

**Y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol**

**Bil Safleoedd Rheoleiddiedig Cartrefi Symudol
(Cymru)**

**Ymatebion i'r Ymgynghoriad
Rhagfyr 2012**

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**Communities, Equality and Local Government
Committee**

Regulated Mobile Home Sites (Wales) Bill

**Consultation Responses
December 2012**

Rhagair/Foreword

Hoffwn ddiolch i bawb sydd wedi neilltuo amser i ymateb i'r ymgynghoriad hwn. Bydd y canlyniadau yn ddefnyddiol iawn i'r Pwyllgor ar gyfer ei waith craffu Cyfnod 1 ar y Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru).

Yn yr achosion lle mae pobl sydd wedi cyflwyno tystiolaeth ysgrifenedig wedi gofyn inni beidio â datgelu eu henwau a lle mae'r ymatebion yn cynnwys gwybodaeth sensitif, rydym wedi golygu'r ymatebion i ddileu unrhyw fanylion adnabod.

I would like to thank everyone who has taken the time to respond to this consultation, the results of which will be very helpful to the Committee in our Stage 1 scrutiny of the Regulated Mobile Home Sites (Wales) Bill.

Where those who have submitted written evidence have asked for their names to be withheld and where responses contain sensitive information, we have redacted the responses to protect identities.



Ann Jones AC/AM
Cadeirydd/Chair

Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru)

Regulated Mobile Home Sites (Wales) Bill

Ymatebion i'r Ymgynghoriad

Consultation Responses

* Ar gael yn y Gymraeg/Available in Welsh

RMHS 1	Dienw	Anonymous
RMHS 2	Dienw	Anonymous
RMHS 3	Dienw	Anonymous
RMHS 4	Llais Defnyddwyr Cymru	Consumer Focus Wales
RMHS 5a 5b	Y Tribiwnlys Eiddo Preswyl	Residential Property Tribunal
RMHS 6	Cyng rhair Gweithredu Preswylwyr Cartrefi mewn Parciau	Park Home Residents Action Alliance
RMHS 7	Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain a'r Cyngor Carafanau Cenedlaethol	British Holiday and Home Parks Association and National Caravan Council
RMHS 8	Dienw	Anonymous
RMHS 9	Preswylwyr Parc Woodland	Residents of Woodland Park
RMHS 10a 10b	Brian Doick, Cymdeithas Genedlaethol Preswylwyr Cartrefi mewn Parciau	Brian Doick, National Association of Park Home Residents
RMHS 11	Cymdeithas Tir a Busnesau Cefn Gwlad	Country Land and Business Association
RMHS 12*	Huw Lewis AC, Gweinidog Tai, Adfywio a Threftadaeth	Huw Lewis AM Minister for Housing, Regeneration and Heritage
RMHS 13a 13b	Clive Betts AS, Cadeirydd Pwyllgor Dethol Cymunedau a Llywodraeth Leol Tŷ'r Cyffredin	Clive Betts MP, Chair of the House of Commons Communities and Local Government Select Committee
RMHS 14	Jim Winchester, Cymdeithas Genedlaethol Preswylwyr Cartrefi mewn Parciau	Jim Winchester National Association of Park Home Residents
RMHS 15	Peter Black AC, yr Aelod sy'n gyfrifol	Peter Black AM, Member in charge
RMHS 16a 16b	Mrs Rachel Jebbett,	Mrs Rachel Jebbett,
RMHS 17	Dienw	Anonymous
RMHS 18	Berkeley Leisure Group Cyf.	The Berkeley Leisure Group Limited
RMHS 19*	Cyngor Sir Powys	Powys County Council
RMHS 20	Cymdeithas Preswylwyr Parc Rockbridge	Rockbridge Park Residents Association

RMHS 21	Dienw	Anonymous
RMHS 22	Dienw	Anonymous
RMHS 23	Dinas a Sir Abertawe	City & County of Swansea
RMHS 24	Cymdeithas Parciau Gwyliau a Pharciau Cartrefi Prydain, tystiolaeth atodol	British Holiday and Home Parks Association, Supplementary Evidence
RMHS 25a 25b	Cyngor Sir Caerfyrddin	Carmarthenshire County Council
RMHS 26	Parc Preswyl Scotchwell	Scotchwell Residential Park
RMHS 27	Maguire Holdings Cyf.	Maguire Holdings Ltd
RMHS 28	Ffederasiwn Busnesau Bach	Federation Of Small Businesses
RMHS 29	Mr Tim Jebbett	Mr Tim Jebbett
RMHS 30	Cymdeithas Bancio Prydain	British Bankers' Association
RMHS 31	Cyngor Caerdydd	Cardiff Council

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 1 Anonymous**

Dear Committee Members,

I Whole heartily agree with the new act!

But I and many many more residents believe that the 10% commission on sales needed to be on the agenda!

Why oh why did this happen?? The English Parliament who passed this act back in the 80s would put it to you that owners can charge between 0 and 10%!

How naive of the person or persons who thought that any owner would charge less than 10%?

So I sell my home,(bought new from our site owner) And get charged the full 10%!

The same home could be sold again later,once twice, ma-by more? So it dose not take to much to work out that the 10% (I say 10 because I do not know of any other site owner in the UK who charges less?) is a total RIP OFF OF,AND IN MOST CASES PENSIONERS,WHO BY THE WAY HELP TO FREE UP HOUSES FOR OUR YOUNGER GENERATION!!

Peter Black at the last meeting in Llandridnod Wells was given the opportunity to tackle this, and after stating 5 minuets before that Pitch Fees cannot be put up above the September Index Rate. Goes on to say that if the commission was abolished or lessened then site owners would resort to raising Pitch Fees???? Does Peter not know that that would be unlawful An owner would also have you believe that his or her main income is from this commission Absolute and utter rubbish ! They make there living from Factory Price to the price they sell to buyers ! One only has to check it out, and you will see that between £80,000 and over £100,000 is a regular profit! So please go and check it out for your selves And secondly from Pitch Fees, because in many cases they do NOT abide by there obligations in the Written Statement in maintenance of the Park Home Site (And that certainty applies to my site [REDACTED] In access of £3000 per month from the residents for what??? Nothing is done, and while I'm at it,we also pay B Rate Council Tax,which of course should be A!!! £2,753 per year, for what?? No site maintenance, and not much from the council, who by the way do not know how to police a SITE LICENCE WHICH WAS ISSUED BY THEM??? And as mentioned, many many more believe that the 10% Commission is an absolute con!! (Pensioners being taken for a ride again)!! I do believe that you and Focus Wales are doing a fantastic job in at last realizing that we as senior citizens are being treated like dirt by some of these unlicensed people who own Park Home Sites! But I cannot emphasis enough that the 10% commission on sales must be looked at not in the next 3 or 4 years, but NOW??

Kind Regards,

[REDACTED]

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 2 Anonymous**

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?

FOR MANY YEARS MOBILE HOME PARKS HAD BEEN MAINLY FAMILY RUN OPERATIONS, THEIR OWNERS TREATING THEIR RESIDENTS AS FRIENDS & NEIGHBOURS. DURING THE LAST 10 YEARS MORE & MORE SITES HAVE BEEN TAKEN OVER BY UNSCRUPULOUS SITE OWNERS WHO HAVE EXPLOITED THE POOR & OUT OF DATE SITE LEGISLATION/LICENSING REGULATIONS TO DEFRAUD MANY VULNERABLE RESIDENTS OF LARGE SUMS OF MONEY AND IN MANY CASES TO MAKE THESE RESIDENTS LIVES A LIVING MISERY.

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

I AM PARTICULARLY IMPRESSED BY THE "FIT & PROPER PERSONS" CLAUSE.

3. In your view, will the licensing and enforcement regime established by the Bill be suitable?

No Response

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

THIS CRITERIA WILL GO A LONG WAY IN DRIVING OUT THE CROOKED, ABUSIVE AND AGGRESSIVE SITE OWNERS/SITE MANAGERS.

5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate?

No Response

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

AT LAST THEY WILL HAVE TO ACT IN WAYS THAT ARE RESPECTFUL AND CONSIDERATE TOWARDS THEIR RESIDENTS. NO LONGER CAN THEY TRY AND EXTRACT THE MAXIMUM AMOUNTS OF MONEY POSSIBLE FROM US, VIA SALE BLOCKING, TOTALLY IN-ADEQUATE SITE MAINTENANCE, MANIPULATIONS OF UTILITY CHARGING etc etc.

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?

RPT's SHOULD BE MORE RESPONSIVE, CHEAPER AND (ONCE THEY HAVE ACQUIRED THE NECESSARY KNOWLEDGE ABOUT PARK HOMES) MUCH MORE EXPERT IN DEALING WITH THESE RESIDENTIAL DISPUTES THAN THE COURTS.

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

CHANGES IN LOCAL GOVERNMENT LEGISLATION REGARDING THE NEW SITE LICENSES. IMPROVING THE LEVEL OF KNOWLEDGE CONCERNING PARK HOMES WITH THE LOCAL POLICE FORCE. I BELIEVE THIS BILL HAS CLAUSES INCORPORATED IN IT TO DEAL WITH THESE ISSUES.

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.

I AM NOT EXPERT ENOUGH TO PASS AN OPINION HERE.

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.

APART FROM THE NEW LICENSE FEE, WHICH IS JUST LIKE SIMILAR LICENSE COSTS IN MORE PROPERLY REGULATED BUSINESSES, ANY ADDITIONAL COSTS COMPLAINED ABOUT BY SITE OWNERS ARE MERELY THEIR LEGITIMATE COSTS THAT THEY HAVE BEEN AVOIDING PAYING OUT ON FOR VERY MANY YEARS

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

AN AWARENESS CAMPAIGN, PERHAPS VIA LOCAL AUTHORITIES, TO MAKE EVERY PARK HOME OWNER IN WALES AWARE OF THEIR NEW RIGHTS.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 3 Anonymous**

- 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?**

For protection of residents

- 2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?**

Will protect residents

- 3. In your view, will the licensing and enforcement regime established by the Bill be suitable?**

No Response

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

residents will have more protection and safety from nasty site owners

- 5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate?**

No Response

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

Residents will feel safe and happy in there home

- 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?**

both parties can put there point across

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

No Response

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.

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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.

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

No Response



Written evidence to the Communities, Equality and Local Government November 2012

About us

Consumer Focus Wales is the independent statutory organisation campaigning for a fair deal for consumers. We are the voice of the consumer and work to secure a fair deal on their behalf. In campaigning on behalf of consumers we aim to influence change and shape policy to better reflect their needs. We do this in an informed way owing to the evidence we gather through research and our unique knowledge of consumer issues.

