Pecyn dogfennau cyhoeddus

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Lleoliad:
Ystafell Bwyllgora 2 - y Senedd

Dyddiad:
Dydd Mercher, 28 Tachwedd 2012

Amser:
09:00

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

I gael rhagor o wybodaeth, cysylltwch â:

Polisi: Marc Wyn Jones
Clerc y Pwyllgor
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Agenda

Cyfarfod preifat cyn y prif gyfarfod 9:00 - 9:10

1. Cyflwyniad, ymddiheuriadau a dirprwyon

2. Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Cyfnod 1 - Sesiwn dystiolaeth 3 (09:10 - 10:10) (Tudalennau 1 - 19)

Alicia Dunne, Dirprwy Gyfarwyddwr Cyffredinol, Y Cyngor Carafanau Cenedlaethol

Ros Pritchard, Cyfarwyddwr Cyffredinol, Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain
Tony Beard, Cynghorwr Cyfreithiol, Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain

Charles de Winton, Cynghorwr Aelodaeth, Cymdeithas Tir a Busnesau Cefn Gwlad

3. Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Cyfnod 1 - Sesiwn dystiolaeth 4 (10:10 - 10:40) (Tudalennau 20 - 24)

Andrew Morris, Llywydd, Y Tribiwnlys Eiddo Preswyl

Egwyl - 10:40 - 10:50

4. Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Cyfnod 1 - Sesiwn dystiolaeth 5 (10:50 - 11:50) (Tudalennau 25 - 42)

Wendy Threlfall, Cadeirydd, Cymdeithas Genedlaethol Preswylwyr Cartrefi mewn Parciau

Geoff Threlfall, Aelod, Cymdeithas Genedlaethol Preswylwyr Cartrefi mewn Parciau

Tim Jebbett, Cynghrair Gweithredu Preswlwyr Cartrefi mewn Parciau, Y Gyngres Cartrefi mewn Parciau Cenedlaethol

Rachel Jebbett,

5. Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y canlynol:

Gweddill busnes heddiw.

6. Trafod y dystiolaeth ar y Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru) (11:50 - 12:00)

7. Cytuno ar ddull y Pwyllgor o graffu yng Nghyfnod 1 ar y Bil Llywodraeth Leol (Democratiaeth) (Cymru) (12.00-12.20) (Tudalennau 43 - 63)

Bil Llywodraeth Leol (Democratiaeth) (Cymru)

Memorandwm Esboniadol

8. Papurau i'w nodi (Tudalennau 64 - 65)

Papur i'w nodi - Llythyr drafft i'r Gweinidog Cyllid (Tudalennau 66 - 68)

Papu'r i'w nodi - Gwybodaeth ychwanegol oddi wrth Wasanaeth Cynghori Ariannol Cymru yn dilyn y cyfarfod ar 24 Hydref (Tudalennau 69 - 72)

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16 November 2012

Evidence of the British Holiday & Home Parks Association and the National Caravan Council (The NCC) to the Regulated Mobile Home Sites (Wales) Bill

BH&HPA

1. The British Holiday & Home Parks Association (BH&HPA) is the UK's national representative body of the parks industry. Across the UK, BH&HPA members own and manage 2,926 holiday, touring, residential and mixed-use caravan parks accommodating 389,831 pitches. These include 988 residential and mixed-use parks which include 48,663 residential pitches.

2. In Wales, BH&HPA members own and manage 420 parks providing 54,110 pitches for caravan holiday home and lodges, touring caravans, motorhomes, tents and residential park homes. Members own and operate 49 residential and mixed-use parks which include 1,490 pitches for residential park homes in Wales.

The National Caravan Council (The NCC)

3. The NCC is the trade association representing the collective interests of the touring caravan, motor home and caravan holiday and residential park industries in the UK. The industry has a turnover approaching £3 billion, employs in excess of 100,000 people and serves over one million caravanners and over 250,000 holiday and park home residents. Our members include over 90% of the UK manufacturers of caravans, motor homes and holiday home and park homes along with the leading park owners, motorhome and tourer dealers, and supply and service companies many of whom are actively involved in buying and selling new and used products to and from consumers.

4. To respond to the questions of the National Assembly's Communities, Equality and Local Government Committee consultation:

General

1. Is there a need for a Bill to amend the arrangements for licensing and make provision for the management and operation of regulated mobile home sites in Wales? Please explain your answer.

5. Yes.

6. Both associations have long supported the principle of a fit and proper licensing regime, as measures are necessary to prevent those who abuse park home owners from continuing to purchase and manage residential parks. The misery they cause tarnishes the reputation of the entire industry.

7. The majority of park owners are decent people who are conscientious in their provision of a valuable housing option. In the words of the Minister for Housing, Huw Lewis AM: 'there are reputable professional site owners and managers who act responsibly with the interests of site residents at heart.'

8. An effective regime which is a sufficient deterrent to rogue activity is in the industry's interest, as much as the interests of park homeowners. However, this must not be so expensive or so bureaucratic as to drive good park owners from the industry.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

9. The associations support the objectives of the Bill.

10. Our concerns are of a practical, legal and economic nature with regard to the detail of the Bill towards meeting its stated objectives, with one exception.

11. That exception is that whilst proposing protections from 'sale blocking' for today's homeowners, the Bill does not propose effective protections for their buyers or for communities already resident on a park.

12. Such protections are necessary to ensure:
    - buyers are informed of the rights and responsibilities which come with their purchase of a park home such as, for example, the costs involved and any Age Rules on a retirement park
    - where homeowners have chosen to live within a community of retired people that this is preserved
    - clear procedures are in place to administer the sales process.

13. Removing the park owner's involvement in private sales eliminates the opportunity for 'sale blocking'. However, it also removes the park owner's role in ensuring buyers have the information they need and the nature of the community on the park is preserved. Therefore, whilst introducing protections for the seller, protections are also necessary for the purchaser, homeowners already residing on the park and the park business.

3. In your view, will the licensing and enforcement regime established by the Bill be suitable? If not, how does the Bill to need to change?

14. As stated above, the associations have long supported the principle of a fit and proper licensing regime. However, this support is given with the caveat that a workable solution must be identified that is both practical and sufficient to deter the rogues.

15. The enforcement regime proposed by the Bill closely mirrors that for Houses in Multiple Occupation (HMOs) under the Housing Act 2004. We recommend modifications to the Bill's proposals on practical and legal grounds reflecting:
    - the fundamental differences between an HMO (where tenants reside usually on fairly short-term occupation with no financial investment in the premises) and a residential park, where homeowners have invested considerable sums and are resident for many years
    - the need to avoid creating duplication with the site licensing regime under the Caravan Sites and Control of Development Act 1960 (to which the Bill proposes no changes).

Section 4

16. We welcome the proposals with regard to the 'Collaborative discharge of functions', allowing local authorities to share and develop expertise in Regulated Mobile Home Site licensing. This collaboration would permit economies of scale, thereby reducing costs over the 92 sites identified for regulated site licensing and avoiding unnecessary duplication of licensing where one person is responsible for the management of several regulated mobile home sites in Wales.

17. ***We recommend collaboration between licensing authorities should not be an option; it is a requirement for the successful implementation of the Bill's proposals.***

Section 5

18. The Bill does not propose amendment to the Caravan Sites and Control of Development Act 1960. Therefore, the fit and proper licensing and enforcement regime for Regulated Sites under the 2012 Bill would work in parallel with the licensing and enforcement under the 1960 Act. This was confirmed to the Assembly by the Bill's sponsor Peter Black AM on 7 November: 'residential sites still have to be licensed under the Caravan Sites and Control of Development Act 1960'

19. We welcome this as the regime needs to separate the park infrastructure issues of a site licence, from the fit and proper management issues of a regulated site licence. In its effect, the new licensing regime proposed by the Bill should be that of a personal licence.

20. This separation also ensures that the site licence regulating the park infrastructure would endure as the owners and managers come and go over time. This safeguards the interests of homeowner as well as other stakeholders, such as, significantly, banks lending to park businesses and finance providers lending to homeowners.

21. However, it is essential to avoid any duplication creating 'double jeopardy' whereby a park owner could be prosecuted twice for the same offence under two separate licences, or where the conditions of the site licence under the 1960 Act are repeated (perhaps not word for word) by the regulated site licence. We suggest this would give rise to confusion and possible unfairness.

22. For example, the 1960 Act and the 2013 Bill both address the maximum number of mobile homes, facilities and equipment on the site:

1960 Act - conditions for a Site Licence	**Bill -** matters to be considered when granting a Regulated Site Licence
5(1)(a) *'the total number of caravans which are so stationed at any one time'*	7(3)(a) *'that the site is reasonably suitable for the stationing of not more than the maximum number of mobile homes ...'*
5(1)(f) *'facilities, services and equipment'*	10(3)(c) and (d) *'facilities and equipment'*

23. Whilst the Housing Act 2004 addresses the maximum number of households in a HMO, we question the necessity to twice regulate for the number of park homes on the same park. Legislation giving rise to 'double jeopardy' could be subject to legal challenge.

24. ***We recommend that a 2012 Regulated Site Licence should focus on the fit and proper management standards of the park (which would automatically require adherence to the conditions of the Site Licence under the 1960 Act). Therefore any breach of the 1960 Site Licence would be a matter for consideration as to the fit and properness of the park management.***

25. ***However, for the reasons given above, we recommend that Regulated Site Licence conditions under the Bill should not duplicate (with the possibility to conflict with) 1960 Site Licence conditions.***

Section 6

26. 6(2) seeks applications to identify '(a) the person who is the owner of the regulated site (or, if the site is owned by more than one person, all those persons)', and '(b) the person who is to be the manager of the site.'

27. However, one person may be the owner of several regulated sites in Wales. The collaboration suggested in section 4 is therefore essential:
    - to ensure that any breach of the fit and proper requirements in respect of one regulated mobile home site is transmitted through the system and impacts on that person's ability to own and manage all other regulated mobile home sites in Wales
    - and, on grounds of efficiency and cost, to avoid duplication of applications and vetting of a single person who owns several regulated sites.

28. ***We recommend that Section 6 is modified such that the owners of several regulated mobile home sites are identified through the application process, streamlining the vetting process and that their Regulated Site Licence should apply the same fit and proper management standards and any subsequent sanctions across all regulated mobile home sites within their control.***

Section 7

29. Section 7(1) gives the site licensing authority the power to refuse the application for a regulated site licence. In these circumstances, if he/she continues to use the site as a regulated site, the park owner would be guilty of an offence under section 22. The homeowners on such a park would need protection.

