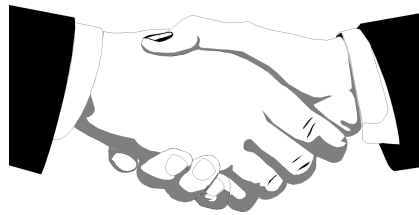


**Independent Park Homes Advisory Service**

# **Qualifying Residents' Associations**

by Alan Savory

**I P H A S**



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This short leaflet can only be a brief guide to your rights and may not cover all the legal details. For further information, please speak to a committee member of your Residents Association or to your IPHAS Advisor.

IPHAS cannot be held responsible for any misinterpretation or misuse of the information in this leaflet.

## QUALIFYING RESIDENTS' ASSOCIATIONS

The new Implied Terms state that a park owner must consult the residents association about all matters which relate to the operation and management of the park which may affect the residents either directly or indirectly. The residents association must be a properly constituted association – called a ‘qualifying residents association’ - and this is defined in paragraph 28 of the Implied Terms. To be recognised by the park owner, the park owner has to acknowledge in writing that the association is a ‘qualifying residents association’.

Before asking the park owner for this acknowledgement, the committee should check that the association fully complies with the requirements. One of the important requirements is that it should have a Constitution and a Model Constitution is attached.

This Model Constitution has been discussed and agreed by the national residents’ associations, IPHAS and NAPHR with the industry bodies, BH&HPA and NPHC (British Holiday and Home Parks Association and National Park Homes Council). Therefore it is acceptable to both parties, residents and park owners. This will make it very difficult for a park owner to refuse to accept the constitution. We suggest that you adapt this Constitution for your association by inserting names and details. It must be accepted by a vote at a General Meeting of the association before it is legal.

After the Constitution has been adopted and you are sure that the association complies with its contents and with paragraph 28 of the Implied Terms, the next step is to write to the park owner asking him to formally recognise the association as a ‘qualifying residents association’ in accordance with paragraph 28 of the Implied Terms. The letter should include a copy of the Constitution and the Committee Rules, if any, and should include the percentage of occupiers who are in membership. At least 50% of the occupiers must be in membership for the association to be recognised as a qualifying residents association so it would be preferable to have more than this, at least 60%, to allow for changes such as people leaving the park.

The letter should also state that the list of members can be inspected by him or his agent at a time and place specified. You can send a list if you wish but the requirement is for the list to be ‘open to inspection’; the park owner is not entitled to a list of members. Some park owners may require that the list be on public display but this is not necessary and would be contrary to the principles of Data Protection. To understand the phrase, ‘open to public inspection’ one should consider that this term is used when a local authority publicises a planning application. The planning application is not put on public display but can be viewed by visiting the local authority offices and asking to see it. Similarly, the membership list can be viewed by the park owner at a pre-arranged time and place.

Understandably, some residents may be unhappy about the membership list being seen by the park owner and the way to counteract this is to have a strong membership. In the event of the park owner being one of the UPOs, (Unscrupulous Park Owner) if 90% of the occupiers are in membership the UPO would find it difficult to harass such a large majority of the residents. Whereas if only 51% are in membership, the UPO only needs to persuade a few residents to leave the association and this would prevent the association from being recognised.

An example of a letter requesting formal recognition is attached with this leaflet as Example Letter One. The appropriate details can be inserted and the constitution attached and sent to the park owner at the address notified to you in accordance with the implied terms. Paragraph 26 of the new implied terms require that the park owner notifies residents of the address to which all notices should be sent. The letter can be sent by recorded delivery if you think it necessary.

If the park owner does not reply within a reasonable time or his response is unsatisfactory, then it will be necessary to be firmer and introduce the time element, that is to require a reply by a stated time and state that legal action may ensue if necessary. An example of such a letter is attached to this leaflet as Example Letter Two.

If the park owner refuses to acknowledge that the association is a qualifying residents association then you may want to ask a tribunal to declare that the association is a qualifying residents association in accordance with paragraph 28(h) of the Implied Terms. We do not recommend taking legal action unless there is no other way to achieve your objective. In the event that the association decides that it is necessary to start legal action, the procedure is to apply to the Residential Property Tribunal.