We have a duty to be the voice of vulnerable consumers, particularly those on low incomes, people with disabilities, people living in rural areas and older people. In addition, we also seek to identify where other consumers may be disproportionately disadvantaged by a particular consumer issue or policy.

Overview

Consumer Focus Wales welcomes the opportunity to submit written evidence to the Communities, Equality and Local Government Committee to inform their scrutiny of the Regulated Mobile Home Sites (Wales) Bill.

We strongly support many of the proposals in this Bill. In particular, we are pleased to see that the Bill will:

- Remove the need for approval from a site operator for the sale of a mobile home. We strongly support this
- Place a duty on local authorities to secure the effective implementation of the new licensing regime and most importantly, to *enforce* site licence conditions
- Introduce a range of enforcement options, including improvement notices and fixed penalties
- Introduce a fit and proper person test for site owners and managers

However, we would like to highlight some key areas of concern. For example:

- We are concerned that the Bill does not make it sufficiently clear how site standards are to be improved, whether by new licence conditions, guidance from Welsh Ministers, or via the new Code of Practice
- We are concerned that the Bill does not separate the site licence from the fit and proper person test. We believe that this will be important in ensuring the continued business viability of many sites
- We are disappointed to see that the requirement for local authorities to have regard to the desirability of exercising powers of collaboration does not go

further. We do not believe that this provision will secure genuine collaborative working and information sharing between local authorities

- We are very concerned that the Explanatory Memorandum states that “the Residential Property Tribunal will have jurisdiction over all disputes related to this Bill, aside from criminal prosecutions”. It is crucial that the Bill clarifies whether applications to terminate written agreements will continue to be heard in the courts

Crucially, much of the detail of the new licensing regime is lacking. While we recognise that some of this detail will be provided through regulation, we are concerned that, for example, the procedures for the proposed fit and proper person test described here are extremely vague. It is also unclear in some parts of the Bill where responsibilities for enforcement lie. With this in mind, the detail of our response, including more background on our key concerns, is below.

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?

In 2011, Consumer Focus Wales began a comprehensive and detailed piece of research into the problems facing mobile home owners across Wales, which resulted in more than 250 in-depth interviews with residents and a published report listed almost 100 recommendations for change.

During our research, we also spoke to residents’ association representatives, consulted with the caravan industry and site operators, and surveyed every local authority in Wales as part of the project. Our work has resulted in a robust examination of a multi-million pound industry and our findings demonstrate a real need for a new residential site licensing regime, and reform of the management and operation of these sites in Wales.

Nearly two thirds of residents who took part in our research told us that they had experienced at least one problem on their site in the past five years. We found that a quarter of respondents were dissatisfied with life on their site with an eighth of residents telling us that they were very dissatisfied.

We heard over and over again from residents about their unhappiness about living with poorly maintained common areas and their frustration at their site operator’s inaction or their local authority’s inability to help.

A clear majority of respondents who reported a problem to their local authority said that the response from the authority was ineffective. Many of them told us that this was because either the local authority was unwilling to take action, they lacked the time or resources to deal with the problem, or that the local authority was simply not interested.

With this in mind, Consumer Focus Wales strongly believes that there is a clear and desperate need for wholesale reform of the licensing and management of regulated mobile homes sites.

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

During the course of our research, Consumer Focus Wales found overwhelming support for wholesale reform of the caravan site licensing regime. We know that mobile home owners are often elderly, on a low fixed income, and vulnerable, due to their status as home owners on someone else's land. Yet time and time again residents told us about their frustration at a system which has neither the resources nor the powers to help them. With this in mind, we have outlined our concerns about the Bill as it currently stands and submitted some recommendations below.

Part 2, Section 4: Collaborative discharge of functions

We are concerned that simply requiring local authorities to have regard to the desirability of exercising powers of collaboration does not go far enough and will not secure genuine collaborative working and information sharing between local authorities.

We believe that Section 4 should establish a formal network of local authority leads on regulated site licensing. This network should be required to meet regularly and engage in effective communication, including the sharing of information about the detail of fit and proper person tests and site licence breaches. We would recommend the formalisation of regular meetings and clear communication networks to ensure the effective sharing of best practice.

With only 92 sites in Wales, and seventeen local authority areas responsible for five sites or fewer, we strongly recommend that the Bill *requires* local authorities to work together effectively in the implementation and enforcement of the new licensing regime.

This is because, while we agree that local authorities should retain their separate licensing, inspection and enforcement regimes, more effective regional working should be strongly encouraged and organised by a formal network of local authority leads across Wales. We strongly believe that a more collaborative approach would have the huge advantage of concentrating expertise and helping to ensure national consistency and transparency for the new licensing regime.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 4 should be amended to establish a formal network of local authority leads on regulated site licensing.

Part 2, Section 6: Applications for licences

We are concerned that the Bill does not make it sufficiently clear whether site operators will be required to apply for a new licence under the draft Bill, or whether they are exempt if they are already licence holders under the Caravan Sites and Control of Development Act 1960 (the 1960 Act). We believe that this should be clarified, and made clear that all site owners in Wales operating a regulated site should be required to apply for a new licence as part of a new regime.

We are pleased to see that an application for a site licence will require applicants to provide the name of both site owner and manager, as well as a standard written statement for the site, a set of standard site rules, and evidence of consultation with residents on these two documents.

We are also pleased to see that the Bill allows for local authorities to set a licence application fee as we believe that providing local authorities with the necessary resources to carry out new functions will be crucial to the success of the new regime.

We support the proposal for a nationally agreed fee structure, set by regulations, and, following consultation with local authorities, we recommend that the site licence fee be determined by the number of pitches allocated to a site in its planning permission. This staggered approach would be fairer than a set ceiling, because some sites have only a handful of pitches, while others are large.

We also agree that the Bill should require Welsh Ministers to set, by regulation, the detail of the proposed fit and proper person test, because we recognise that restricting local authorities to only one type of check, or only one set of standards, could be considered short-sighted. We will be recommending that Welsh Ministers include an enhanced CRB check and a Police National Database check as part of these regulations.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 6 should be amended to ensure that all site owners are required to apply for a new licence under the terms of new legislation.

Part 2, Section 7: Grant or refusal of licence

We are concerned that some rogue site operators, who may have had a licence revoked in another part of the country, could reapply for a licence in Wales without failing the fit and proper person test.

We therefore believe that the Bill should specify that an applicant should not have not had a site licence revoked, or indeed, have failed a fit and proper person test (as outlined in Section 9 of this Bill) in the previous five years.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 7 should be amended to ensure that the local authority is able to refuse to grant a licence to an applicant who has had a site licence revoked, or has failed a fit and proper person test (as outlined in Section 9 of this Bill) in the previous five years.

Part 2, Section 8: Tests as to suitability for the stationing of mobile homes

As we highlight later in our response, we are concerned that there are a large number of regulation and order-making powers which will be the responsibility of Welsh Ministers after the Bill becomes law.

For example, we are concerned that the Bill requires Ministers to make regulations which set standards for the stationing of a number of mobile homes. We believe that this function could be carried out by the local planning authority without the need for a new set of regulations. However, this *must* be done in collaboration with the licensing authority and we would urge active consultation between different departments. This is another example of where a formal network of leads would facilitate joint working (please see our comments on Part 2, Section 4 of the Bill).

Recommendation

Part 2, Section 8 should be amended to give the responsibility for determining whether a site is reasonably suitable for the stationing of a number of mobile homes to the local planning authority in collaboration with the licensing authority.

Part 2, Section 10: Licence conditions

When we spoke to residents, we found that 62 per cent of respondents had experienced at least one problem on their site in the past five years but by far the most pressing concern for residents we talked to was the issue of site maintenance, security or safety standards. 40 per cent of respondents told us that they had experienced problems in this area and almost two fifths of residents we interviewed did not agree that their site was attractive.

We welcome a requirement on licence holders to abide by the statutory implied terms of the 1983 Act because this will enable local authorities to take action on behalf of residents where previously they have been unable to help. However, we would strongly recommend that the Bill is amended to ensure that not only do site owners have to enforce site rules, but also to abide by the rules themselves.

This is because our research showed that some site operators are not abiding by their own rules: in cases we have seen, some site operators are allowing underage residents to move onto the park, or allowing new home owners to bring dogs to live on the park, or renting out properties, when in all of these cases, residents who own their own home would be breaking the rules if they were to sell to someone who does not meet the rules.

Recommendation

Part 2, Section 10 (1) (b) should be amended to reflect the following change:

“to abide by and enforce any rules of the kind referred to in section 6(3)(b) above”

We welcome a requirement on licence holders to display the licence, the standard written statement and the site rules in a public place. We would further recommend

that added to this list be copies of the main electricity and water bills (and mains gas¹ if applicable) for the site (if the bills are paid through the site operator).

When Consumer Focus Wales asked residents about their energy supply, a majority of respondents who had experienced problems with their electricity told us that they had concerns around the costs and billing. One of the biggest problems we have found is that almost all these respondents told us that they pay their electricity bills through their site operator or manager upon receipt of an individual bill.

This can result in a lack of transparency over how electricity bills are calculated. Many residents have told us that they are totally unaware of how their electricity bills are calculated. Others have told us that they are not given the unit cost, only the amount of units they have used, and a clear majority of residents who pay through their site operator or manager told us that their site operator never makes the main electricity bill available for residents to see. Residents also told us that they are worried about the cost of their electricity. A significant number told us that they considered their electricity charges to be unreasonable.

As an individual consumer with a direct relationship with a supplier, it is more straightforward. The bill is received directly from the supplier, and consumers are able to see what they have paid for and how much they have paid.

On a mobile home site, residents are often limited to the information made available to them by the site operator and while residents are entitled to see a copy of the main electricity or gas bill under existing Ofgem rules, we are aware of many cases where site operators refuse to share the bill. In this situation, the only recourse for the resident is to apply to the courts for a copy. If it were a site licence condition that these bills have to be displayed, the local authority would be able to enforce this instead.

We have talked about our findings and our recommendations for change in the area of energy and fuel poverty in Chapter 5 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 10 (1) (c) should be amended to add in the following amendment:

“(iv) any relevant utility bills, including for gas, electricity, water, sewerage or other services supplied by the owner to pitches or to mobile homes”

We welcome the inclusion of a condition requiring a licence holder to refrain from committing any act prohibited by section 3 of the 1968 Act because this will enable local authorities to take action against the site operator for a breach of the licence (which under Part 2, Section 3 of this Bill, they will be required to do).