30. While it might be assumed the park owner would sell the park in such circumstances, if this does not happen for whatever reason, the legislation does not provide a mechanism for a receiver or manager to be appointed in these circumstances.

31. 7(3)(a) and 7(5) addresses the maximum number of mobile homes. This is a matter for a 1960 site licence and, as above, the conditions of the two licences should not be duplicated so creating double jeopardy.

32. 7(3)(d) requires that the 'proposed manager' is fit and proper. There are many park managers already employed in Wales. The Bill needs to address their employment protections if they are not found to be fit and proper under the new regime.

Section 8

33. Section 8 also addresses the maximum number of mobile homes. As above, this is a matter for a 1960 site licence and, as above, the conditions of the two licences should not be duplicated.

34. It will be important to ensure clarity between the 'prescribed standards' under 8(3) of the Bill, and the Model Standards published by Welsh Ministers under the 1960 Act, again to avoid duplication.

4. Are the Bills proposals in relation to a fit and proper person test for site owners and operators appropriate, and what will the implications be?

Section 9

35. In assessing whether a person is fit and proper under 9(2):
    - evidence needs to take into consideration the management of ***all*** sites within that individual's control
    - considerable care is necessary to ensure criteria are proportionate. Breaches/offences may be absolute and while 'guilty' the park owner, despite due diligence, may not have contributed to the offence. For example:
        - despite the park owner's best efforts, a resident's actions can place the park owner in breach of his site licence conditions (such as by erecting an extension to the home within the required separation distance).
        - a Fire Point vandalised after the park owners' inspection, just a short time before the environmental health officer visited the park.

36. Under 9(2)(c), the site licensing authority 'must have regard … to any evidence' that the park owner has contravened certain areas of law. We suggest that such evidence should be

limited to cases where the court or a tribunal has made a finding. Without such a definition to a decision of a court of tribunal, the licensing authority could have to consider and weigh allegations as evidence of legal breaches.

37. Even if this definition were added, we recommend that guidance should be provided about the relative weight that should be applied to findings in the civil courts, tribunals or those administering codes of practice. There are questions of degree that should be considered. Without taking account of civil cases which can be trifling or serious, the spectrum of offences would include from an administrative oversight in the nature of a minor regulatory infringement to the commission of serious crime.

38. Issues could arise under section 9(2) in respect of 'spent offences' where it would assist if the Assembly's intention was clarified.

39. ***We recommend***

- ***assessment as to the fitness of a park owner or park manager should take into account <u>all</u> sites within that individual's control***
- ***the regulated site licensing authority should be charged with assessing the weight to be given to any of the evidence collated under 9(2) and 9(3). Offences should not be viewed in an absolute fashion and alleged breaches of the law which are not supported by the finding of a court or tribunal should not be taken into account.***

40. We applaud the inclusion of 9(3)(a) requiring the consideration of a park owner's current and previous associates to prevent the passing of management responsibilities between members of the same rogue 'gang' in order to circumvent the protections proposed.

41. Guidance would be necessary:

- under 9(5)(a) to avoid creating an unnecessary bureaucratic burden on the majority of competent and professional park owners to prove their competence
- and under 9(5)(c) again to avoid an unnecessary bureaucratic burden given the complexity of management structures and funding arrangements.

42. We question the relevance and practicality of including 'competence', 'management structure' and 'funding arrangements' as criteria under 9(5). The issues arising from the unscrupulous minority within the industry are concerned with attitude (and lack of morality) rather than with competence, management and funding. Failures in attitude/morality are evidenced by conviction for harassment or attempts to defraud (under 9(2)) rather than any managerial, competence or funding issues.

43. Guidance would be necessary under 9(5)(a) and (c) to avoid creating a costly, bureaucratic burden on the majority of competent and professional park owners to prove their competence, management structures and funding arrangements. Guidance would also assist present and future park owners to establish whether they are likely to be able to obtain a regulated site licence.

44. We believe that as proposed, the Bill would seem to be asking park owners to prove and authorities to judge the absence of incompetence, the absence of failures in management or

funding. The approach should be to assume competence etc. unless there is clear evidence to the contrary.

45. ***Unless Welsh Ministers are able to issue the clearest guidance as to the objective application of criteria such as 'sufficient level of competence', suitable 'management structures ' and 'funding arrangements', we recommend that the criteria under 9(5)(a) and (c) should not be used. The main focus of the regime should be to drive out those with rogue and criminal attitudes and behaviours, as evidenced by convictions under the legislation listed under 9(2)(a) and (c).***

Section 10

46. Care is necessary under 10(2) and (3) to prevent 'such further conditions as the authority considers appropriate' from duplicating conditions of the Site Licence under the 1960 Act.

45. For example, the 'facilities and equipment' of Section 10(3)(c) and (d) of the Bill duplicates the 'facilities, services and equipment' of Section 5(1)(f) of the 1960 Act.

46. There is logic in the inclusion of 'facilities and equipment' in the Housing Act 2004 for HMO licensing, but this does not apply to residential parks where this aspect is already regulated under the 1960 Act. Instead, perhaps a requirement of a Regulated Site Licence under the Bill should simply be for the management of the park to adhere to the site licensing conditions under the 1960 Act.

47. Conditions 10(3)(a) and (b) mirror those for HMOs:
- 10(3)(a) 'restrictions or prohibitions on the use or occupation of particular parts of the site by persons occupying it'
- and 10(3)(b) 'reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the site'

However, whilst perhaps relevant to an HMO, we would question their relevance to a community of owners who have invested in their homes on a park.

48. Care will be essential to ensure that homeowners' interests are not compromised through the application of licence conditions. Again there should be safeguards to ensure guidance to be provided by Welsh Ministers under 10(5) does not contradict or duplicate the Model Standards published by Welsh Ministers under the 1960 Act, not least so as to avoid the potential for double jeopardy.

49. ***As above, we recommend that 2012 Regulated Site Licence conditions should not duplicate or contradict 1960 Site Licence conditions; neither should Welsh Ministers' guidance under 10(5) contradict or duplicate the Model Standards published by Welsh Ministers under the 1960 Act.***

Section 11

50. 11(1) states that a licence may not relate to more than one regulated site.

51. ***We recommend that in assessing fitness to manage, a licence should not relate to more than one person, but should address all regulated mobile home sites within that individual's control. This would ensure the most effective use of the licensing authorities' resources and that there is an incentive for the licence holder to apply fit and proper management across all parks in their control.***

52. Given the passage of time and the severity of the implications for the park business and homeowners if a regulated site licence is not renewed, we would propose a requirement for the licensing authority to remind licence holders as their licence period approaches its end.

53. ***As a safeguard, we recommend a requirement for the site licensing authority to give the licence holder not less than 6 months' notice in writing of the date on which the licence will expire.***

Sections 11 and 12

54. We note the requirement for a 'standard written statement' and 'statement of any rules' to be annexed to a site licence application and thereafter becoming part of the licence. Variation to the terms of these documents thereafter is governed by the requirements of Section 12.

'standard written statement'

55. Whilst the requirements with regard to variation of terms implied into all agreements by the Mobile Homes Act 1983 are clear, the Written Statement also contains Express Terms agreed between the park and home owner. These are not normally 'standard' across all homes on a park.

56. This is because homeowners enter into agreement with the park upon first purchase of a home. Over time, different versions of the written statement (implied and express terms) have been in use.

57. ***Implied Terms***: When the Implied Terms have been changed by Parliament or by the Assembly in the past, there has been no requirement to issue existing homeowners with a new or updated written statement.

58. ***Express Terms***: It is very unlikely that a park owner would propose and home owners would agree to vary express terms which are already in place, so the express terms in most agreements will be those agreed upon first purchase of the home. Over time, park owners may have updated the express terms proposed to new customers purchasing a home from the park, sometimes in order to comply with changes in the law. Therefore, the express terms in place in agreements on a park may differ.

59. As terms of an individual contract, express terms could not be varied without the agreement of both parties to that contract. We foresee practical difficulties and the potential for legal

challenge for an authority seeking to vary individual express terms under 12(2) through a variation of the licence, without a procedure for seeking individual agreement.

60. ***We recommend modification to the Bill to recognise that express terms of agreements under the Mobile Homes Act 1983 are not standardised across all homes on each park.***

'statement of any rules'

61, We applaud the objective to ensure park rules are deposited with the licensing authority, to order to provide clarity for all parties particularly as it is proposed to remove the park owner's involvement in the private sales process.

62. However, a procedure is necessary, akin to that proposed under section (9) of the English Mobile Homes Bill, to ensure that the rules to be incorporated within the regulated site licence are properly established.

63. ***We recommend modification to the Bill to include a procedure akin to that proposed under section (9) of the English Mobile Homes Bill to protect homeowners' interests.***

12(9) 'a relevant person'

64. There is no definition of 'a relevant person' who can apply to vary a site licence. This definition is necessary to clarify where licensing authority resources should be expended in considering such applications and to avoid vexatious applications. A 'relevant person' should be limited to homeowners on the park or any Qualifying Residents Association.

65. ***We recommend tight definition of those 'relevant' persons who can apply for variations to a regulated site licence, limited to homeowners on the park or any Qualifying Residents' Association, in addition to the park owner.***

Section 14

66. It is not clear from the face of the Bill how the Register of Licences proposed interacts with the register already in place under the 1960 Act. The Explanatory Memorandum states that it will 'replace' the register under 1960 Act, but this is not legislated for and would seem inappropriate.

67. ***We recommend a central register of Regulated Site Licences across Wales, thereby a single listing of all individuals deemed fit and proper to own and manage a residential park. This would be separate from the registers of 1960 site licences held by each Local Authority.***

68. ***This central register would assist in managing a system whereby recognition as fit and proper in one area would count as recognition in all areas of Wales, and revocation could apply across all parks in an individual's control.***

Section 16

69. To avoid any potential for abuse and to meet the requirements of natural justice, the list of appeals which a park owner could make to the Residential Property Tribunal should include:
- the inappropriate application of fixed penalties under Section 23
- the inappropriate requirement to carry out works, or to pay for works undertaken by the licensing authority under section 18. We make some comments about the terms of an appeal under section 18 below.

70. ***In addition to those criteria listed in Section 16, we recommend a park owner should be able to appeal to the Residential Property Tribunal where:***
1. fixed penalties are inappropriately applied,
2. or works are inappropriately required or charged for
by the licensing authority.

