the sale of mobile homes.**

Shelter calls for the abolition of the 10% commission fee payable to a site owner on the sale of a mobile home. Concern that commission would be added to pitch rent means that the 10% commission on sale has not been abolished in England. However, the profile of home ownership is different in Scotland. In England, mobile homes are often retirement homes that people move to out of choice and where the benefits of lower pitch rent are greater and the commission on sale likely to be paid by the family who inherits the home upon the owners death. In Scotland, mobile homes are often transitional homes, and 10% commission upon sale is a unreasonable burden on mobile home owners that seriously undermines them securing alternative accommodation.

- **Take measures to increase physical standards of rented mobile homes.**

Although Shelter welcomes the recommendations to extend Scottish legislation to match some of the rights given to mobile home owners in the Housing Act 2004, we believe that this extension should be comprehensive and cover the rights of people who rent mobile homes also. People who live in rented mobile homes are restricted in their ability to call for higher standards on their sites and in their caravans. Concerns over their security of tenure and a lack of understanding of their rights means that occupants often suffer intolerable standards in silence, without the power to push for changes. Shelter urges the Executive to extend standards for rented accommodation to cover mobile homes, and to consider registration of landlords who rent mobile homes in the same way as those who rent bricks and mortar houses.

- **Improve the security of tenure for people who rent mobile homes.**

The rights of people who rent a mobile home are limited and unclear. Their rights will depend on which law they are protected under, and often people in Scotland who rent caravans or mobile homes will fall outside the protection of any legislation. Shelter Scotland urges the executive to make legislative changes to ensure that those renting a mobile home as their primary residence have security of tenure equivalent to those renting permanent structures.



Someone who rents a mobile home on a rented stance, should be living on a licensed site and therefore will have rights under the Caravan Sites Act 1968 (extended to Scotland by the Mobile Homes Act 1975). This legislation provides minimum protection from eviction and harassment. The Act states that the occupier or site owner must give at least four weeks notice to terminate an agreement. The notice can be in any form and does not have to be in writing, and provide the correct notice has been given a court would have no option but to grant an eviction order.

If renting a mobile home from a private landlord, a resident might be protected under the Housing Scotland Act 1988 if the mobile home can be classified as a dwelling under the Act. It is likely to be a dwelling if it is connected to services such as water, electricity or telephone and rests on supports rather than wheels. If it counts as a dwelling, the occupant is more likely to have a short assured or assured tenancy agreement. With a tenancy agreement, the occupier would be protected under the Rents (Scotland) Act 1984 or the Housing (Scotland) Act 1988 and will have security of tenure. The site owner will only be able to evict if they can prove grounds for possession and give four weeks notice. The resident is also protected from harassment by a site owner.

If a mobile home is not classed as a dwelling the occupier is likely to be excluded from basic legal rights. Most mobile homes are not dwelling houses because they are movable structures. If a mobile home has had its wheels removed or has been permanently fixed to the ground in some way, the person renting it is more likely to be protected.

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***This is one of a series of position papers produced by Shelter on the Housing (Scotland) Bill. For more information, contact Grainia Long, Policy Manager, Shelter Scotland on 0131 473 7194 or [grainia\\_long@shelter.org.uk](mailto:grainia_long@shelter.org.uk)***