However, we are concerned that the Bill does not require local authorities to include further conditions appropriate for regulating the management, use and occupation of a regulated site. We found during our research that there is a big variation in the knowledge and expertise of different local authorities and our worry is that some

¹ We found that most sites in Wales are off the mains gas grid

² Extract taken from oral evidence given to the C LG Select Committee Inquiry on Park Homes,

local authorities will not proactively set high standards for the management of sites if it is optional.

While we recognise that the Bill allows for Welsh Ministers to issue guidance on these licence conditions (and it is not clear whether this guidance is intended to replace the 2008 Model Standards) we are very concerned that this section on licence conditions is not sufficiently robust and will not deliver improved site standards, something we know is extremely important to mobile home residents.

Recommendation

Part 2, Section 10 (2) should be amended to ensure that local authorities are required to set appropriate standards for the best practice management of regulated sites following guidance from Welsh Ministers.

Finally, we have seen a number of cases where local authorities have inadvertently, through setting site licence conditions which are the responsibility of the site operator, have made it possible for an unscrupulous site operator to pursue the eviction of residents through the courts.

These cases have invariably been lost by the resident, who does not have the money, the legal knowledge, or the self-confidence to fight an expensive court case, and therefore finds himself suddenly homeless. Many of these cases have involved elderly residents, who do not have the resources to start their lives again, and are therefore especially vulnerable.

We would like the Bill to ensure that licence conditions cannot affect a home owner's right to sell their property by introducing a requirement for local authorities to undertake a formal impact assessment in order to consider any unintended consequences for residents when establishing new site licence conditions.

Recommendation

Part 2, Section 10 should be amended to prevent local authorities from setting licence conditions which affect a home owner's right to sell their property by introducing a formal impact assessment procedure.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Part 2, Section 11: Licences – general requirements and duration

Consumer Focus Wales believes that while the site licence should be tied to the land indefinitely, a renewable fit and proper person test should be undertaken every five years as part of the conditions of holding a valid licence.

This arrangement would not only permit the movement of fit and proper person certificate holders from one site to another and would allow greater flexibility, but would also help to ensure stability for the business and encourage investment in the site because of the separation between site licence and fit and proper person certificate.

A time-limited licence is problematic because business strategies usually run for more than five years, as do financial plans, and it is probable that banks would be

reluctant to lend money to a business that could be shut down every five years. In addition, residents on a mobile home site have indefinite security of tenure which begs the question: what happens to home owners if the site licence is revoked?

There are also other impacts on residents: the value of their homes might be affected if a licence is revoked, and their ability to sell might be reduced if a prospective purchaser thinks that the site might not continue to be licensed.

However, separating the licence (tied to the site itself) from the fit and proper person test (tied to the owner/s and manager/s) would reflect the difference between the site licence conditions, which should govern the facilities, equipment and safety standards of a site, and the fit and proper person test, which looks at the professional abilities and background of the site licence holder.

As a licensing regime, this would broadly reflect alcohol licensing where a personal licence is separate from the licence that authorises the premises to be used for the supply of alcohol. For this reason, we believe that while the fit and proper person test should be undertaken every five years, the licence should simply be reviewed, not terminated at the end of a specified or determined period of up to five years.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 11 (5)(b) should be amended to reflect the following change:

“unless terminated by subsection (9) or revoked under section 13, continues in force indefinitely, with a review of the licence conditions taking place at least every 5 years”

Part 2, Section 11 (6) (a) and (b) should be deleted.

Part 2, Section 12: Variation of licences

During the course of our research, we have found that some site operators are using, at best, a loose interpretation of consultation when deciding to carry out work or suggesting changes to contractual terms. Consumer Focus Wales believes that the Bill should set out the way in which site operators should consult with residents over any proposed changes, including, but not limited to, changes to written statements, pitch fees, site rules, and site improvement works.

We recognise that the current wording of the Bill requires consultation on any changes to the site rules with all occupiers on the site, as well as any qualifying residents' association and we welcome this commitment.

However, it is unclear as to *who* will be carrying out the consultation i.e. the site owner, or the local authority, as well as *how* the consultation will be carried out. The current wording implies that it will be the responsibility of the local authority to vary the terms of the site rules and does not make reference to whether the site operator is, under any circumstances, able to vary them.

We would seek clarification on whether the site operator is able to seek to amend the site rules under any circumstances, and if so, how he or she would go about doing

so. In either case, we recommend that guidance should be issued on how consultation should be carried out.

We also think that the local authority should have to demonstrate that they have taken the results of their consultation into account when amending site rules. Finally we are concerned that the Bill allows for changes to be made if “it *appears* to the authority that a majority of the occupiers agree” which we think, as a decision making tool, is too vague. We believe that this subsection should be reworded to clarify responsibilities and processes.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, ‘Park Life’.

Recommendation

Part 2, Section 12 (3) should be amended to clarify roles, responsibilities and procedures in the variation of the site rules referred to in Section 11 (2) (b).

Part 2, Section 13: Revocation of licences

Currently, local authorities are only able to ask a court to revoke a site licence after the licence holder has been convicted for failing to comply with a licence condition on at least three separate occasions.

We therefore welcome the decision to ensure that revocation of the site licence by the local authority will no longer require prosecution through the courts because we believe that this will make it easier for local authorities to take action in the event of serious mismanagement, repeated breaches of licence conditions or the failure of a fit and proper person test.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, ‘Park Life’.

Part 2, Section 14: Register of licences

We are pleased to see that local authorities will be required to maintain a publicly available list of site licences. However, we would like the Bill to ensure that not only is the list made available for inspection, but copies of all the individual site licences, as we do not believe that this is currently made clear.

This is because during our research, Consumer Focus Wales found that many purchasers fail to obtain any legal advice, carry out a survey, or even do any research about the site or the site operator before buying a mobile home. One estimate puts the percentage of prospective buyers of park homes who take legal advice at less than one per cent.

We have found that the implications of not doing this preparation work can be huge: residents who are unaware of the terms and conditions of the contract they are signing, or unaware of defects with the unit they are buying, can find themselves, sometimes years down the line, embroiled in a lengthy and expensive court case, even, in some instances, at risk of losing their home.

We firmly believe that potential mobile home buyers should be strongly encouraged to seek specialist legal advice and conduct a survey of their prospective home before

making any decisions or spending any money. Making site licences readily available so prospective purchasers can find out more about a site will be a vital part of raising awareness and encouraging purchasers to make better consumer decisions.

We have talked about our findings and our recommendations for change in this area in Chapter 6 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 14 (2) (b) should be amended to clarify that not only should the list – the “register” – of regulated site licences be made available, but so should copies of the all the individual site licences.

Part 2, Section 18: Execution of works by the licensing authority

We welcome the proposal to give local authorities the power to serve notice in writing requiring a licence holder to carry out works to comply with a site licence condition. We know from our work with local authorities that they would welcome the introduction of a range of enforcement tools, including notices for site licensing. Many local authorities observed that prosecution does not improve standards, but serves only to punish site operators.

Furthermore, our research showed us that in the most extreme cases of badly managed sites, it can take months or even years to get the site operator to carry out repairs, if he or she ever does. We therefore welcome the proposal to give local authorities the power (as a last resort) to carry out any work to ensure compliance with licence conditions.

However, it remains unclear in the Bill how local authorities will recover costs from the licence holder. We believe that if this process is not made as straightforward as possible, local authorities will not use the power to undertake work. We would welcome more detail on how local authorities will be able to claim back costs owed for works on a regulated site.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 18 should be amended to set out the process by which local authorities will be able to claim back costs which are reasonably incurred in carrying out necessary works.

Part 2, Section 20: Exercise of powers under sections 13 and 19

We welcome the decision to give qualifying residents' associations the right to ask their local authority to consider revoking a licence, or appointing an interim manager. We believe that the Bill should require local authorities to share that decision with the qualifying residents' association and state clearly the reasons for that decision, especially in the event that the local authority decides not to use their powers under sections 13 and 19.

Recommendation

Part 2, Section 20 should be amended to require local authorities to share the decision on any request made under Section 20 and state clearly the reasons for that decision.

Part 2, Section 21: Power of entry of officers (etc.) of site licensing authorities

We believe that local authorities should be given the power to undertake unannounced inspections as a matter of course. During the course of our research, local authority officers explained that they currently have to give twenty four hours' notice before an inspection, which can result in a false impression of the safety and maintenance standards on a site, and they supported introducing unannounced inspections.

For this reason we are disappointed to see that the Bill gives right of entry to officers only if twenty four hours' notice has been given to the owner. We strongly believe that local authority officers should be able to inspect sites unannounced as this will ensure an accurate picture of the standards on site and would be an approach in line with enforcement powers in other areas of local regulation (for example, in the area of food safety).

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 21 (1) should be amended to allow for unannounced site inspections.

We are also disappointed to see that the maximum fine, on summary conviction, for wilfully obstructing an officer from entering a site will be only £2,500 (level 4 on the standard scale). We know that the most unscrupulous site operators will not be deterred by this relatively small level of fine and we strongly believe that the Bill should create an 'either way' offence in this case, which would allow for an unlimited fine of a figure decided by Crown Court.

Independent legal advice obtained by Consumer Focus Wales confirms that the National Assembly has the power to set unlimited fines under Schedule 5 (2) (1) (b) which allows an Assembly Measure to create a criminal offence whereby the maximum sentence for conviction on indictment is two years. This means that the National Assembly can create 'either way' offences (these are offences triable in *either* the magistrates' court or in the Crown Court) and Section 32 (1) of the Criminal Law Act 1977 states that where a person is convicted on indictment of any offence he shall be liable to an unlimited fine.

Consumer Focus Wales strongly urges the Committee to ensure that the threat to rogue site operators is real and that local authorities know they have the support and resources to take action if they need to. We therefore recommend that in those cases where a site operator has wilfully obstructed an officer from entering onto a regulated site, there should be the very real threat of unlimited fines.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 21 (6) should be amended to allow for unlimited fines.

Part 2, Section 22: Offences in relation to licensing of regulated sites

For the reasons listed above, we strongly recommend that offences under this Bill, including operating without a licence, stationing more homes than authorised, or breaching a site licence condition, should be punishable by the real threat of unlimited fines.