Section 18

71. We applaud the ability of the licensing authority to execute necessary works where the park owner has failed to respond to proper notice. However, as above, we recommend that there should be the opportunity for the park owner to appeal where this measure is deployed inappropriately.

72. Section 18(4)(a) provides that "the **extent** of any works required to ensure compliance with the condition in question" (our emphasis) may be referred to the appeal tribunal. In restricting an appeal to the "extent of any works" the Bill does not provide an appeal against the question whether the service of the notice is justified by matters amounting to breach of condition and this should surely be the starting point for the appeal process.

Section 19

73. The appointment of an Interim Manager would be a necessary step to protect homeowners where the licensing authority is minded to revoke the Regulated Site Licence. This amounts to the suspension of the park owner's livelihood. To avoid potential legal challenge, there should be a requirement for the Interim Manager to account for funds received and expended, and for any surplus to be returned to the park owner.

74. ***We recommend that the Bill is modified to take account of the rights of the park owner following the suspension of his/her business through the appointment of an Interim Manager.***

75. Under 19(6), the appointment of the Interim Manager ceases when either the site licence is revoked or when the licence expires at the end of the five year period or indeed if the term of the manager's appointment under the terms of that appointment expires earlier. However, no manager can be appointed when the site licence has been revoked or has expired. No provision is made for that contingency. How would homeowners' interests be protected in this eventuality?

76. While the assumption may be made that the former site licence holder will sell the park, that may not be the case (for example, in today's market there may be no buyer, or more

accurately, no buyer who would be considered fit and proper). Therefore, if the park remains in the same ownership, but the option of an Interim Manager is no longer available, the park owner would be in breach of the obligation to hold a regulated site licence.

77. Also, would the licensing authority have to take similar action in relation to the 1960 Act in terms of convictions, revocation of the site licence etc.? The appointment of an Interim Manager would not necessarily qualify the manager to hold the licence under the 1960 Act so the position might be reached where the park is run by the Interim Manager but the responsibility for compliance with 1960 Act site licence conditions remains with the park owner, as holder of that licence. We would suggest it would be appropriate to amend the 1960 Act to make it plain that an Interim Manager has responsibility for adherence to the requirements of the Site Licence under the 1960 Act.

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78. Considerable work is needed to ensure the interests of homeowners are protected and there is a pragmatic means to ensure the exit of a park owner who is not deemed to be fit and proper. We don't believe section 19 achieves this.

79. ***We recommend work is necessary to propose protections for homeowners' interests where the site licence has expired so that, as drafted, there is no longer the opportunity for the licensing authority to appoint an Interim Manager.***

We recommend that it should be made clear that an Interim Manager has responsibility for adherence to the requirements of the Site Licence under the 1960 Act.

Section 23

80. As above, there are concerns that the duplication between site licensing under the 1960 Act and this Bill. Fixed penalties would appear to apply to breach in respect of the park infrastructure, properly addressed through the 1960 site licence.

81. There is concern that the use of fixed penalties could be abused, and therefore a balance is required through a right of appeal

82. For example, there is no opportunity for the recipient to make representations to the licensing authority with regard to the penalty, or for the licensing authority to withdraw the penalty notice if they subsequently felt it was inappropriate.

83. Section 23 reads like the powers as judge and jury would be vested in one 'authorised officer' with no opportunity for appeal. The list of issues where the park may appeal to a Tribunal under section 16 should include fixed penalty notices.

84. The question of degree should also be addressed and the weighting to be accorded to breaches of conditions. Consider the examples of a Fire Point vandalised after the park owners' inspection, just a short time before the environmental health officer visited the park, or a homeowner's actions causing the breach.

85. ***We recommend there should be a right of appeal against the inappropriate use of fixed penalties and guidance provided as to the weighting to be accorded to breaches of conditions.***

Section 25

86. To be effective and deter rogue operators, the punishment for operating a residential park without meeting the fit and proper person criteria needs to be severe.

87. However, we question the legal application of some aspects of section 25 and the protection of homeowners' interests in these circumstances.

88. The repayment of pitch fees (25(5)(c)) and any commission (25(5)(b)) are akin to the provisions for the repayment of rent in the case of an unlicensed HMO.

89. However the repayment for the purchase of a park home (25(5)(a)) needs clarification as to the ownership of that park home following repayment, as well as protections for the customer who would presumably incur costs in seeking an alternative home.

90. ***We recommend that the Bill should explicitly address the rights of homeowners where a park becomes an 'unlicensed regulated site' through the loss of the licence. Their continued right to station the park home on the land should be explicitly protected.***

Section 29

91. Care would be necessary to prevent management regulations duplicating or contradicting model standards or site licence conditions under the 1960 Act.

5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate? If not, how does the Bill need to change?

92. Our most important concern with the drafting of the Bill is the removal of the park owner from the assignment sales process, without the introduction of protections for the purchaser, park community and park business. There is a great imbalance in providing protections for the seller from an unscrupulous park, without also providing protections for the other parties impacted by the sales transaction.

93. Purchasers usually have no previous experience of park homes. Protections are necessary to ensure purchasers:
    - can review the Written Statement that would be assigned to them with their purchase, including making them aware of the Implied Terms, outlining their rights and responsibilities
    - understand their financial obligations in terms of future payment of the pitch fee, commission on resale and utilities' charges etc.
    - are aware of, and can comply with, any requirements of the Park Rules (for example relating to age, pets, children, maintenance of the home etc.).

94. Evidence shows that 'buyer beware' does not work.

95. We also have concerns for the procedure on private sales given that none is proposed by the Bill. In practical terms, the park owner needs to be informed:
- of the date of assignment so that that final meter readings can be taken,
- of the departing homeowner's address for service for the billing of final utilities and any arrears of pitch fees,
- of the date of birth of the incoming purchaser and all occupiers (to ensure compliance with any Age Rules)
- of any pets to occupy the home (to ensure compliance with any Pet Rules)
- of any cars or commercial vehicles the purchaser wishes to keep on the park (to ensure compliance with any Parking Rules)
- of the purchase price (to ensure the accurate calculation and payment of the commission payment)

and so on.

96. The English Mobile Homes Bill proposes a series of procedures and measures to protect seller and buyer, as well as the community on the park and the park business. We are most concerned that such protections are not proposed in Wales. We can foresee a purchaser inadvertently making a serious mistake in buying a home, for example, without being aware of an Age Rule or a Pet Rule. Where that happens, other residents will look to the park owner to take action to preserve the character of the park and the inadvertent buyer will be the loser.

97. Equally, without a procedure for private sales, there is no clarity as to how commission would be paid. This lack of clarity would inevitably lead to confusion, probably to the detriment of the park business and purchaser, whilst the departing seller would have disappeared. In simple practical terms, a procedure is necessary to ensure the reading of utility meters, billing of pitch fees etc is transferred from seller to buyer on the appropriate date.

98. Clarity avoids confusion and would reduce the potential for conflict.

99. ***We recommend that the Bill is modified to include protections for both parties in a sale, as well as the community on the park and the park business, akin to those proposed in the English Mobile Homes Bill.***

6. In your view, how will the Bill change the requirements on site owners/operators, and what impact will such changes have, if any?

Licensing

100. The immediate impact of the Bill will be for park owners to apply for a regulated site licence. Without the detail of the regulations, it is difficult to be certain what this will require. However, for example, to demonstrate 'management structure' and 'funding arrangements', it might involve writing a business plan, justifying their financial position and seeking references etc.

101. The consequences of failing to obtain a licence are draconian so parks are not likely to cut corners in the process. Therefore, many will seek advice from solicitors or surveyors or

accountants etc. These will all be completely new expenses for the park business and the application process will have to be repeated at least every five years.

Park home sales

102. A new procedure will be necessary when a homeowner sells and assigns a home, to ensure all new occupants meet the requirements of the park rules and establish whether commission is paid and any action needs to be taken subsequent to the purchase of the home in respect of the new owner.

103. Given there are no protections currently proposed for purchasers, it is likely that if any new homeowner takes occupation in breach of age or pet rules, the park owner will need to take action in response to other owners desire to maintain the character of their park. This will inevitably give rise to allegations of ruthlessness against a good park owner and create tensions and animosities within a park community.

104. As above, without a procedure for private sales, there is no clarity as to how payments around the sale should be administered. Deprived of pitch fee, and commission income, the business would inevitably suffer.

Economics

105. This Bill makes it explicit that a park owner must not pass on any costs of the Bill, through the pitch fee review. General maintenance costs will inevitably increase ahead of CPI which takes no account of housing costs. In addition, there will be the costs of the Bill, whilst income will not keep pace even with inflation given the proposal to tie the pitch fee review to the CPI.

106. Overall therefore, the Bill's proposals will reduce the profitability of park business, though to what extent is unclear. The overwhelming majority of residential parks are operated by micro-businesses – these are not sophisticated 'multi-million pound businesses' as described in the Debate introducing the Bill to the Assembly, but more usually a husband-and-wife team. In today's stagnant housing market, the economics of some are becoming increasingly marginal.

107. Where small business economics are marginal, the loss of income to the business would inevitably lead to some exiting from the industry. The effectiveness of the new regime in deterring rogues would then be truly tested, as to whether parks coming onto the market are purchased by the well-known rogue operators, or the industry attracts 'fit and proper' investors. In either case, the experience of good park owners will be lost.

108. If the impact on the industry's economics is severe, that will to the detriment of all parties as the value of a homeowner's asset in their park home relies upon the quality of the park upon which it is sited.

7. Do you agree that the Residential Property Tribunal should have jurisdiction to deal with all disputes relating to this Bill, aside from criminal prosecutions? Please give your reasons.

109. Yes, although the final decision in respect of any termination of an agreement should rest with the Court. In this way, the RPT would develop greater expertise and provide a quicker, more affordable route to justice for all parties.

110. In addition, the Bill does not provide for appeals against the imposition or alteration of site licence conditions under the 1960 Act to be dealt with by the RPT and these remain to be dealt with by the Magistrates' Court.

111. ***We recommend the modification of the 1960 Act for appeals against the imposition or alteration of site licence conditions to be dealt with by the RPT.***

8. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

112. We are aware of legal opinion received from the Solicitor General of the need for the Bill reforming park homes law in England to take account of the European Convention on Human Rights. It is logical therefore to expect the same advice would apply in Wales and any legal challenge would be a barrier to the implementation of the Bill.

113. We have addressed above other areas where we recommend the Bill should be modified to avoid barriers to its implementation.

Powers to make subordinate legislation

9. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)? In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill.