A government fact sheet on the tribunal system can be downloaded from the DCLG website [www.communities.gov.uk](http://www.communities.gov.uk). It is entitled 'Understanding the Mobile Homes Act 1983 – Disputes and proceedings'. It includes addresses of the five regional offices of the RPTS. You should ask the nearest office for an application form PH11. Send in the completed form with the fee of £150.00. The tribunal will send directions as to what to do next.

Extract from the Implied Terms:-

**“Qualifying residents’ association**

**28.** (1) A residents’ association is a qualifying residents’ association in relation to a protected site if—

- (a) it is an association representing the occupiers of mobile homes on that site;
- (b) at least 50 per cent of the occupiers of the mobile homes on that site are members of the association;
- (c) it is independent from the owner, who together with any agent or employee of his is excluded from membership;
- (d) subject to paragraph (c) above, membership is open to all occupiers who own a mobile home on that site;
- (e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents’ association;
- (f) it has a chairman, secretary and treasurer who are elected by and from among the members;
- (g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each mobile home; and
- (h) the owner has acknowledged in writing to the secretary that the association is a qualifying residents’ association, or, in default of this, the appropriate judicial body has so ordered.

(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) above, each mobile home shall be taken to have only one occupier and, in the event of there being more than one occupier of a mobile home, its occupier is to be taken to be the occupier whose name first appears on the agreement.”

**(MODEL CONSTITUTION FOR QUALIFYING RESIDENTS' ASSOCIATIONS)**

**.....PARK RESIDENTS ASSOCIATION**

**CONSTITUTION**

**1. NAME**

The name of the Association shall be.....Park Residents' Association.

**2. AIMS**

The Aims of the Association shall be:

- a) to represent the interest of its members in consultations with the park owner and with the local authority and other bodies.
- b) to make representations when the Association has received notice from the park owner about matters affecting the Park.

**3. MEMBERSHIP**

Membership is open to all occupiers of owner-occupied park homes stationed on.....Park ("the park") over the age of eighteen years irrespective of nationality, race, colour, age, gender, political, religious belief or sexual orientation.

The park owner and any agent or employee of his shall be excluded from membership.

Membership shall be indicated by a signature on a membership list.

A list of the membership shall be open to public inspection together with the constitution and any rules of the Association.

**4. MEMBERSHIP FEES/ SUBSCRIPTIONS**

Where a subscription or membership fee is paid the amount payable per household shall be determined at the Annual General Meeting of the Association.

**5. CHAIRMAN, SECRETARY AND TREASURER**

The members entitled to vote shall by voting at a general meeting elect a chairman, secretary and a treasurer from among the members.

Other committee members may be elected by the membership as required.

With the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions of the Association shall be taken by voting.

An officer of the Association may be removed from office by a vote at a General Meeting.

BH&HPA IPHAS NAPHR NPHC

## 6. ANNUAL GENERAL MEETING

There shall be an Annual General Meeting in (*month*) each year to:

- a) Accept the Chairman's Annual Report;
- b) Accept the Treasurer's financial statement of accounts (*where applicable*);
- c) Elect Chairman, Secretary and Treasurer for the next year;
- d) Elect any other committee members as required; and
- e) Consider any other items previously notified to the secretary or raised at the meeting.

Notification of the AGM will be given to all members at least fourteen days before the meeting.

## 7. OTHER GENERAL MEETINGS

The Chairman may call a General Meeting of the members at any time. The Chairman must call a General Meeting within fourteen days of receiving a request to that effect signed by not less than 10% of the members who are entitled to vote at such a meeting.

In all cases the Secretary will circulate details of General Meetings at least seven days in advance.

The decisions of General Meetings are to be carried out as determined by the meeting.

## 8. QUORUM

The Quorum for General Meetings will be 20% of member homes in the Association and therefore no General Meeting will be held without at least this number being present.