We recognise that the Bill currently allows for both a summary conviction and conviction on indictment (an 'either way' offence), but we strongly believe that the preferred option should be conviction on indictment. We think it is important that the threat to rogue site operators is real and that local authorities know they have the support and resources to take action if they need to.

'The only solution ... is to have a maximum fine of £250,000. After all ... some of these park operators, through their dealings ... make £100,000 on the sale of a new home ... Make it really big. It is a simple way of dealing with it, because it hits their pocket ... I just feel it is the only answer and the only way to concentrate their minds. If it drives them out of the business, [that's] great stuff.'

(Site operator, England)²

We strongly believe that the current enforcement system is not fit for purpose, and the threat of, and evidence of intent to issue a heavy fine should be a vital part of the new regime. As you can read above, many good site operators support higher fines as a deterrent to unscrupulous behaviour, and they recognise that this can only be a good thing in driving out the rogue operators.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Part 2, Section 23: Fixed penalties

Consumer Focus Wales welcomes the move to give local authorities the power to issue fixed penalty notices for a breach of site licence conditions. However, we would caution that fixed penalties should only be used for minor breaches of a licence as part of a graduated enforcement approach, alongside other enforcement tools such as improvement notices. In the case of a serious breach of a site licence, local authorities should be encouraged to prosecute through the courts.

² Extract taken from oral evidence given to the C LG Select Committee Inquiry on Park Homes, Monday 5 March 2012, Ev10, Q62

Are the Bill's proposals in relation to a fit and proper person test for site owners and operators appropriate, and what will the implications be?

During our research, a huge number of residents told us that they wanted local authorities to be able to run some kind of check on the site operator to ensure that he or she was a suitable person to hold a site licence with the responsibilities that entailed. Many felt that they had signed over their lives to somebody who did not deserve to be in a position of authority. We also asked local authorities about this, and they agreed that having a more detailed knowledge of site licence holders would help them protect mobile home residents.

Consumer Focus Wales believes that the fit and proper person test for mobile home site licensing should be proactive. We believe that without this there is a real danger that any criminal element of the industry would not self-declare any convictions or relevant information, and given the vulnerable nature of many residents on mobile home sites, we are concerned that there is a real risk that rogue site operators could slip through the net with potentially devastating consequences.

During our research, we asked residents about their relationship with their site operator, and where applicable, their site manager. Many residents had a low opinion of their site manager. Around a third of those with a site manager on site disagreed that he or she was either approachable or honest and two fifths of these residents told us that they did not think that their site manager was prompt to address any issues.

The situation became starker when residents were asked about their site owner. 39 per cent disagreed that their site owner was approachable; 33 per cent disagreed that their site operator was honest; and almost half did not think that their site operator was prompt to address any issues. With this in mind, we have outlined our concerns and submitted some recommendations below.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Part 2, Section 9: Tests for fitness etc. and satisfactory management arrangements

We are pleased to see that the Bill will require *all* site owners and managers to undergo a fit and proper person test, and that it will enable the local authority to take into account the actions of any person associated or formerly associated with the applicant.

However, as discussed above, under Part 2, Section 11, we believe that the fit and proper person test should be renewable and undertaken every five years (or sooner if the local authority receives relevant information to warrant action) as part of the conditions of holding a valid licence, which should be reviewed, not renewed, at the same time.

Recommendation

Part 2, Section 9 should be amended to require a new fit and proper person test to be carried out at least every five years (or sooner if appropriate).

However, we are concerned that the detail of this test remains vague. It is unclear how the local authority will obtain the evidence to show that an applicant fails this test. While we recognise that it is not always appropriate to name specific processes on the face of the Bill, we would welcome more detail about how local authorities will gather this evidence when deciding if an applicant is a fit and proper person: for example, we would welcome a commitment to carrying out a full enhanced background check on all applicants.

Knowing how and what information is being used to determine an applicant's fit and proper person status will be vital when holding local authorities to account on the delivery of their responsibilities under any new regime.

We have talked about our findings and our recommendations for change in this area in Chapter 4 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 9 should be amended to clarify how exactly a local authority is expected to carry out a fit and proper person test.

For example, when considering whether an applicant has a "sufficient level of competence" to be involved in the management of a site (sub-section 5) we would recommend that a requirement of the fit and proper person test for regulated site licence holders should be to hold an accredited qualification.

We believe that this could contribute towards a more professional mobile homes industry with an improved training and qualifications structure. We recommend that an accredited national Welsh qualification be developed for residential site management (in collaboration between the Welsh Government and the industry) which could either be offered online or as a low cost day training course at Government approved training providers and adult learning colleges.

We believe that a nationally accredited Welsh qualification as part of the fit and proper person test would help to ensure that licence holders, including both site owners and managers, become fully aware of mobile homes and site licensing law and the wider social responsibilities around managing a site.

A more professional mobile home sector would not only better protect vulnerable consumers, but proactively encourage site managers and operators to learn more about the laws and regulations governing their work. Most importantly, it would go some way towards ridding the sector of the most unscrupulous site operators.

This is important because Consumer Focus Wales has found that many residents are unhappy, not because their site operator is behaving in a criminal way, but because in some cases, site owners and managers simply do not fully understand their obligations and responsibilities.

We believe that site operators would certainly benefit from specific training and education about their new requirements as part of any new regime. This should be made available alongside ongoing advice and guidance from local authorities as part of a more effective licensing regime.

In an example from another industry, it is a requirement of the Licensing Act 2003 that individuals who wish to supply, or to authorise the supply of alcohol, must undergo an accredited qualification before applying for a personal licence.

We have talked about our findings and our recommendations for change in this area in Chapter 6 of our policy report, 'Park Life'.

Recommendation

Part 2, Section 9 (5) should be amended to require applicants to hold an accredited national Welsh qualification as part of the fit and proper person test.

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?

Our research uncovered substantial evidence of sale blocking. We found that the existing legislation offers huge potential for financial gain; for example, a site operator who obtains an older mobile home from a departing resident, demolishes it and replaces it with a brand new unit can make a six figure sum in just one successful sale blocking incident.

We have seen cases in which mobile home residents have sold their homes to an unscrupulous site operator for a fraction of its market value. For example, one home owner told us how she received just £2,000 from her site operator for her home, which was valued at £110,000.

Another couple paid £150,000 for a brand new home, which they sold back to their site operator within two years for just £35,000, following allegations of sale blocking. In many cases we have seen, this often represented the life savings, or the only financial asset of the elderly residents involved, who do not have the resources to start their lives again, and are made especially vulnerable.

In Wales, our research found that 41 per cent of respondents did not feel that people on their site were able to sell their homes freely and without interference if they chose to leave. We found that many victims of sale blocking were extremely reluctant to speak to us, citing fear of reprisal.

Chapter 1 of our policy report, 'Park Life', gives more detail about the evidence of sale blocking we uncovered, and provides detailed case studies showing the effect of this veto on the lives of thousands of residents in Wales.

Furthermore, a number of residents told us that they thought their contractual terms were unjust: a fifth of respondents told us that they didn't think their written statement was fair and reasonable and a third did not think their pitch fees were fair and reasonable. With this in mind, we have outlined our concerns and submitted some recommendations below.

Schedule 1, Amendment 4 (2)

Consumer Focus Wales strongly welcomes the removal of the need for a site operator to approve the sale of a mobile home. We believe that this change to the law will make a real difference to thousands of lives and we are delighted to see its

inclusion in the Bill. We have talked about our findings and our recommendations for change on sale blocking in Chapter 1 of our policy report, 'Park Life'.

Schedule 1, Amendment 6 (2)

We welcome the decision to prevent a site owner from passing on any costs incurred under Part 2 of the Bill.

Schedule 1, Amendment 7 (2)

Because state pensions and benefits are linked to the consumer prices index (the CPI), we suggest that it would be fairer if pitch fee increases were also linked to the CPI, given that many home owners are retired and therefore on a low fixed income. We therefore welcome the proposal to link future pitch fee changes to the CPI.

Schedule 1, Amendment 9

Currently, if a mobile home has more than one occupier, only the resident whose name appears first on the written statement is entitled to vote at meetings of a qualifying residents' association. Because we believe that this can exclude women, who are often named second on an agreement, from being able to vote as a member of a residents' association, we recommend that new legislation amend these rules to ensure that any occupier of a mobile can use the household's vote.

Recommendation

Schedule 1, Amendment 9

Paragraph 28 should be amended to reflect the following change:

“(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b) above, each mobile home shall be taken to have only one occupier.”

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

Consumer Focus Wales believes that effective reform of the mobile homes industry can only benefit good site owners and managers. We have seen the terrible effect of rogue site operators on the reputation of vital industry which provides affordable housing to thousands of people in Wales. With this in mind, we have outlined our concerns and submitted some recommendations below.

Part 4, Section 28: Approval of codes of practice with regard to the management of regulated sites

The Bill introduces the power for Welsh Ministers to approve a code practice with regard to the management of regulated sites in Wales. However, it is unclear what the purpose of this code of practice will be, and how it will be enforced, as a failure to comply will not make a person liable to any civil or criminal proceedings.

We are keen to see site operators provided with robust guidance on how they should practice site management (for example, the processes by which they should consult with residents over site improvements, or pitch fee rises), but we also think that they should be required to follow it.

Recommendation

Part 4, Section 28 (5): should be amended to ensure that failure to comply with any code of practice is an offence.

Part 4, Section 29: Management regulations in respect of regulated sites

The Bill will require Welsh Ministers to issue regulations on the management of sites. Again, it is unclear what these regulations will add to the existing ability of local authorities to set licence conditions, and the ability of Welsh Ministers to give guidance as to the form and content of these conditions (which we take to replace the 2008 Model Standards, although we would welcome clarification on this).

For example, Part 2, Section 10 (2) of the Bill allows for site licence conditions to regulate the management of the regulated site, yet Part 4, Section 29 requires Welsh Ministers to set regulations ensuring satisfactory management arrangements for the site.

We are pleased to see that the Bill allows for a duty to be placed on the manager of a site (although it is unclear what meaning 'manager' has in this context, whether site owner or an employee: we would recommend that the Bill makes provision for duties to be placed on both) in respect of the repair, maintenance, cleanliness and good order of the site, but we would welcome further detail on how the enforcement of site licence conditions by the local authority interacts with new regulations on satisfactory management arrangements.

Furthermore, it is unclear who will be responsible for enforcing these regulations: will it be the responsibility of the local authority or individual residents to bring a case against site operators under these new arrangements?