114. The regulations required are substantial. Full consultation will be essential towards ensuring the regulations are proportionate and recognise the interests of park owners and homeowners. Sufficient lead time and advance guidance and information will be essential to allow homeowners and park business to prepare and adjust to what represent major changes in the way the law works for their parks.

115. As outlined above, we have a series of concerns, amongst other with regard to the need for guidance, objective standards and to ensure 'regulated site licensing' does not duplicate and contradict site licensing under the 1960 Act.

Financial implications

10. In your view, what are the financial implications of the Bill? Please consider the scale and distribution of the financial implications. In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which includes an estimate of the costs and benefits of implementation of the Bill.

116. It is not possible to accurately cost proposals until regulations have been laid. However, we are concerned that the costs involved with the Bill have been underestimated.

117. Costs could greatly be reduced if one 'fit and proper' licence applied to an individual park owner or manager, with its application across all residential parks in their control, giving a single application process, a single vetting process, a single register and a better deterrent against abuses.

118. The Bill proposes that all licensing costs should fall on park business with no opportunity for them to be recouped, whilst at the same time the proposal to align the review of the pitch fee with the Consumer Prices Index will further erode income to the business over time. Park owners naturally question the justice of this since homeowners are also the beneficiaries of the proposed regime.

119. For example, who should pay for the policing of Qualified Residents Associations by the licensing authority? Is there justice or logic for these costs falling on the taxpayer, the park owner or the residents who form the Association and benefit from its qualification?

120. The Explanatory Memorandum confirms that for more work is necessary to establish the costs of the proposals, and without the detail of the regulations to implement the Bill, it is impossible to accurately estimate.

Other comments

11. Are there any other comments you wish to make about specific sections of the Bill?

Section 30 – Qualifying Residents' Associations

121. We have concerns with regard to the changes to the provisions for Qualifying Residents' Associations. As drafted section 30(1) reads as if the threshold for approval of a QRA is over 50% of members. Establishment and recognition of a QRA is dealt with by paragraph 28 of the Implied Terms and it is very clear there that the right to be recognised arises where more than 50% of the **homes** on a park are represented, rather than 50% of the occupiers on a park.

122. It seems that a significant change is proposed and this provision of the Bill is a disconnect from paragraph 28 of the Implied Terms.

123. Such a change would of course mean that associations representing a minority of homes on the park might qualify for recognition.

124. Consider a park with six homes: two occupied by couples and four occupied by single people, so eight occupiers in total. If the two couples formed an association, they would

represent 50 per cent of the occupiers, although they would occupy only 33 per cent of the homes and contribute only 33% of pitch fee income.

125. Such a scenario could lead to multiple qualifying associations on a single park which could contradict one another, particularly if a park community become factional. This would be divisive and create management difficulties to the detriment of homeowners.

126. ***We recommend that the Bill is modified so that the criteria to qualification for a residents association (30(1)(a) and 30(3)) ensure that 50% per cent of the homes on a park are represented, as currently outlined within the Implied Terms under the 1983 Mobile Homes Act in Written Statements in Wales.***

We also ask that the Assembly consider who should meet costs for qualifying a residents association; the only logical response is sure the homeowners who form that association of which, as currently drafted, there could be several established and qualifying on a single park.

Country Land & Business Association response to the Consultation on the Proposed Mobile Homes (Wales) Bill 2012

The CLA represents over 35,000 members in England and Wales. Our members both live and work in rural areas; they operate a wide range of businesses including agricultural, tourism and commercial ventures – at the last count the CLA represents some 250 different types of rural businesses.

The quality of the countryside is of vital importance to our members. The three main drivers - economic, social and environmental - rely on landowners and managers for their success, and thus the CLA has a special focus on such matters.

The rural economy makes an important contribution to the national economy: land-based businesses, within the rural economy, provide the environmental and recreational benefits in the countryside that are valued by the population as a whole. The best security for rural areas is a successful and sustainable rural economy.

We have pleasure in setting out our response to the consultation below.

While we in the CLA have great sympathy with victims of the minority of unscrupulous park owners who make it difficult for residents to exercise some of their legal rights, we represent members who are the majority of responsible park operators. For both them and all rural business owners in Wales it is imperative that no more than the bare necessity of red tape is introduced to their business as any additional bureaucracy will add cost and hardship to businesses, many of who are already struggling.

CLA Wales understands that this industry has already been extensively examined and re-regulated within the last decade - and we feel the resulting legislation and the 20-page Park Agreement adopted by the British Holiday and Home Parks Association and National Park Homes Council adequately clarifies the relationship and obligations of park operator and resident.

CLA Wales is particularly concerned about the existing proposals to remove park owners' rights to *veto* a prospective purchaser (or put the onus on them to apply to a Residential Property Tribunal ("RPT") regarding this point). For example, at present, if somebody expressed an interest in purchasing a home on the park, and the owners were aware that they had been evicted from a council-owned property for anti-social behaviour, they would say that they were unsuitable as a prospective resident. However, were the new proposals adopted, they would have no right to *veto* them, and would be reluctant or unable to apply to a RPT in case they lost, incurring significant costs, and possibly also facing action for damages for the lost sale. The net result would be that neighbouring residents would be stuck with a new neighbour who was likely to interfere with their quiet enjoyment, and the park owner would be stuck with a new resident that they'd known from the outset wouldn't fit in, but were then expected to try to 'police' by using the terms of the Park Agreement.

It is an acknowledged fact that many people choose to move onto residential parks because they have additional safeguards to their quiet enjoyment to those which they would have if they lived on a standard housing estate. They know that the park owner does vet their

prospective neighbours and that he is unlikely to accept a resident who is likely to present a problem to either the park owner or existing residents. Further, in instances of anti-social behaviour etc., the park owner can intervene at a far earlier stage than the local authority Environmental Health teams.

With regard to suggestions regarding an overhaul of the existing licensing régime, we are not confident that Local Authorities have the specialist knowledge or resources to implement the proposals.

Thought should also be given as to what will happen to residents if licences are for fixed periods and are then revoked. In many instances residents own their own home, and merely pay a ground rent/pitch fee for the land on which it stands. Were a park licence to be revoked, these people would have homes worth tens of thousands of pounds, and nowhere to site them unless planning policy were relaxed so that each of them could then purchase private pieces of land and site their homes on those.

In conclusion, there is a sense that the Welsh Assembly is looking at the mobile homes sector to plug the gap in housing undersupply. Whilst it is certainly the case that flexible solutions are required to deliver the housing units required in a difficult financial climate and that the mobile homes sector can play a part in that solution, it is never-the-less the case that the Welsh Assembly has additional, under-utilised solutions. CLA members seek to assist in the delivery of new housing units both through the mobile homes sector and through bricks and mortar delivery. In the latter category, ineffective implementation of TAN 6 at the LPA level is fettering CLA Wales members from delivering the new housing units, of all tenures, that are required in Wales today. In particular, CLA Wales would like to draw attention to clause 2.1.1 of TAN 6 as a more effective means of generating new housing supply than relying on an over-regulated mobile homes sector alone:

“making sufficient land available to provide homes”

Excessive regulation as outlined in the draft Mobile Homes (Wales) Bill mirrors the issue facing the private rented sector in terms of Mandatory Private Sector Landlord Registration. In bringing forward onerous regulation systems, the Welsh Assembly risks reducing the supply of both mobile homes and private rented housing.

Contact:-

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Response of the Residential Property Tribunal to the consultation on the Mobile Homes (Wales) Bill

Introduction to the RPT – purpose and independence

The purpose of the Residential Property Tribunal is to provide an accessible, effective and relatively informal service to the people of Wales. It is entirely independent of Government though sponsored by the Housing Directorate of the Welsh Government.

The role of the Residential Property Tribunal is to adjudicate fairly and impartially the applications which it is to determine. Amongst other matters such applications include disputes over rent, leases of houses and flats and also disputes between landlords and local housing authorities about licensing or the condition of property.

General issues

The proposed bill covers a large number of issues where it is mooted that disputes would be referred to the Residential Property Tribunal. The Tribunal has a wide range of jurisdictions, including those conferred by the Housing Act 2004, and its members have expert knowledge and experience of determining property related disputes. Thus, it is appropriate that recourse would be to the Tribunal.

However, if the measures referred to were to be enacted this would potentially have a considerable impact on the work of the Tribunal and change the way in which the business would be run.

Specific question responses

This response is directed to those measures where the Tribunal would be likely to, or should be, involved. We have not addressed measures which would be outside the Tribunal's proposed jurisdiction.

1. The Role of the Residential Property Tribunal

After considerable consultation most disputes relating to Mobile Homes under existing legislation were transferred to the Residential Property Tribunal earlier this year. The underlying reasons for the transfer were to provide a more cost effective, informal and quicker access to justice in dispute resolution.

It would, therefore, seem appropriate that the Tribunal should be the first instance venue for dealing with disputes under the proposed bill (other than criminal matters). Also, a number of the measures proposed are similar to those provided for under the Housing Act 2004 and are likely to involve similar issues if in a different context.

Should all the wide ranging proposals put forward be included in the bill consideration will have to be given to resources. Over recent years costs to the Tribunal have increased and there already exists considerable pressure on the budget, members time and staff resources. Training members in new jurisdictions will also have to be considered.

Staff and resources (including translation services) will have to be made available to produce application forms and guidance for the public. Consideration will also need to be given for fees payable on applications.

2. Buying and selling Mobile Homes

Whilst we note the preferred option would be to remove the Site Owners "veto" we believe that a better option is that the purchaser is deemed to be approved unless, on an application by the site owner within a set time limit, the Residential Property Tribunal declares them unsuitable.

This puts the onus on the site owner to raise substantive issues regarding the potential buyer. The Tribunal already has powers to dismiss vexatious applications and to award costs so there is a safeguard against spurious applications. We would also suggest that the fee for such an application should be realistic and sufficient to require a site owner to fully consider their position before making one.

In our view a compulsory meeting between all three parties as proposed may well be difficult to enforce.

3. Licensing/Fit and Proper Person Test

We consider that disputes relating to the granting/refusal of a site license, conditions imposed on the Licensee, and in relation to whether the site owner is a fit and proper person should come to the Tribunal.

We believe that the criteria for considering whether a person is a 'fit and proper' person must be clear and transparent and applied consistently across Wales by all Local Authorities. We agree that the test should apply to the person having 'control' of the site as well as the owner by analogy with Houses in Multiple Occupation under the 2004 Act.