## 9. VOTING

Only one member per owner-occupied park home may vote at meetings of the Association. -

Motions formally raised at a General Meeting shall be decided upon by a simple majority of those present, except those relating to the Constitution which will require a two-thirds majority, one vote per park home.

A resolution shall be decided on a show of hands unless a ballot is demanded:

- a) by the Chairman of the meeting, or
- b) by a proposal from a member which is seconded and passed by a majority vote.

## 10. FINANCE

All money raised by or on behalf of the Association shall be used to further the Aims of the Association and for other purposes as decided by the Association. The Association's finances shall be accounted for by the Treasurer. Moneys withdrawn from, or transferred between, the Association's bank accounts shall be authorised by two of the three officers or as nominated by the Association.

A bank account shall be opened in the name of the Association and the Treasurer shall keep proper records of all the finances of the Association at all times. These shall include records of:

- a) all sums of money received and spent by the Association;
- b) the assets and liabilities of the Association.

11. CHANGES TO THE CONSTITUTION

The Constitution may only be altered at an Annual General Meeting or a General Meeting. Notice of any proposed amendment(s) to the Constitution must be handed to the Secretary not less than fourteen days before the General Meeting.

Changes to the Constitution must be agreed by two thirds of the members present and eligible to vote at a General Meeting.

The Constitution must then be changed to reflect the amendment(s).

Changes to the Constitution must be notified to the park owner.

12. DISSOLUTION

The Association may only be dissolved at a General Meeting called for that purpose. At least fourteen days' notice must be given to all members.

A proposal to dissolve the Association shall only take effect if agreed by a simple majority of the members present and eligible to vote at the meeting.

All funds and documents relating to the Association shall be disposed of in accordance with the decisions of the Meeting.

This Constitution was adopted at the AGM held on ..... (date)

Signed: Chairman.....

Signed: Secretary.....

Signed: Treasurer.....

**EXAMPLE LETTER ONE**

**SUNNY DAYS PARK RESIDENTS ASSOCIATION**

Date:

To: Mr. Park Owner  
Sunny Days Park  
Address

Dear Mr. Park Owner,

This letter is to ask for your formal recognition of the Sunny Days Park Residents' Association. I confirm that we have met the criteria for a 'qualifying residents association' as defined in paragraph 28 of the implied terms of our Written Statement. I enclose a copy of the Constitution of the association. Over 65% of the occupiers of the park are in membership of the association calculated on the basis of one member per home. The list of members can be inspected by you at my home at 25 Sunny Days Park at a time convenient to both of us. Please telephone me on 01234 567899 to arrange a time.

After that would you please send to me written acknowledgement that you have accepted this association as a qualifying residents association as defined in paragraph 28 of the implied terms?

Yours faithfully,

Mrs. Brown  
Secretary

Encl: Constitution



## EXAMPLE LETTER TWO

### SUNNY DAYS PARK RESIDENTS ASSOCIATION

Date:

To: Mr. Park Owner  
Sunny Days Park  
Address

Dear Mr. Park Owner,

Further to my letter dated        asking for your formal recognition of the Sunny Days Park Residents' Association, we have not yet received a satisfactory reply.

I confirm that we have met the criteria for a 'qualifying residents association' as defined in paragraph 28 of the implied terms of our Written Statement. I enclose a copy of the Constitution of the association. Over 65% of the occupiers of the park are in membership of the association calculated on the basis of one member per home. The list of members can be inspected by you at my home at 25 Sunny Days Park at a time convenient to both of us. Please telephone me on 01234 567899 to arrange a time.

Can you please reply within 28 days of receipt of this letter with written acknowledgement that you have accepted this association as a qualifying residents association as defined in paragraph 28 of the implied terms? If you wish to inspect the membership list, this should be done within the 28 days.

If we do not receive a satisfactory reply within 28 days, then we will ask the tribunal to make an order in accordance with paragraph 28(1)(h) of the implied terms that the association is a qualifying residents association.

Yours faithfully,

Mrs. Brown  
Secretary

Encl: Constitution