Finally, the Bill creates an offence of failing to comply with these regulations with a maximum fine of £5,000, but Consumer Focus Wales recommends that (as with breaches of a site licence) the Bill should allow for the more effective deterrent of an 'either way' offence. We believe that this is extremely important; the threat of unlimited fines must be real to deter the worst operators.

Recommendation

Part 4, Section 29 should be amended to allow for unlimited fines.

Part 4, Section 30: Qualifying residents' associations

We welcome proposals to allow the membership list of a residents' association to be lodged with the local authority and to remain confidential. However, we do recommend that the contact details of at least one executive member of the association (i.e. the Chair, Secretary or Treasurer) be made freely available so that the site owner and prospective mobile home buyers are able to contact that person.

Recommendation

Part 4, Section 30 should be amended to allow for the contact details of at least one member of the residents' association to be publicly available.

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

When Consumer Focus Wales talked to local authorities about the proposed transfer of jurisdiction over licensing matters to the Residential Property Tribunal, licensing officers told us that while they agreed that home owners should be able to go to the Tribunal for dispute resolution, they were concerned about jurisdiction over site licensing passing to the Tribunal.

Licensing officers agreed that there could be a role for both but they said that local authorities should retain the right to take site owners to court. We agree with this, and we support proposals to allow local authorities a range of options.

However, Consumer Focus Wales believes that, as a matter of urgency, it should be made clear whether applications for termination of an agreement by the site operator will remain a matter for the courts, because of the serious nature of evicting somebody from their home.

We are concerned that there could be some confusion over this, given that the Explanatory Memorandum states that “the RPT (the Residential Property Tribunal) will have jurisdiction over all disputes related to this Bill, aside from criminal prosecutions” (118, p28) and we would welcome further clarification, either in the Bill, or in the accompanying notes.

While we agree that in theory, the Residential Property Tribunal Service should offer a low-cost and accessible method of resolving disputes, we remain very concerned about the capacity of the Tribunal to deliver effectively in the best interests of both residents and site operators.

For example, in practice, it is currently difficult for residents to find out information about the Tribunal: they do not currently have a website, and neither do they publish cases or information for residents or site operators about how to open an application. This could help to explain why the Tribunal in Wales has seen so few cases compared to the Tribunal in England. Certainly from discussions with residents, we know that awareness of the Tribunal and its powers is currently very low in Wales.

We believe that as a matter of urgency, the Tribunal should establish transparent reporting procedures, publish a clear and accessible website with detailed guidance for residents and site operators, and ensure that through regular, mobile homes specific legal training, they are able to offer well informed Tribunal members who are able to use their expertise to take fair decisions.

Finally, we are concerned that in England, we have been told that some site operators are refusing to acknowledge the rulings of the Tribunal. We therefore recommend that refusal to comply with a Tribunal decision should be a serious breach of the licence conditions and therefore an offence under Part 2, Section 22 (3) of this Bill. Non-compliance with a Tribunal ruling, including the non-payment of any damages awarded, should also be taken into account when considering whether the site operator remains a fit and proper person under Part 2, Section 9 of this Bill.

We have given a great deal more detail about our findings in this area in Chapter 6 of our policy report, ‘Park Life’.

Recommendations

Part 2, Section 9 should allow for non-compliance with a Tribunal decision to affect the fit and proper person status of a licence holder

Guidance issued by Welsh Ministers should allow for non-compliance with a Tribunal decision to be considered a breach of licence conditions

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

We are very concerned that the large number of regulations provided for in the Bill may present a significant barrier to the implementation of the Bill. There are fourteen regulation and order-making powers in this Bill and two sets of guidance.

While we recognise that much of the detail of this reform is not suited to the face of the Bill, we are concerned about the capacity of Welsh Ministers to enact much of the detail which lies underneath the primary legislation, particularly given the proposed Housing Bill which is due to be laid in 2013.

We will be seeking to work with Welsh Government and Assembly Members to find ways of ensuring that the effective delivery of the final Bill is not held back by the sheer volume of secondary legislation needed to enact its provisions.

Additional concerns not addressed within the draft Bill

Indirect sale blocking

Given the severity in nature of some of the experiences of which we have evidence, we believe there is a necessity for the site operator veto to be removed and for an offence to be created of indirect sale blocking. Such an offence should include the intimidation and harassment of sellers and potential buyers.

This is important because, while removing the right to veto would be a massive step in the right direction, we also know that unscrupulous site operators are using a variety of methods to block sales. We have seen several residents lose a sale because the site operator has deliberately obstructed or hindered the work of estate agents or has intimidated potential buyers. Again, we have seen residents lose thousands upon thousands of pounds through this form of indirect sale blocking.

Recommendation

We recommend the creation of a criminal offence of indirect sale blocking.

Access to inspection reports

We believe that copies of local authority inspection reports should be made available to residents. A copy should be sent automatically to any qualified residents' association and made available online. This will be important to help provide information to potential residents and it will act as a deterrent to the site operator.

A copy of the site licence with any attached unresolved enforcement notices should also be publically available for people to view before choosing to live on the site. We believe that these documents should be available on request from the local authority by phone or by post without being subject to a formal information request.

We think that making this information freely available would help to improve communication and build trust between residents and local authorities and demonstrate transparency and openness by ensuring residents know that local authority officers are taking action where appropriate.

We also believe, as we have highlighted above, that prospective purchasers should be strongly encouraged to seek specialist legal advice, conduct some background research and commission a survey of their prospective home before making any decisions or spending any money, and that making inspection and enforcement reports available will help them make informed consumer choices.

Recommendation

We recommend that inspection reports and enforcement notices are made readily available to download or ask for by phone or post without a formal request.

Changes to written agreements under assignment

There should be no distinction between the rights and protections enjoyed by a home owner who has purchased directly from the site operator and home owner who has bought directly from another resident and consequently has had their written statement assigned to them.

A home owner who has had their written statement assigned (when a home owner buys their home in a private sale from another resident, as opposed to buying from the site operator, which results in a brand new contract) should be able to delete, vary, or add an express term within the first six months of taking ownership. Equally the site operator should also be able to ask the Tribunal to alter the express terms of the written statement within six months should they wish to do so.

Recommendation

We recommend that the window for changes approved by the Residential Property Tribunal in written agreements should apply to resident sales (assignments) as well as new agreements made between site operators and mobile home buyers.

Clarification of a site operator's maintenance and repair obligations

Current legislation allows site operators to pass on the costs of "improvements" to residents through a pitch fee increase. The meaning of improvements or the method of consultation is not made clear. The site operator's obligation to keep the site in repair and well maintained should be clarified and the costs of doing so should not be included in any pitch fee review.

Consumer Focus Wales believes that the site operator's maintenance and repairing obligations would benefit from clarification. We firmly believe that without effective consultation with residents, or, alternatively, a Tribunal decision, the site operator should not have the ability to recover costs from "improvement works".

Recommendation

We recommend that the site operator's maintenance and repairing obligations should be further clarified by the Bill.

Further information

Our full report and an executive summary document are both available to download from www.consumerfocus.org.uk/wales. Alternatively, please contact us by calling 029 2078 7100 or email contactwales@consumerfocus.org.uk to request a copy.

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**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 5a Residential Property Tribunal**

**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.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 5b Residential Property Tribunal**

**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.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 6 Park Home Residents Action Alliance**

**Park Home Residents Action Alliance
Comments on Regulated Mobile Home Sites (Wales) Bill**

1. Utilities are a sore point and whereas gas and electrics are controlled by ofgem/ofwat it seems that LPG is not. Where a site owner buys in bulk he/she can charge whatever suits them. For example a site owner is at this present moment is receiving gas at 44p per litre and passing on a price of 100p plus a admin charge. therefore this needs to be looked at as it is a gas after all.
2. A fit and proper person needs to be introduced. CRB checks are made for many other positions what is different.
3. The 1960 Caravan Control and Development Act is out of date and needs revising with councils having more control over licensing.
4. More enforcement needs to be introduced with stiffer penalties for site owners who break the law.
5. One vote per home is undemocratic. The other person living in the home has no say in what is happening on site with regard to their home. One can only imagine what would happen if this applied to a general election.



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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 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:

<u>1960 Act - conditions for a Site Licence</u>	<u>Bill - matters to be considered when granting a Regulated Site Licence</u>
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 or 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 all 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.
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.

Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 8 Anonymous

Annex 1

Consultation Questions

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.

Yes. I would hope that it would give Mobile Home Residents a more satisfying life style knowing that Site Operators have to follow better guidelines, too often we are treated as second class citizens.

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

Yes. Provided the Bill covers the most popular issues that many Mobile Home Residents have raised and that Local Authorities take it upon themselves to enforce problems that arise and see that the Site Operator is a 'fit and proper' person. I also feel that financial issues regarding Utility Bills and Site Fees have a 'set of rules' in that Site Operators cannot benefit from over charging, especially where LPG is supplied. What they pay the Utility Company is what the Resident should pay, no added on figure.

With regard Site Fees these should be controlled in line with RPI, Inflation or Price Indexing. As an example, site fees on my site have risen by 5% every year since I became a Resident in 1999 regardless of any other figures.

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

I think the site licensing should cover a set period and be reviewed, for example over 5/10 years. Site Operators do not change very often and can become complacent in their role without giving a thought to their Residents. The local council should aim to consult Residents periodically to ascertain their views and any down turn in the role played by the Site Operator.

If local councils had been carrying out its duties to see that sites are being operated in a manner that should be expected from the Residents then why have some sites been allowed to deteriorate and issued not dealt with?

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

I find this a difficult question to answer, but I would like to say that if Site Operators really proved to be an unsuitable, what will happen to a small Residential Site as I live on, where it has been in the family for over 40 years? Are you going to evict the Residents and close the site, it could give Residents a cause for concern!!! Or will we be assured that the local council will take over operating the site?

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?

I would like to see various issues in the Written Agreement changed to benefit both parties. Site fees being one and it stated what figure the Site Operator should use. I have read that this should only increase and take into consideration site improvements, if none occur and the site deteriorates, what then? This should definitely incorporate site rules and changes only made after consultation, not just changed to suit the Site Operators.

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

I would hope they will see their Residents as people and not someone renting their land and, in some case, making life difficult for the Resident which has been happening if you follow cases carefully.

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.

I know very little about the RPT, although it can be used in place of going to Court and hopefully get a quicker result to any dispute. Some issues like moving a mobile home can cause upset to a Resident but if the matter is dealt with tactfully, then hopefully the Resident would not need the RPT. It sounds like it can be a good thing and make life easier knowing that it's there to be used by Residents.