We agree that appeals relating to a decision to vary or revoke a site license should be heard by the Residential Property Tribunal again in a similar fashion to the 2004 Act.

If the Local Authority were to be given powers in relation to enforcement notices or Management Orders then we would assume there would be a right of appeal to the Residential Property Tribunal. Consideration should be given as to whether, in the case of a Management Order, the Local Authority

should have to obtain prior approval of the Tribunal before taking such action, given that such action will materially interfere with the rights of the site owner.

4. Written Agreements/Site Rules/Breach of the Written Agreement

The Residential Property Tribunal has considerable experience in the field of landlord and tenant. We know that there are good landlords and bad landlords and good and bad tenants.

We consider that any legislation in relation to breach of the Written Agreement should balance the rights and obligations of both parties to it.

When a tribunal exercises any power under the regulations which govern it or interprets any regulation it seeks to give effect to the overriding objective of dealing fairly and justly with applications which it is to determine. This means that the Tribunal, in any determination, must be fair to both sides.

Should, therefore, the power to award compensation or damages as proposed apply equally to site owners and homes owners? Would this extend to breaches of the site rules or just the Written Agreement?

The award of damages or compensation would be a new departure for the Residential Property Tribunal but, if the power is to exist, it is right that it rests in the Tribunal dealing with the dispute. Subject to the right of appeal, we agree that the failure to comply with such an award should be a breach of the site license by the owner. If the power were to extend to owners of Park Homes, consideration would need to be given to what sanction would exist if they failed to comply.

5. Alterations/Re-siting

We agree that Park Home owners should have the right to alter the exterior elevation of their home with the consent of the site owner and a right to appeal to the Tribunal if they consider that consent to have been refused unreasonably.

With regard to re-siting, whilst we agree that in the case of essential repairs consent of the Tribunal should be necessary, we believe it would be disproportionate to require consent in an emergency. We accept that the interpretation of ‘emergency’ may be open to question.

6. Succession

We believe that the law on succession needs to be clarified in a similar way to that in relation to protected tenancies. The proposals put forward by the Department of Communities and Local Government and repeated in the consultation document appear to clarify both parties rights on succession.

7. Costs

Clearly if all the proposals set out in the bills consultation document were to become law, this would place a heavy burden on the Residential Property Tribunal to deal with cases in a proportionate and expeditious fashion. A Tribunal of Lawyer, Surveyor and Lay Person costs over £1,000 per day leaving aside the cost of a venue, travel and the office staff.

To date, the Tribunal has received no valid applications under the existing legislation so it is difficult to judge the likely impact of the proposed bill. The complete proposal is a major piece of legislation with some proposals likely to be more frequently used than others. The effect of changing the law in relation to the site owners veto on the sale of a home may go a long way to reducing disputes which would otherwise come to the Tribunal.

It must, however, be accepted that if the law is used by the Local Authorities of Wales and enforced, then appeals to the Tribunal will follow. Funding will, therefore, have to be put in place to cover the administrative work and the extra members sitting days that will inevitably follow. Training will have to be provided to members on the new legislation and to the office staff.

On a wider front, the Tribunal is considering the option of mediation and it may well be that disputes under the Bill may be helpfully resolved in this way, in some cases, with a significant reduction in cost.

Conclusion

It is appropriate that the Tribunal should deal with disputes under the proposed bill. Tribunal members already have expert knowledge and experience in determining property related applications. The Tribunal is an independent decision making body which deals justly and without bias to either side.

Should the proposals contained within the bill come to fruition, this would impact on the capacity of the Tribunal to respond without additional resources. An increase in workload would require additional funding to cover the operation of more tribunals; extra administrative costs and the recruitment and training of other members.

EVIDENCE TO THE COMMUNITIES, EQUALITY AND LOCAL GOVERNMENT COMMITTEE

1. I would refer to the response of the Tribunal to the consultation on the Bill (copy attached).

2. If the Bill proceeds in its current form there are two additional points that we would add.

(a) Buying and Selling Mobile Homes:
If the effective "veto" of the site owner is removed in its entirety this may remove a number of issues that would otherwise have come before the Tribunal. This would reduce the impact on the Tribunal.

(b) Repayment Orders
The Bill as drafted envisages the Repayment Order may cover any payment made in connection with the purchase of a mobile home s 25 (5) (a). This may cover the price of acquiring the mobile home which could be many thousands of pounds.

However, the power of the Tribunal is limited in time to 12 months from the date of the application to the Tribunal. It could be envisaged that as an application cannot be made to the Tribunal until a conviction is obtained that the period of 12 months may have expired from the date of payment for the mobile home before an application is made and thought should be given as to whether this is fair to the homeowner.

Unlike Rent Repayment Orders under the 2004 Act the monies could be quite considerable.

N.A.P.H.R. National Association for Park Home Residents

A totally voluntary service for permanent Park Home & Mobile Home Owners

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National Assembly for Wales
Cardiff Bay
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23rd July 2012

Dear Sir/Madam

Following my telephone call to you regarding my Response to your Consultation Paper please find enclosed the correct Document to replace the one you have received.

I apologise for the error and thank you for the help in this matter.

Yours Sincerely

Brian Doick (NAPHR)

N.A.P.H.R. National Association for Park Home Residents

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N.A.P.H.R. RESPONSE TO THE PROPOSED MOBILE HOMES (WALES) BILL MAY 2012

This response is made for and on behalf of The National Association of Park Home Residents who wishes to thank the Department for inviting us to take part in the Consultation.

N.A.P.H.R. is currently one of three National Bodies and have growing Membership of some 12,500 in England-Scotland and Wales of which we ensure that our Members are kept fully informed of all aspects of Mobile Home Law and any changes in Legislation.

We welcome the opportunity to be able to make an input to the Proposal for Reforms to Park Home Legislation including Park Licensing for Wales.

We do therefore have concerns that the Rogues of the Industry are increasing and it is therefore essential that the Proposals in this Document do not create loopholes or is flawed to benefit these people and that the Conversion to Law can reflect these concerns.

We have had many concerns with Licensing for many years as Licence Conditions have not always been monitored as they should be as is well known the Rogue/Unscrupulous Park Owner have flouted any form of Authority for a long time which means that to rectify the situation the Proposed Changes must be accurate and fit for purpose.

It is further proposed that the Licensing System has to be Retrospective and enforced as failure to imply this would give the Unscrupulous Park Owner an Extension to Law breaking that he already has.

We also believe that Council run Sites should comply with Licence Conditions as applicable to other Parks in that area or their neighbouring Councils so as to be on the same level and protection to Residents as all other Parks otherwise if the Park is sold the New Owner could create immediate troubles for the Residents.

Brian Doick
President
N.A.P.H.R.

12th July 2012

N.A.P.H.R. RESPONSE TO CONSULTATION (WALES 2012)

1.Do you agree that the Residential Property Tribunal should have jurisdiction to deal with all disputes relating to this Bill, aside from criminal prosecutions? Please give your reasons.

Q 1/ Answer Yes

The Tribunal currently has the Jurisdiction to all aspects of the Mobile Homes Act 1983 apart from Eviction Orders which should go to County Courts as they hold more power to award appeals.
Further to the above it would be right that the Tribunal should have the Jurisdiction to deal with disputes as related to the proposed New Bill.
With regard to the mention in the question of Criminal Prosecutions they must remain with the Higher Courts without question.

The reason for the Tribunal System is that the cost to all parties is far cheaper than any court which enables Residents to obtain Justice without great expenditure secondly it is a less formal process which relieves pressure and fear to Residents they do not have to obtain assistance from any legal body and therefore have the right to self representation or any include the following:-third party.

2. Do you have any experience of a sale being prevented or if you are a site operator have you ever objected to a sale and why?

Q2/ Answer Yes

There are various methods of Sale Blocking as you are probably aware of which may include the following:-

(a)
Park Owners through the Agreement insisting on 1st refusal so as to attempt a Purchase at a knockdown price.
(b)
Demand that to sell your home you must complete an Application Form which has to include the Proposed Purchasers details so as to contact them to put them off the purchase and offer a deal on a new home from himself and after he has succeeded purchase the home cheaply.
(c)
The latest Block is to obtain the Purchasers details in which they have stated that they own a property in another country which they are selling the Park Owner then decides that the

Purchaser will not be living in the home as their only residence and therefore the purchase is void.

(d)
The Law is quite clear as to the occupiers right to sell however the Owners of some Sites will harass and frighten elderly occupants into selling the home to them for very little money which is thousands of pounds outside market values either to re-sell or replace for large profits further to which they claim that the home is detrimental to the Site and shall have to tell any prospective purchaser that he shall have the home removed from the Park which will completely put off the proposed purchaser.
We know the Act gives Residents the right to Civil Action against the Owners in these circumstances but elderly residents are intimidated and scared of the outcome as their home in many cases is their only asset.

(e)
Implied Term 8(1c) states that the Owner may not give his approval subject to conditions which is being ignored by the Unscrupulous Owner who is demanding that the occupant can only sell if they sign a paper that will increase the Pitch Fee for the Purchaser and he will not sign the Agreement to the Sale this is undoubtedly against Implied Terms and is a fraudulent activity.
There is insufficient clauses within the Legislation to prevent these Unlawful activities and even less deterrents.

3. Should the law be reformed to prevent sale blocking or is it necessary for site operators to have this power? If the law should be changed which of the suggested alternatives outlined above do you prefer? Please give your reasons

Q3/ Answer Yes
The Law should be changed so as to remove the Park Owner from the Sale process altogether.
Under the Mobile Home Act 1983 it states that the Park Owner has to approve the Purchaser and his approval shall not be withheld unreasonably therefore the Owner has no right to obstruct or interview any prospective purchaser unfortunately the process is seriously abused by the unscrupulous Owners.
We therefore recommend the option to remove the right to veto a prospective Purchaser which would eliminate the Site Owner from the Sale process and it should be emphasized that this must include any form of relative of the Park Owner and or Managers/Wardens/Agents/Employees or any other person that are representing the Park Owner.
We would also recommend that implied into this option should be the obligation of the seller or their agent that they are obligated to ensure that the Purchaser is fully aware of the Terms of the Agreement including Pitch Fees and any other Charges that will occur also in addition to and part of the Agreement is Park Rules and can understand and comply with the same.

It is also the Sellers legal responsibility to pay the Park Owner his Commission and should inform the Park Owner of the New Resident that has taken the Assignment and occupies the said home.
Failure to supply the correct information or to supply misleading information by the seller would make them liable to Prosecution further to the above there are still a fair number of Residents in Park Homes that have no Agreements and never have which will need addressing before a Sale can take place.