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

I think the Bill will cover the majority of issues being raised by Residents.

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.

I do not think it necessary for Welsh Minister to make subordinate legislation unless they fully understand the complex of Mobile Home Living. All too often they just see Mobile Home Residents as 'Caravan owners'. All it needs is a small Party to deal with such issues.

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.

Any costs involved in the Bill and passed onto the Site Owners will no doubt be passed onto the Resident some way or other, the Site Operator will make sure of that unless it is laid down that they cannot pass on costs.

Other comments

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

Yes, a standard fixed Site Fee increase could be considered and not allowed to rise above the RPI, Price Index or Inflation. One of these increases should be agreed in the Bill and if the Site Operator can hold their head up and say they have made improvements then, yes, an additional cost should be implemented provided they don't get greedy.

LPG should be monitored and a governing body introduced.

I also believe that under the Site Licensing, the Local Authority should have powers to visit sites on a regular basis and pass on their recommendations, especially when it comes to Health and Safety. On my site when darkness falls it becomes totally unsafe through lack of lighting and vehicles not upholding any speed limits the site has (no signs visible), this should be addressed, seeing that Health and Safety appears to cover most areas of life today.

RESIDENTS OF WOODLAND PARK,
Old Crumlin Rd, PONTYPOOL NP4 6UP
19/11/2012

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Helen Finlayson
Clerk Legislation Office,
National Assembly For Wales
Cardiff Bay
CF99 1NA

Regulated Mobile Homes Sites (Wales) Bill

The residents believe that Mobile Home occupiers of Wales are entitled to the protection of a robust and dedicated Authority. We provide in the following pages the means for that regulation and authority to be set up.

PITCH FEE REVENUE

REVENUE RAISED BY PARK HOME SITE OPERATORS :-	MONTHLY	£350,000
	ANNUALLY	£4,200,000
GROSS PROFIT MARGIN ON SALE OF A SINGLE UNIT @ 40%		£33,750
	DOUBLE UNIT	£76.500

Gross margin = Final sale price minus purchase price of home from manufacturer

Single unit cost £35,000 from manufacturer sold by operator, sited, connected, landscaped for
£75,000 (very roughly)

Average monthly income per park from Pitch Fees £3800

What is the Pitch Fee? Interpretation from Mobile Home Act 1983 (para 29)
Right of the owner/occupier to station their home, and fees towards maintenance and up keep of the Park

Pitch Fee charges vary greatly across the principality, from the lowest of £70/mth to the Highest at around £160/mth. The fees on this particular Park also vary wildly from £112 to £160mth the reason for this seems to be down to the whim of the site owner at time of sale

REGULATION

The Caravan Sites Development Act 1960
The Caravan site act 1968
The Mobile Homes Act 1975
The Mobile Homes Act 1983

RESIDENTS OF WOODLAND PARK,
Old Crumlin Rd, PONTYPOOL NP4 6UP
19/11/2012

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Occupiers Liability Act
Harassment Act
The site Licence

The fundamental flaw with all these acts and regulations is that they have no organisation to enforce them, the result is that police, councils, gas, water, electric regulators and voluntary bodies, all tell us the same "we do sympathise with you, but"

Our concern with a Regulator based on the existing judicial system (RPT) is that they will not be familiar with the Mobile Homes law, we have sat in Court on a number of occasions whilst the Judge and our Barrister have searched the internet for clarification of a legal instrument specific to Wales only to find no one's bothered to upload it.

REGULATORY BODY

Our vision of the Authority will be based on the Magistrates court, with a small team of officials and a Judge sitting to consider and adjudicate. The judge may be lent to the authority for a period of rotation allowing experience to be gained, guidance being given by the permanent team based on the law.

Advice may be given to the Local council on how to proceed on issues of non compliance.

At present the site owner/operator, can simply refuse to comply and the home owner has to pay to go to court. This should be reversed and the site operator/owner obliged to comply or pay the cost of arbitration

ENFORCEMENT

Suspension or revoking of the Site Licence is the ultimate sanction, coupled with the Site Licence being the mechanism by which a site operator may legitimately collect the Pitch Fee. Suspension or removal of the LICENCE will cause the collection of Pitch Fees to be suspended, and activate a process to give the residents the opportunity to revue the level of Pitch Fee. The Council through a system of fines may deal with minor infringements of the Site Licence e.g. with 3 failures to pay fines leading to suspension of the Site Licence.

**RESIDENTS OF WOODLAND PARK,
Old Crumlin Rd, PONTYPOOL NP4 6UP
19/11/2012**

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Many industries are regulated to levels which twenty years ago would be considered draconian

Electricians
Taxis
Farmers
Heavy Transport
Livestock processors

These industries survive despite the burden of legislation creating paper work and or taxation.

COST

Possibly in the first ten years annually around £400,000

The "Park Life" publication gives more than enough good cause for a robust regulation and control of this industry. The cost should not be a burden on the council Taxpayer , However the introduction of an All Wales Authority will enable Councils to pool resources and alleviate uncertainty over enforcement and therefore should contribute resources based on exposure with the added income from:-

Site Licence fees
Fines
Charges for visits/inspection

WHO PAYS

The resident is expected to pay the site operator a monthly sum for the right to occupy a Pitch, that sum may be as much as 20% of the house hold budget. It is therefore not unreasonable for the site operator to pay a similar sum for the Site Licence

We feel that the Pitch Fee revenue is sufficient for the Park Home site operators to be "taxed" to raise the revenue to provide sufficient funds for an all Wales Park Home Authority.

The resident also pays the local Council Tax at the same rate as brick and mortar homes, this equates to around 15 to 20% of house hold budget, we currently get little in return.

**RESIDENTS OF WOODLAND PARK,
Old Crumlin Rd, PONTYPOOL NP4 6UP
19/11/2012**

4

FIT AND PROPER PERSON TEST

The law should require that to comply with the new regulation the company operating/owning the Park should its pass the stringent requirements for the BSI 9001 and that the directors can show due diligence in the operation of the Park. All directors to pass a CRB

The operating company should be required to supply a report on the condition of the Park, highlighting failures problems and plans for the Park. A civil engineers plan showing layout of the Park should be produced detailing roads, position of existing homes, existing empty plots and proposed new developments, the plan should also show water courses, drainage ditches etc plus under ground services electric, Gas, water, sewers and land and road drainage systems. The company should produce a hand book of what to do in an emergency, this should be specific to the Park and list contracts to be used to carryout emergency repairs and a step by step procedure giving expected timings.

THE SITE LICENCE

To process the application for the new 5 year licence, The council would have to inspect the site, paying particular attention to ensure that all works previously carried out comply with the various regulations in force at the time of installation. Any works failing this criteria should be required to be brought up to latest standards, This should include.

- ROADS ,PARKING AREAS - surface rain water drainage
- ELECTRICS
- GAS
- SEWERS
- RAIN WATER - ground water drainage and roof run off
- BUILDING WORKS - retaining walls individual parking pays paths and step to homes.

The Council would use the extensive area plan supplied by the Owner/operator to detail necessary works, referring to the residents to seek out problem areas.

PROTECTED SITES

Created under the Caravan Sites and Control of Development act 1960 by the required Site Licence. The Protection should be attached to the new Regulation by way of a "list " of Protected Sites for the provision of owner/occupied Park Homes and the existing planning consent should be non-reversible.

RESIDENTS OF WOODLAND PARK,
Old Crumlin Rd, PONTYPOOL NP4 6UP
19/11/2012

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RENTING

The practice of renting homes to non-owner occupiers on protected sites should be specifically prohibited with those residents and their cohabiting "family" currently in this situation given life tenure.

CERTIFICATE OF COMPETANCE

The manager of the Park if not the owner /operator will have to complete a course designed to highlight his responsibilities to his residents and will include all Laws affecting Park Homes a test should be sat at the end of the course and the manager will be required to complete a CRB

The costs for the above will be borne by the company/individual owning the Park

REVOKING OF LICENCE

In the event of a licence not being issued the Authority should offer the Licence to the qualifying residents association or the Authority should collect the Pitch Fees and use the funds to manage the Park through a contractor, with a view to the Park being administered by a residents association in the future.

TERMINOLOGY

PITCH FEE – This is explained in 'interpretation' Paragraph 29 of the Mobile Homes Act 1983 Which 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 use of the common areas of the protected site and their maintenance. Etc

RENT- This term should not be used when referring to PITCH FEES as it is used by the USO as argument for taking the Pitch Fee as an income, rather than using the funds to plough back into the Park

COMMON GROUND - This phrase should not be used when referring to the Maintenance or upkeep of areas of the PARK as the USO will simply fence off unused areas and allow them to go to waste, Better to say "ALL Areas not the responsibility of the residents or owner/occupier"

REPAIRS/IMPROVEMENTS - Lowri Jackson has already highlighted the fact that many Site Operators are out of step with the PARK HOME manufacturers vision of itself as providing luxury Homes. The operators needs to step up a gear in creating high quality Parks which are appealing to the wealthy retiree who has a high expectation, this is a commercial necessity and should be funded out of the mark up on a new home and not passed on to existing residents via the "Pitch Fee"

USO - unscrupulous site operator

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 10a National Association of Park Home Residents**

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

A totally voluntary advisory service for
Permanent Park Homes & Mobile 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 charges 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.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 10b National Association of Park Home Residents**

**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.

Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 11 Country Land and Business Association



**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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**Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Bil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru)
RMHS 12 Gweinidog Tai, Adfywio a Threftadaeth**

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

**Ystyriaeth Cyfnod 1 o Fil Safleoedd Rheoleiddiedig Cartrefi Symudol (Cymru)
- Peter Black AC – Bil Aelod**

Tystiolaeth Ysgrifenedig gan y Gweinidog Tai, Adfywio a Threftadaeth

Cwestiynau'r Ymgynghoriad

Cyffredinol

1. A oes angen am Fil i ddiwygio'r trefniadau ar gyfer trwyddedu safleoedd rheoleiddiedig cartrefi symudol yng Nghymru a gwneud darpariaeth ar gyfer eu rheoli a'u gweithredu?