4. Do you agree that there should be a meeting involving all parties prior to the sale/purchase?Please give your reasons

Q4/ Answer No
We cannot agree with the Proposed Meeting with all the parties before the Sale as we have already removed the Park Owner from the Sale process in Q3/ above we believe that if we re-introduce the Park Owner into the Sale scene would create a loop-hole which would enable the Owner to make statements that could be detrimental to the Sale such as "I shall have to move this home next year"which would be enough for a Purchaser to think again and withdraw.
Further it has to be pointed out that if we think that limiting the discussions to Park Rules and Agreements will prevent his comments our experience tells us differently.
Further to the above the use of the Tribunal to deal with disputes with Ownership will not help a Sale people do not wish to attend any form of Court to make a purchase.

5. What are your views on the current licensing system for mobile home sites? What could be improved?

The current licensing system is inadequate as the Site Owner is issued a licence to operate the Mobile Home Park as a business whether he has any idea of Management or not it is the opinion of N.A.P.H.R. that there should be two licences one to licence the Site to be in line with the legal requirement under the Caravan Sites and Control of Development Act 1960 and the second licence to licence the Owner and or any Manager or joint Owners to operate the Park and comply with licence conditions this would enable the Local Authority to take action that could mean revoking the Management Licence without jeopardising the security of the Residents.
Further there should be a system of training that would educate Local Authority Officers of the Licensing requirements including the flexibility of Model Standards and the importance of making conditions to the Licence that reflect the requirements to suit that Park and not allow U.P.O. to demand that Model Standards should apply when they know that the Model could in affect make some-one homeless.
We should not enforce Model Standards if they are not implied to a Licence Condition which needs to be remembered they are Guide Lines not Law.

6. How often should local authorities inspect sites and how should these inspections be financed?

Q6/ The inspection of Sites should be carried out at the discretion of the Authority they should monitor the Licence Conditions and take action if required depending on the condition of and how well the Park is run but not exceeding 3 years it is further recommended Park Owners shall inform the Local Authorities when they are re-siting or replacing a home and re-inspect before the home is sold.
The concern is that the Unscrupulous Owner will have placed a new home on a small plot which he knows is wrong and then will attempt to enforce the Occupant of an older home (next door) into a situation claiming the home is in breach of Licence Conditions re-spacing between homes and file proceedings to terminate their Agreement it is therefore essential that if any home is replaced or redevelopment takes place it should be mandatory to inform the Local Authority so as to police the new sitings to ensure compliance with Site Conditions is maintained.
Finance as Q10.

7. Should Welsh Government issue guidance on the frequency and nature of such inspections?

Q7/ We believe that the Local Authorities that have power to inspect Parks should also be given the duty this could be done with an Amendment to the 1960 Caravan Sites and Control of Development Act 1960 which should be giving them Government support.

8. What are your views on what should be included in licence conditions? Should there be guidance on this issued by the Welsh Government?

Q8/ We have the view that the Government do contribute to Licence Conditions by way of Model Standards the latest being 2008 that are produced by the Secretary of State.
We at N.A.P.H.R. believe that there should be better allowances for Residents to be able to apply alterations to their homes to accommodate needs which can be required as and when people become disabled there is a definite requirement for Councils to Imply Conditions to Licences so that Residents can obtain the required aids without being charged with a notice of breach by U.P.O. there is no doubt that disability needs require addressing and should be a Licensing Issue

9.How long should each licence normally last,and should local authorities be able to grant licences for shorter periods if necessary?

Q9/ The Mobile Homes Act 1983 refers to a site with Planning Permission and a Licence as a protected site which gives Residents security of tenure therefore the Licence should be in perpetuity.
Section 4(1) of the Caravan Sites and Control of Development Act 1960 states that where land has been granted permission for use as a Caravan Site and has been so granted in terms that will expire at the end of a specified period then any licence issued to that land by virtue of the said permission shall expire and be stated so but subject to the aforesaid a site licence shall not be issued for a limited period only.
As I have stated in the answer to Q5. There should be two licences one to licence the Park therefore protecting Residents and their rights and a second one to licence the Park Operators which would enable you to take an action against the Park Operator and safeguard the occupier Shorter Licences Periods. No.

10.How should the fees for mobile home site licensing be determined? Should the fee be calculated by reference to the number of pitches the total area of the site, the cost of inspections to the local authority or a combination of all or any of these factors?

Q10/ The Licence Fee structure in our opinion is a system that will become self financing and regulated by the Local Authorities Financial Purse and Fees being charged by the Park size it would appear that the economics of this structure may not have the right guidance for Payments of Fees and would vary due to Park sizes therefore creating an imbalance of Payments.

11.Should there be a regular annual charge to cover on-going administrative costs borne by local Authorities during the licence period?

Q11/ Answer No As Unscrupulous
Park Owners will simply pass the charges on to the Residents through the Pitch Fees we cannot accept or agree that the Licence Holder could have the pleasure to recover Licence Fees through Pitch Fees every business has costings against that business and Licence Fees is one of those costs which is an overhead that he has to bear.
We fail to see how it would be right for Residents to pay for a Licence that is to run a business for somebody else.

12. Do you agree that site operators must pass a fit and proper person test before being granted a licence (with the local authority undertaking relevant checks) and that this should be based on the standard introduced for Houses in Multiple Occupation under the Housing Act 2004? Please give your reasons.

Q12/ We at NAPHR are all agreed that a fit and Proper Person is a must for owning and or running a Mobile Home Park and for many years this has not been the case.
However it is imperative that the system to be set up to obtain the correct answers and information regarding a person or persons that has made an Application for a Site Licence or a Site Certificate is positive and professional.
The experience that we have gained over some 30 years as a Residents Association has shown that Unscrupulous Park Owners will use any trick they can to avoid abiding by the Law i.e.complying with the time factor to complete the laid down Conditions and use methods that will divert Authorities to think they have sold the park when they have passed it to a family member i.e. wife/son/brother/cousin etc; and nullify the Council Directive which therefore means there is a lot more people involved that need to be criminally checked upon.

We at NAPHR will support proposals that will assist the creation of 'A Fit and Proper Person' who shall be Licensed to own and/or Manage Residential Mobile Home Parks.
However we cannot see any Local Authority being able to conduct an essential search for information when Park Owners can and do have a number of Parks spread over many different Local Authority Areas.
It is therefore essential that a National Body should be sent to organize a responsible team that can conduct a procedure to obtain all relevant information appertaining to those persons that are to be responsible for the Management and/or Ownership of a Park.

At National Level a Register could be kept of all Owners with information regarding their Status Financially-Managerial or Criminal including Convictions of any descriptions.
Local Authorities should have to contact this Body both to obtain information and to inform them of any Conviction or wrongdoing that they have been involved with or informed of.
This type of System would ensure that there would be no differential between the standards of enquiry into these persons.

We have to remember that a Park Owner can have an up to-date Park in one county where the Authority think he is a fit and proper person he can also have Parks in other counties where he carries out illegal acts that creates fear in people there is therefore a situation where two Authorities have different opinions and obviously is not passed between each other.It is quite apparent that a National/Central Body is essential.
To form a consistency with whatever format is applied to the Fit and Proper person and if a person is found to be unfit then that Body can see that all Parks that are under the Unfit Persons name are given some form of protection to Residents of those Parks in conjunction with the Local Authority for those areas.

To have an effective National Body to operate a consistent criteria to be applied for Fit and Proper Persons would need an Organization that has a Professional Status.

We believe that the Institution of Environmental Health Officers who play an important role in advising Government Departments on Policies and Legislation Changes within their field could be the appropriate body to fill that role.

The delegation of the above responsibility to Local Authorities could become flawed as these Authorities do not all work in the same ways as their counterparts and would probably not know or be able to obtain knowledge of any other Parks known to be owned by the Applicant throughout the country where a Central Body would the Local Authority would continue to address the Licensing of the Parks and as it is not financially viable to have all his family or staff checked as fit and proper then make the Park Owners responsible for their managers/wardens/members of their families and any other employee of which failure to comply should lead to Prosecution.

As a Park Owner can reject a Sale of Property by a Resident on the grounds that the purchaser is not acceptable to his Park then to protect Residents Rights prospective Park Owners should apply for a Fit and Proper Status before being allowed to Purchase THE Park.

13. Apart from criminal convictions what should be taken into consideration when deciding whether the proposed licence holder is a fit and proper person?

Q13/ This question is answered above in (12) but additionally the Licence Applicant should be able to prove that he understands his responsibilities under the Health and Safety Regulations and his Duty of Care which is usually ignored as not their problem which would also indicate what Management skills they may have especially for elderly people.

14. What are your views on increasing the maximum fine for operating a site without a licence or breaching a licence condition.

Q14/ Site Licences are issued under the Caravan Sites and Control of Development Act 1960 which means operating without a licence is breaking the law and a serious offence which jeopardizes the Residents security of tenure as implied in the Mobile Homes Act 1983 we would therefore be in full agreement with your proposal.

15. Should local authorities be able to issue fixed penalty notices and,if so, for what types of infringement? Please give your reasons.

15/ Answer Yes
This is an area that we would agree with as a fixed penalty attached to the time factor to rectify the breach followed by a further penalty for failure to comply could well speed up the process of rectification.

16. Should local authorities have powers to serve enforcement notices and to carry out work in default if necessary following breaches of licence conditions. Please give your reasons.

16/ Under the provisions of the Caravan Sites and Control of Development Act 1960 it is an offence if the Occupier of the land fails to comply with any condition attached to Site Licence held by him in respect of the law.
Further to which Section 9(3) states:- Where an occupier of land fails within the time limit specified in a condition attached to a Site Licence held by him to complete to the satisfaction of the Local Authority in whose area the land is situated any works required by the condition to be so completed, the Local Authority may carry out those works and may recover as a simple contract debt in any court of competent jurisdiction from that person any expenses reasonably incurred by them on their behalf
Therefore your proposal already has a Legal standing under an Act of Parliament which should be enforceable by giving the Local Authority the duty and the power to monitor and enforce condition with use of the Law.
Further to the above we agree that Local Authority should have the power to serve Enforcement Notices.
Park Owners are granted Licences under the above act and should be made to abide by the Conditions of this Licence or be forced by Law to comply or face Prosecution

17.Under what circumstances should a licence be provoked?