Oes, mae yna ddadl bendant dros ddiwygio'r gyfundrefn bresennol ar gyfer trwyddedu safleoedd cartrefi symudol. Byddwn wedi ystyried cynnwys mesurau i newid y trefniadau presennol yng nghyd-destun y Bil Tai arfaethedig pe bai Peter Black heb lwyddo yn y balot ar gyfer ei Fil Aelod. Mae ymchwil ddiweddar gan Lais Defnyddwyr Cymru'n rhoi dadl gref dros ddiwygio'r trefniadau presennol ar gyfer trwyddedu safleoedd, sy'n eithaf hen ffasiwn mewn rhai ffyrdd. Mae angen dull mwy modern o drwyddedu safleoedd cartrefi symudol sy'n diogelu buddiannau preswylwyr a pherchenogion a gweithredwyr safleoedd. Yn bendant mae angen i awdurdodau lleol allu codi am ddyroddi trwyddedau ac i allu talu eu costau gorfodi. Hefyd mae angen moderneiddio'r gweithdrefnau ynghylch gwerthu a rhoddi cartrefi symudol er mwyn diogelu buddiannau'r holl bartïon yn y trafodyn yn fwy sicr. Mae Bil Mr Black yn ymdrin â'r materion hyn ond mae angen gwneud mwy o waith arno er mwyn sicrhau y bydd y system drwyddedu newydd yn ymdrin â'r holl faterion sy'n berthnasol i lwyddiant cyfundrefn drwyddedu newydd.

2. A ydych yn credu bod y Bil, fel y'i drafftiiwyd, yn bodloni'r amcanion sydd wedi'u nodi yn y Memorandwm Esboniadol?

At ei gilydd byddwn i'n dweud ei fod. Fodd bynnag, mae gennyf rai pryderon ynghylch y trefniadau trosiannol rhwng y gyfundrefn bresennol a'r system newydd y mae Mr Black eisiau ei chyflwyno. Nid yw'n glir ai bwriad Peter yw dirymu'r holl drwyddedau safleoedd presennol, a allai gael canlyniadau o ran caniatâd cynllunio, neu a yw'r gyfundrefn newydd yn gymwys dim ond i safleoedd newydd a gaiff eu sefydlu ar ôl i'r Bil gael ei ddeddfu. Os mai'r ail sydd dan sylw, gellid dadlau mai ychydig iawn o effaith a gaiff y Bil ar y sector yn gyfan gan ei bod yn annhebygol y caiff llawer iawn o safleoedd newydd eu sefydlu yn y tymor byr. Mae'r Bil fel y'i drafftiiwyd yn galluogi Gweinidogion Cymru i wneud Gorchmynion fydd yn ymdrin â threfniadau trosiannol, ond ar yr un pryd gellid bod wedi cynnwys y rhain ar wyneb y Bil er mwyn eglurder. Bydd angen i ni ddod o hyd i ffordd o sicrhau y bydd y gyfundrefn newydd yn gymwys i bob safle a gallem sicrhau hyn trwy roi cyfnod i ddeiliad trwyddedau presennol ail-geisio am drwyddedau safleoedd o dan y trefniadau newydd arfaethedig.

3. Yn eich barn chi, a fydd y gyfundrefn drwyddedu a gorfodi y mae'r Bil yn ei sefydlu yn addas? Os na fydd, ym mha ffordd y dylid newid y Bil?

Er bod yr egwyddorion cyffredinol y tu ôl i'r Bil yn addas mae yna rai meysydd lle mae diffyg manylion a bydd angen diwygio'r Bil er mwyn sicrhau yr ymdrinnir â'r holl faterion perthnasol. Er bod Memorandwm Esboniadol y Bil yn tynnu sylw at rai canlyniadau anfwriadol newid y gyfundrefn drwyddedu, nid oes unrhyw fesurau gwirioneddol wedi cael

eu hystyried i ymdrin â'r canlyniadau anfwriadol hyn. Rwy'n pryderu'n arbennig am y posibilrwydd y bydd perchenogion safleoedd preswyl yn gwneud cais i awdurdodau lleol i gael newid y defnydd o'u safleoedd i ddarparu llety gwyliau er mwyn osgoi cydymffurfio â'r gyfundrefn drwyddedu newydd y mae Bil Peter yn ceisio ei chyflwyno. Mae'n amlwg y byddai hyn hefyd yn cael effaith andwyol ar y llety sy'n cael ei ddarparu ar hyn o bryd gan safleoedd sydd wedi'u trwyddedu at ddibenion preswyl a gallai greu problemau sylweddol i awdurdodau lleol sydd hefyd wedi trwyddedu safleoedd at ddibenion cymysg. Hefyd byddai yna oblygiadau i breswylwyr parhaol a allai gael eu dadleoli pe bai safleoedd yn newid defnydd. Bydd angen i'r ddeddfwriaeth hon ymdrin â'r mater hwn er mwyn peidio â chreu man gwan y gallai rhai gweithredwyr a pherchenogion safleoedd fanteisio arno.

4. A yw cynigion y Bil o ran prawf person addas a phriodol ar gyfer perchenogion a gweithredwyr safleoedd yn briodol a beth fydd y goblygiadau?

Mae Llywodraeth Cymru'n cydnabod yr angen am i ryw fath o brawf person addas a phriodol gael ei gynnwys mewn unrhyw gyfundrefn newydd o drwyddedu safleoedd sy'n cael ei hystyried. Fodd bynnag, mae angen gwella'r prawf a geir yn Neddf Tai 2004 mewn perthynas â thrwyddedu tai amlfeddiannaeth ac rwy'n falch o weld bod Peter wedi gweithio ar hyn a'i fod bellach yn cynnwys tramgwyddo deddfwriaeth cydraddoldeb yn ei brawf datblygedig. Byddai hefyd wedi bod yn ddefnyddiol pe bai wedi ystyried cynnwys tramgwyddau'n ymwneud ag arfau tanio fel y gwnaeth Llywodraeth yr Alban yn ddiweddar yn ei deddfwriaeth ar y sector rhentu preifat. Unwaith eto mae hwn yn rhywbeth y gallem edrych arno wrth i'r Bil fynd rhagddo.

Ymddengys hefyd fod yna rywfaint o ddryswch ym Memorandwm Esboniadol y Bil ynglŷn â sut y caiff y prawf ei ddefnyddio a phwy fydd angen ei basio. Er enghraifft, mae paragraff 61 yn dweud "Er mwyn cael trwydded bydd angen i'r perchennog a'r rheolwr (neu bersonau eraill sy'n rhan o reoli'r safle) basio **prawf person 'addas a phriodol'**" ac mae'n mynd ymlaen i ddweud bod hyn i raddau helaeth yn dyblygu'r prawf sy'n gymwys i berchenogion tai amlfeddiannaeth o dan y trefniadau trwyddedu presennol. Fodd bynnag, holl bwynt y prawf o dan y gyfundrefn drwyddedu tai amlfeddiannaeth yw galluogi perchennog sy'n methu'r prawf i gadw perchnogaeth ar yr eiddo a phenodi rhywun sy'n pasio'r prawf person addas a phriodol i reoli'r eiddo ar ei ran. Byddai'n rhaid i hyn fod yn wir hefyd gyda'r gyfundrefn drwyddedu a nodir ym Mil Mr Black. Yn yr ystyr honno nid oes yn rhaid i berchennog basio'r prawf cyhyd â bod y person sy'n rheoli neu'n gweithredu'r safle yn ei basio. Mae angen egluro'r pwynt hwn cyn i'r Bil fynd rhagddo.

5. A yw'r gwelliannau i'r berthynas gytundebol rhwng perchenogion cartrefi symudol a pherchenogion safleoedd a fyddai'n cael eu gwneud yn sgîl y Bil yn briodol? Os nad ydynt, ym mha ffordd y dylid newid y Bil?

Cydnabyddir buddion y gwelliannau i'r berthynas gytundebol rhwng perchenogion cartrefi symudol a pherchenogion/gweithredwyr safleoedd ac rwy'n falch o weld bod Peter wedi mynd i'r afael â'r broblem "atal gwerthiannau" honedig ac wedi egluro'r rhan mae'r Datganiad Ysgrifenedig yn ei chwarae yn y berthynas gytundebol. Fodd bynnag, mae angen gwneud mwy o waith ar y costau sy'n gysylltiedig â'r gyfundrefn drwyddedu newydd ac mae angen eglurder ynghylch mater y costau ychwanegol i berchenogion safleoedd yn cael eu hysgwyo ganddynt a pha effaith y bydd hyn yn ei chael ar nifer y safleoedd yng Nghymru. A fydd mwy o berchenogion safleoedd yn gwneud cais am newid statws eu safleoedd er mwyn osgoi'r ddeddfwriaeth newydd? A fydd rhai perchenogion safleoedd yn gadael y diwydiant yn gyfan gwbl neu'n dewis lleihau'r buddsoddiad mewn cyfleusterau ar eu safleoedd? Mae angen rhoi sylw i'r materion hyn ac nid ydynt ond yn cael eu crybwyll

wrth fynd heibio ym Memorandwm Esboniadol y Bil. Mae angen i'r Bil roi mwy o sylw i fater costau trwyddedu yn hytrach na dim ond caniatáu i Weinidogion Cymru wneud hyn. Efallai bod yna ddadl dros ganiatáu i awdurdodau lleol bennu eu costau trwyddedu eu hunain, naill ai ar sail ranbarthol gydweithredol, neu'n unigol, ar yr amod eu bod yn cyhoeddi polisi ar ffioedd a fyddai'n ymdrin â'u hymagwedd at yr holl ffioedd fyddai'n gysylltiedig â thrwyddedu safleoedd. Rwy'n casglu mai dyma mae'r Adran Cymunedau a Llywodraeth Leol yn ei gynnig yng nghyd-destun y Bil Aelod Preifat sy'n cael ei gyflwyno yn Lloegr. Mae'n bosibl ei bod yn werth ystyried a ellid mabwysiadu'r ymagwedd hon fel diwygiad i Fil Mr Black.

6. Yn eich barn chi, sut fydd y Bil yn newid y gofynion ar berchenogion a gweithredwyr y safleoedd hyn, a beth fydd effaith y newidiadau hyn, os o gwbl?