Q17/ The Local Authority should be able to revoke a Licence where a Licence Holder or his Manager are guilty of criminal and fraudulent activity whether against Residents or the general public or fails to comply with Licence Conditions that is a threat to the health and safety of Residents or any other persons that may require to enter the Park for whatever reason or sends malicious communications/intimidates and harasses Residents.
Further to the above it is essential that to revoke a Licence a managerial system would have to be installed to run the Park.

18. What are your views on local authorities being able to take over management of mobile home sites and do you envisage any practical difficulties?

18/ The Local Authorities could take overall responsibility of the Park but they may not have the management skills required for the task it would therefore be appropriate to make a

management order that would enable the Authority to authorise a professional person or organisation to take over the Management of the Park.

19. Should mobile home owners be able to take over management of a site and how should this work in practice?

19/ Answer No
There is every possibility that no Residents has any knowledge of Management and also would not want the responsibility.
There is also the problem of the Owner having his Licence revoked but he will still own the land which gives him the right to enter the Park when he wishes which without doubt would create a major problem for Managing Residents a problem that they could not deal with.

20. How should site operators consult with home owners when proposing changes to written agreements or site rules?

Q20/ The Written Agreements (Statement) cannot be changed by the Park Owner the Agreement is an individual Agreement between both parties and therefore any changes has to be agreed by both parties.

There is a section in the Express Terms which gives the criteria that should be followed by the Owner when proposing any changes which states "Not to add to or amend the Park Rules except in accordance with the following provisions"

(i) The Owner shall give twenty eight days Notice of any additions or amendments he proposes either by displaying the same on the Park Notice Board or by supplying copies thereof to each Occupier.

(ii) If within such period of twenty eight days as aforesaid at least one third of the Occupiers shall deliver to the Owner a written request that a meeting shall be called to discuss the proposals then the Owner shall either withdraw them or by giving reasonable notice convene a meeting of the Occupiers to consider the proposals in detail and to vote upon the same the issue to be determined by a simple majority of those Occupiers voting.

(iii) If no such written request is delivered to the Owner within such twenty eight day period as aforesaid then a majority of the Occupiers shall be deemed to have accepted them and they shall come into force immediately on the expiry date of such twenty eight day period.

The above terms are open to an abuse of process under Section (1) as a notice placed on

A notice board may not be read or not even placed on the board but the Unscrupulous Owners will claim that they did put it there.
We would propose that any proposed rule changes should be notified by letter to each Home and be an Implied Term.

21. Should the RPT have the power to award damages and compensation for breaches of the written agreement or any requirement imposed by this Bill? Please give your reasons.

Q21/ We believe that it is right for the RPT to award damages where appropriate the proposition states that RPT could award damages and compensation for breaches to the Written Agreement it has to be said that it may not be possible for this to apply in all cases as an award of damages would be for loss or injury and compensation is awarded for loss or as a recompense this means that breaches not come under this banner.
Further to the above any requirement under the proposed bill that is breached may have to be viewed the same as above.

The proposal needs further work to identify the areas of the proposal that would affect Residents in such a way that it would warrant compensation in principle we do agree.

22. Should pitch fees be regulated and if so how?

Q22/ Pitch Fees are increasing to high levels and should be regulated and controlling the following points.

1/ The Pitch Fee as stated in the 1983 Act shall be reviewed annually in which the Park Owner takes as his right to increase the Fees.
2/ The 1983 Act also says there is a presumption that the Pitch Fee will increase by the RPI again the Park Owner claims that it is his right.
3/ The Park Owner sets the annual Pitch Fee as an example on the 1st January and then sells a new home on the Park and as he has a new Resident he sets the Pitch Fee at a higher rate than the rest of the Park which creates different fees than other Residents making the annual increase which is raised by a percentage figure higher for some Residents than others and they all have the same rights and amenities on the Park.
4/ Further to the above when an Agreement to pay through the Pitch Fee for improvements is made the figure added to the Pitch Fee is never removed and increases annually which means that you never stop paying for an improvement with a fixed costing.
5/ We believe that as the C.P.I. is the main UK measure of inflation for the average month to month changes in the prices of Consumer Goods and Services purchased in the UK then that should be the measure used relating to Pitch Fee increases it seems neither fair nor

reasonable for Residents to have to pay the RPI which includes payment of mortgage interest which gives the Park Owner extra payments from Residents towards his property. All of the above points would assist in controlling the ever increasing Pitch Fees which is making the affordable form of housing very unaffordable and liable to cripple the industry through greed these points are essential.

23. Do you have any comments that specifically relate to pitch fees?

23/ We have knowledge of large numbers of Residents that have changes made to them on various dates throughout the year (mainly quarterly) in addition to Pitch Fees for maintenance and repairs plus other items these charges range between £100-00 to £400-00 these charges are out-side the Pitch Fee process which makes the charges far greater. Further to the above Section 29 Implied Terms- Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended) states:-" Pitch Fee" means the amount which the occupier is required by the Agreement to pay to the Owner for the right to station the Mobile Home on the Pitch and for the use of the common areas of the protected site and their maintenance. The above quote must therefore clarify that the charges are not a legal payment as a said charges are already encompassed into the Pitch Fee.

We would further propose that the Park Owners should issue a statement to specify how the Pitch Fee is calculated this would ensure that Residents are not being charged for items or repairs that they are not responsible for.

24. Do you agree that the site operator's maintenance and repairing obligations would benefit from clarification?

24/ Answer definitely Yes! And Identified.

25. Should there be a standard consultation format that must be followed when a site operator is proposing improvements?

This answer is Yes but there is also a definite need to identify improvements and that they are for Residents benefit also that if the Park Owner has to consult the Residents they must have the right to refuse the said improvement and not give the Owner the right to seek approval via RPT.

26. Do you agree that home owners should be able to make alterations and improvements inside their home without requiring the consent of the site operator? Please give your reasons?

26/ We at N.A.P.H.R. believe that the Resident who is the Home Owner should never have to have permission to improve the interior of their home which they purchased and paid for I do not believe that any other industry demands that you must gain approval from a third party carry out any type of work on your own property.

27. What would you deem to be a fair and reasonable reason for refusing permission to alter a mobile home externally.

27/ A fair and reasonable refusal for external work would be any type of works that would contravene Site Licence Conditions or the Written Agreement.
In addition to your proposal the following issue needs to be addressed that any form of external insulation material should not be refused as it is Governments Policy that the Council can make Grants for this type of insulation and keep the elderly warm these materials are of a high fire safety rating but some Park Owners are refusing to allow the work to be done.

28. Should the Residential Property Tribunal have to agree to all re-siting requests proposed by the site operator including emergencies? Please give your reasons.

Q28/ Yes the RPT should have to agree to all re-sitings the reasons being for this is that U.P.O. would abuse the system and not return Homes to the original pitch to create a beneficial plot to make a financial advantage by putting a new home on the said plot. Further to the above by this move now becoming permanent and not returning to the original pitch it would enable the Park Owner to issue a new Agreement as per your proposal which we cannot agree to.
Section 1 of the Mobile Homes Act 1983 gives the right to the Home Owner to station a Home on the Park the Agreement is nothing to do with the Home which means a New Agreement is not required and the opportunity to alter the Agreement content has been averted.
There is a further problem of where the Home is moved to for these repairs when there are no spare plots secondly this could mean that the Home would have to be taken off the Park or placed in the car park all the Home Owners effects would have to be securely stored and a guarantee for the Homes security thirdly accommodation has to be found for the Resident and all costs met by the Park Owner which should be made an order by the Tribunal this order should also cover compensation for any damage to the Home caused by the move.

29. Do you believe the rules on succession and inheritance in Wales should be modernised and do you have any comments on the above proposals?

Q29/ Yes we agree the succession and inheritance rule do require updating.
The inheritance of a Park Home has to be seen the same as gifting the home to a family member as by a will it has been gifted to the Inheritor apart from the fact that the Inheritor may not be a family member therefore the person inheriting the Home should be entitled to live in it as they have become the Owners of the said property.
All the above should apply subject to the Inheritor being able to comply with Park Rules.
Further to the above the Implied Terms relating to the Gift of a Mobile Home states the Owner may not require any payment to be made whether to himself or otherwise in connection with the Gift of the Mobile Home and the Assignment of the Agreement,
We would propose that the above Implied Term should be amended to read after the words Gift add the words or Inheritance this would prevent the Owner from claiming an unlawful charge.

30. What do you consider would be the financial impact of the proposed Bill on yourself your organisation or your business?

Q30/ The proposals that are forwarded through the Bill are being brought about due to the failure of Local Authorities to ensure that Unscrupulous Park Owners complied with the Legislation which is laid down for them to operate and run a Mobile Home Park which also suggests that the Legislation was a failure or too weak the proposals in this Bill are being done so as to bring the Park Owners in line with the obligations that they should have been complying with for many years.
The Site Licence will be a business expense which is an overhead that all businesses have along with other business costs the Pitch Fee is a Fee that is set by Park Owners to recover for them the costs of running and maintaining the Park along with wages and a profit so unless the Government gives the Park Owner an outlet or loophole to reclaim any costs then the Residents (which is our Organisation) should obtain the rights they have been denied that they already pay for.

31. Do you consider that there would be a disproportionate financial impact upon any particular groups affected by this Bill?

Q31/ As I have stated in Q30 above there should not be any disproportionate as Residents should be getting their rights which they already pay for in their Pitch Fees.
We have to remember that due to the Commission Legislation the Park Owner already owns 10% of the Residents Property and any improvements that they make to that Home of which he makes no contribution this without doubt is disproportionate.

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National Association of Park Home Residents
Additional comments

Q3. I consider the seller should be made aware they have an obligation to ensure the purchaser complies with the site rules regarding:
age limits on the park, keeping of pets, parking of vehicles between homes Etc. Many new buyers come from large homes on self contained plots and do not understand why there are restrictions.

Q11. The initial cost of the first License fee could be recovered by the site operator from the occupiers, but thereafter the annual license fee should be regarded as a business expense borne by the site operator.

An item which we have to frequently deal with is where on older parks which used to be a holiday park, the electrical supply (15 or 30A) is not adequate for the needs of modern day living which requires a 60A supply. Site owners decide (because of power failures due to overloading) that they are going to “upgrade” to 60A. At present the Implied Terms allow them to pass on the costs of upgrades (improvements for the benefit of the occupiers) which to my mind is unfair because it is also an improvement to his assets.

Yn rhinwedd paragraff(au) iv o Reol Sefydlog 17.42

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Eitem 8

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Lleoliad:	**Ystafell Bwyllgora 3 – y Senedd**
Dyddiad:	**Dydd Iau, 22 Tachwedd 2012**
Amser:	**09:30**

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Gellir gwylio'r cyfarfod ar Senedd TV yn:
<insert link here>

Cofnodion Cryno:

Aelodau'r Cynulliad:	**Ann Jones (Cadeirydd)** **Peter Black** **Janet Finch-Saunders** **Mike Hedges** **Mark Isherwood** **Gwyn R Price** **Rhodri Glyn Thomas** **Joyce Watson** **Lindsay Whittle** **Kirsty Williams**
Tystion:	**Liz Withers, Llais Defnyddwyr Cymru** **Lowri Jackson, Llais Defnyddwyr Cymru**
Staff y Pwyllgor:	**Marc Wyn Jones (Clerc)** **Sarah Bartlett (Dirprwy Glerc)** **Bethan Davies (Clerc)** **Leanne Hatcher (Dirprwy Glerc)** **Helen Finlayson (Clerc)** **Kath Thomas (Dirprwy Glerc)**

1. Cyflwyniad, ymddiheuriadau a dirprwyon

1.1 Cafwyd ymddiheuriadau gan Ken Skates.

1.2 Roedd Kirsty Williams yn dirprwyo ar ran Peter Black ar gyfer eitemau 2, 3 a 4.

2. Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru): Cyfnod 1 - Sesiwn dystiolaeth 2

2.1 Cafodd y Pwyllgor dystiolaeth gan Liz Withers, Pennaeth Polisi, a Lowri Jackson, Rheolwr Polisi, Llais Defnyddwyr Cymru.

3. Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y canlynol:

3.1 Cytunodd y Pwyllgor ar y cynnig.

4. Ystyried y dystiolaeth ynghylch Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru)

4.1 Trafododd y Pwyllgor y dystiolaeth a gafwyd yn gynt mewn perthynas â'r Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru).

5. Bil Atal Twyll Tai Cymdeithasol: Memorandwm Cydsyniad Deddfwriaethol

5.1 Trafododd y Pwyllgor y Bil Atal Twyll Tai Cymdeithasol: Memorandwm Cydsyniad Deddfwriaethol.

6. Blaenraglen waith y Pwyllgor

Cytunodd y Pwyllgor ar ei ymchwiliad nesaf a bydd yn trafod papur pellach yn y cyfarfod nesaf.

7. Papurau i'w nodi

7.1 CELG(4)-27-11 - Llythyr gan y Gweinidog Tai, Adfywio a Threftadaeth

7.2 CELG(4)-27-12 - Llythyr gan y Gweinidog Llywodraeth Leol a Chymunedau

7.3 CELG(4)-27-12 - Llythyr gan Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Mae cyfyngiadau ar y ddogfen hon

Gwasanaeth Cynghori Ariannol™

the Money Advice Service™

Follow Up Evidence

Communities, Equality and Local Government Committee follow up on the Financial Inclusion and Impact of Financial Education report

from the Money Advice Service

November 2012

Joyce Watson: I will move on to affordable borrowing—or unaffordable borrowing, as is the case—with the growth of the pay-day loans market and the demands for its particular services. It is something that we have looked at, and we would like to know your opinion on the impact that the growth of the pay-day loans market has had on the demands for your particular services.

Ms Phillips: Pay-day loans, specifically, are a particular market. Perhaps I could speak about the credit market in general. One of the things that we, as an organisation, say is that if people need to borrow money there needs to be an informed choice. Whether it is face to face, online, or via telephone, we are trying to work towards getting people to know what questions they need to ask so that they know how much it will cost, how long it will take, and whether or not they can pay back the payments. The idea is that if someone has no other choice but to go for a pay-day loan, which is sometimes the case, they go into that fully informed of its costs, whether they can pay it back and whether it is the only option open to them or whether there is somewhere else they can go to, be that a credit union, Moneyline Cymru or any other loan.

One of the things that we find with the pay-day loans is that people take out a short-term loan and cannot then pay it back, and so the costs start increasing dramatically, and they end up borrowing to pay back what they borrowed initially. That is where the cost and the issues greatly impact on any advice service, whether it is preventative or debt related. I do not have specific figures about how many pay-day loan issues have been brought to the Money Advice Service, but I will look to see whether we can find that information for you.

Joyce Watson: It would be useful if you could. Another question—no, that is it.

Follow up answer:

Our face to face money advice (prevention) and our telephone line do not currently collect data that will tell us if there was specifically a payday loan included in the session.

In regards to our debt work, while we collect total debt outstanding for our clients we don't break that down by type of debt however we are currently completing research looking at the performance of the projects over the first few months of our management and this research does look into debt type and had payday loans as a specific data point. The data is unweighted however so will only be indicative. We will be happy to share this with the Committee once it has been made available.

However, last year - in preparation for us becoming the coordinator of debt advice across the UK - London Economics conducted work for us looking at the composition of credit markets. As part of this they analysed a report that BIS had commissioned from YouGov in 2009/10, which showed that payday loans accounted for 0.5% of all unsecured credit commitments. In the context of the ONS household debt figures from 2009 this equates to £1.1bn – similar to the research done for Consumer Focus.

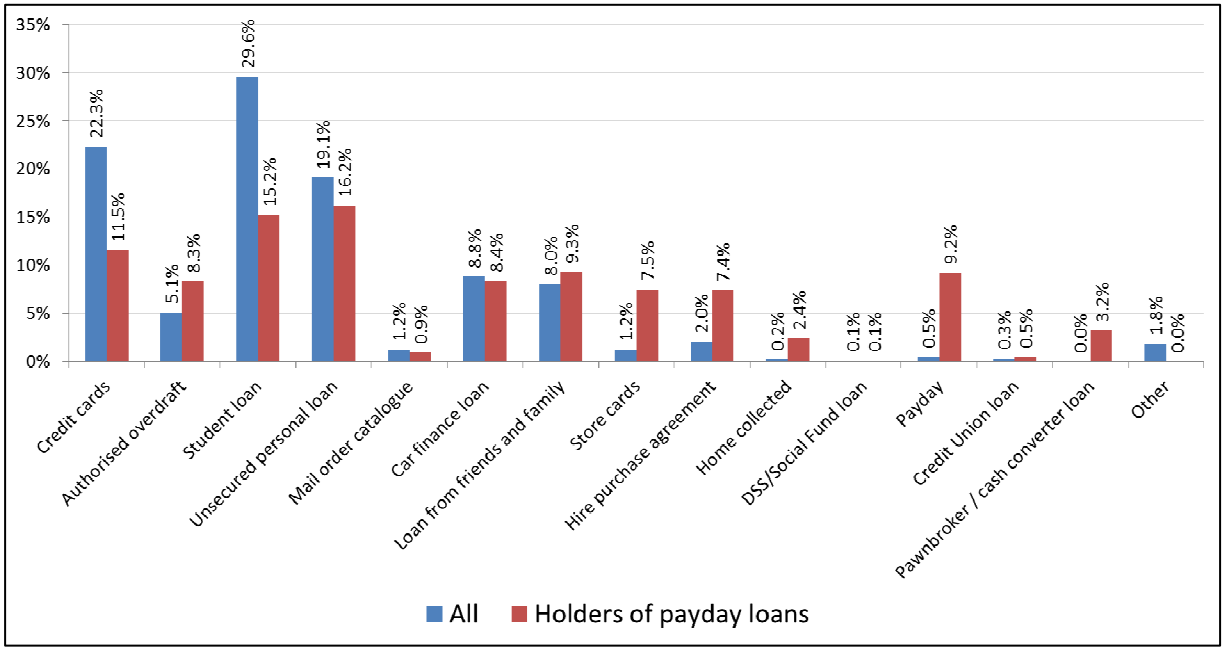
However the payday loan data cited in BIS research refers to all unsecured debt, whether or not someone has a payday loan and therefore masks the true scale of the impact of payday loans amongst those that use these products.

Further analysis of the structure of unsecured debt amongst those people that use payday loans shows that almost 10% (9.2%) of their unsecured debt is accounted for by payday loans.

So whilst in total payday loans have a small share of total unsecured debt, amongst its customers it is a significant component of their debts, greater than store cards and authorised overdrafts. Below is the full further breakdown that London Economics conducted for us on the YouGov data from 2009/10.

Table 1. Share of value of different types of debt in total unsecured debt

	All	Holders of payday loans
Credit cards	22.3%	11.5%
Authorised overdraft	5.1%	8.3%
Student loan	29.6%	15.2%
Unsecured personal loan	19.1%	16.2%
Mail order catalogue	1.2%	0.9%
Car finance loan	8.8%	8.4%
Loan from friends and family	8.0%	9.3%
Store cards	1.2%	7.5%
Hire purchase agreement	2.0%	7.4%
Home collected	0.2%	2.4%
DSS/Social Fund loan	0.1%	0.1%
Payday	0.5%	9.2%
Credit Union loan	0.3%	0.5%
Pawnbroker / cash converter loan	0.0%	3.2%
Other	1.8%	0.0%



For example, for all people credit cards make up 22.3% of unsecured debts but for those people who use payday loans, credit cards only make up 11.5% of their unsecured debts. Similarly while for all people payday loans only make up 0.5% of unsecured debt, for those who use payday loans they make up 9.2% of their debt.

Whilst these are significant numbers, trading statistics of market share can also the true issues of payday loans namely:

- the way in which the amounts owed on these products grow compared to other forms of unsecured borrowing given their much higher interest rates
- the intense recovery practices of some payday lenders – highlighted by the OFT recently, which can have a significant impact on the emotional well-being of those in arrears and their families – further reducing a customer's ability to cope with their situation

Although this is not our organisation, the Committee members may be interested to know that National debt charity Consumer Credit Counselling Service (CCCS) report having seen a dramatic rise in the number of people seeking its help who have multiple payday loans. Over 2,000 of its clients this year have had five or more payday loans, a three-fold increase from 716 for the whole of 2009. At the more extreme end of the scale, 173 of those who sought its help in 2012 had ten or more payday loans while only 42 had this number in 2009.

The average amount owed on payday loans by those seeking its help is rising too, up from £1,187 in 2009 to £1,458 in 2012.

CCCS (now renamed to StepChange Debt Charity)has seen a general rise in the number of people seeking its help with payday loans, going up from 6,491 in 2009 to 17,414 in 2011. So far in 2012, 16,467 have contacted it for help with payday loans.

Published: November 2012

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