Mae'r bwriad y tu ôl i'r Bil hwn yn ganmoladwy gan y byddai'n gwella safonau rheoli safleoedd cartrefi symudol ac yn atal rhai o'r arferion mwyaf annymunol mae rhai perchenogion a gweithredwyr safleoedd yn eu cyflawni. Dyma yw effaith fwriadol cyflwyno prawf person addas a phriodol ar gyfer perchenogion safleoedd neu'r rheolwyr maent yn eu penodi. Fodd bynnag, nid yw'r mesur hwn ar ei ben ei hun yn ateb i bopeth, gan fod y profiad gyda thrwyddedu tai amlfeddiannaeth yn awgrymu mai ychydig iawn o landlordiaid tai amlfeddiannaeth sydd wedi methu'r prawf hyd yma. Gellir dadlau hefyd nad yw diffyg tystiolaeth gweithgareddau troseddol blaenorol bob amser yn dangos bod person yn addas i redeg safle cartrefi mewn parciau, gan y gallai droi at bobl eraill i ddefnyddio tactegau bygythiol, nad ydynt yn weithgareddau troseddol o drwch blewyn, a chadw ei statws fel person addas a phriodol. Mae angen i ni fod yn ofalus iawn yn hyn o beth ac mae'n bosibl mai cosbau llymach am dorri amodau trwydded safle yw'r ateb er mwyn gorfodi pobl i gydymffurfio â'r ddeddfwriaeth. Unwaith eto mae'r rhain yn faterion i gael eu hystyried wrth i'r Bil fynd rhagddo. Y peth allweddol er mwyn gwella'r sector yw sicrhau y gall awdurdodau lleol adennill eu costau trwyddedu a gorfodi trwy'r gyfundrefn drwyddedu newydd. Ni ddylai ddod yn ffordd o godi refeniw i awdurdodau lleol, ond yn ddiymwad mae angen y pwerau i adennill costau rhesymol a byddant yn moderneiddio'r sector.

7. A ydych yn cytuno y dylai'r Tribiwnlys Eiddo Preswyl fod â'r awdurdodaeth i ymdrin â'r holl achosion o anghydfod sy'n ymwneud â'r Bil hwn, ar wahân i erlyniadau troseddol?

Rwy'n meddwl ei bod yn gwneud synnwyr i roi'r pwerau awdurdodaeth ar gyfer ymdrin â'r holl anghydfodau fyddai'n gysylltiedig â'r Bil i'r Tribiwnlys Eiddo Preswyl, gan ein bod wedi gwneud hyn yn ddiweddar gydag anghydfodau rhwng preswylwyr safleoedd cartrefi symudol a pherchenogion safleoedd. Hefyd, mae gan y Tribiwnlys brofiad gydag anghydfodau ac apeliadau sy'n deillio o Ddeddf Tai 2004 ac mae'n debyg mai'r Tribiwnlys sydd yn y sefyllfa orau i gyflawni'r swyddogaeth hon. Mae'n amlwg bod gan y Llysoedd hefyd ran bwysig i'w chwarae pan fo achosion yn codi mewn perthynas â diffyg ceisiadau am drwyddedau a chosbau eraill am beidio â chydymffurfio â'r ddeddfwriaeth arfaethedig.

8. Beth yw'r rhwystrau posibl i roi darpariaethau'r Bil ar waith (os ydynt yn bodoli), ac a yw'r Bil yn rhoi ystyriaeth ddigonol iddynt?

Mae yna broblemau gyda'r costau rhagamcanol fyddai'n gysylltiedig â rhoi'r Bil ar waith fel y mae ar hyn o bryd, i awdurdodau lleol ac i Lywodraeth Cymru. Nid yw'n glir ar hyn o bryd beth yw'r goblygiadau o ran costau ychwanegol i awdurdodau lleol, ond dylai'r gallu i adennill costau'r gyfundrefn drwyddedu newydd a'r costau gorfodi cysylltiedig helpu yn hyn o beth. Gallai trefniadau gweithio cydweithredol, y mae'r Bil yn darparu ar eu cyfer, hefyd fod yn ddefnyddiol wrth gadw'r costau ar lefel dderbyniol os cânt eu rheoli'n briodol.

Mae hefyd yn anodd cyfrifo'r costau i Lywodraeth Cymru yn nhermau rhoi'r ddeddfwriaeth ar waith, a gallent fod o gwmpas £270,000, pe bai'n rhaid rhoi ar waith yr holl is-ddeddfwriaeth a chanllawiau yr ymddengys fod y Bil yn galw amdanynt. Mae'r Memorandwm Esboniadol sy'n cyd-fynd â'r Bil yn codi'r materion hyn ond ymddengys nad oes ynddo atebion i'r problemau sy'n cael eu creu ar hyn o bryd.

Pwerau i wneud is-ddeddfwriaeth

9. Beth yw eich barn am y pwerau yn y Bil i Weinidogion Cymru wneud is-ddeddfwriaeth (hynny yw, offerynnau statudol, gan gynnwys rheoliadau, gorchmynion a chyfarwyddiadau)?

Ymddengys fod yna anghydbwysedd pendant rhwng maint yr is-ddeddfwriaeth a chanllawiau mae'r Bil yn galw amdanynt o'i gymharu â maint y Bil ei hun. Er bod y rhan fwyaf o'r pwerau is-ddeddfwriaeth yn gosod dyletswyddau ar Weinidogion Cymru i wneud Offerynnau Statudol, mae'n amlwg y gellid bod wedi cynnwys rhywfaint o gynnwys yr is-ddeddfwriaeth ofynnol ar wyneb y Bil. Mae'r trefniadau trosiannol o'r trefniadau trwyddedu presennol i'r gyfundrefn newydd arfaethedig yn enghraifft lle mae hyn yn wir. Mae'r trefniadau trwyddedu tai amlfeddiannaeth yn Neddf Tai 2004, y mae Peter wedi seilio rhannau o'i Fil arnynt, yn cynnwys darpariaethau trosiannol ar wyneb y Ddeddf ei hun.

Yn fwy penodol, rwyf hefyd yn pryderu ychydig am y ffordd y mae Rhan 4 o'r Bil, sy'n ymdrin â Rheoli Safleoedd Rheoleiddiedig, wedi'i drafftio ar hyn o bryd. Mae'n darparu pŵer dewisol i Weinidogion Cymru gymeradwyo cod ymarfer fyddai'n ymdrin â rheoli safleoedd, ac i ymgynghori ar god, ond eto i gyd mae'n mynd ymlaen i osod dyletswydd ar Weinidogion Cymru i wneud rheoliadau'n ymdrin â rheoli safleoedd. Fy nghwestiwn yw, a oes angen y ddau? Siawns na fyddai rheoliadau rheoli, wedi'u saernio'n dda, yn ymdrin â'r hyn mae ei angen, ac mae gofyn am god ymarfer hefyd yn achos o or-reoleiddio.

Mae gennyf bryderon hefyd am Ran 5 o'r Bil, yn arbennig Adran 31(3), sy'n darparu pŵer eang eithriadol i Weinidogion Cymru i wneud bron unrhyw beth, mae'n ymddangos, mewn perthynas â thrwyddedu safleoedd o dan y Bil. Efallai bod y Pwyllgor yn rhannu fy mhryderon ac eisiau cael mwy o fanylion am y pŵer hwn?

Sylw Cyffredinol

Er mai rhan gymharol fach o'r sector tai cyfan yng Nghymru yw safleoedd cartrefi symudol preswyl, mae yna broblemau sy'n gysylltiedig â'r math hwn o lety. Dyma pam roeddwn wedi bwriadu edrych ar ddiwygiadau i'r system drwyddedu safleoedd cyn i'r Bil Aelod hwn lwyddo yn y balot y llynedd. Er bod y bwriad y tu ôl i'r Bil yn ganmoladwy, ymddengys o hyd bod angen mwy o eglurder ar agweddau ohono sy'n eithaf hanfodol, cyn iddo gael ei roi ar waith. Mae'n siŵr y bydd y cyfnod craffu'n dadansoddi'r materion perthnasol a bydd Llywodraeth Cymru'n ystyried pa ddiwygiadau y mae eu hangen i'r Bil maes o law. Rwy'n diolch i Peter Black am y gwaith mae wedi'i wneud ar ddrafftio'r Bil ac yn ailddatgan f'ymrwymiad i weithio gydag ef i gynhyrchu deddfwriaeth a fydd yn moderneiddio'r sector cartrefi symudol yng Nghymru.

Huw Lewis AC
Y Gweinidog Tai, Adfywio a Threftadaeth

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 12 Minister for Housing, Regeneration and Heritage**

Communities, Equality and Local Government Committee

Stage 1 Consideration of the Regulated Mobile Home Sites (Wales) Bill - Peter Black AM – Members Bill

Written Evidence from the Minister for Housing, Regeneration and Heritage

Consultation Questions

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 homes sites in Wales?

Yes, there is a definite case to amend the existing mobile home site licensing regime and I would have considered including measures to change the existing arrangements in the context of the forthcoming Housing Bill if Peter Black had not been successful in the ballot for his Members Bill. Recent research by Consumer Focus Wales makes a strong case for amending the existing site licensing arrangements, which are in some respects quite outdated. We need a more modern approach to mobile home site licensing which protects the interests of residents and site owners and operators. There is a definite need for local authorities to be able to charge for issuing licences and to be able to cover their enforcement costs. The procedures surrounding the sale and gifting of mobile homes also need modernising so that the interests of all parties to the transaction are more securely protected. Mr Black's Bill does cover these matters but more work needs to be done on it to ensure that the new licensing system covers all the issues that are relevant to the success of a new licensing regime.

2. Do you think that the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?

Overall I would say yes. However, I have some concerns in relation to the transitional arrangements between the existing regime and the new system that Mr Black wants to introduce. It is not clear whether Peter's intention is to revoke all existing site licences, which could have consequences in relation to planning permission, or whether the new regime applies only to new sites which will be established after the Bill is enacted. If it is the latter option, then arguably the Bill will have little effect on the sector as a whole as it is unlikely that a large number of new sites will be established in the short term. The Bill as drafted does enable Welsh Ministers to make Orders which will cover transitional arrangements, but at the same time these could have been included on the face of the Bill for the purpose of clarity. We will need to find a way to ensure that the new regime applies to all sites and could achieve this by giving existing licence holders a period of grace to reapply for site licenses under the proposed new arrangements.

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

Whilst the general principles behind the Bill are suitable there are certain areas where key details are lacking and the Bill will need to be amended to ensure that all the relevant issues are covered. Whilst some unintended consequences of changing the licensing regime are highlighted in the Bill's Explanatory Memorandum, no real measures have been considered to deal with these unintended consequences. I am particularly

concerned about the possibility of owners of residential sites applying to local authorities to have the use of their sites changed to providing holiday accommodation to avoid compliance with the new licensing regime that Peter's Bill seeks to introduce. This would obviously also have a detrimental effect on the accommodation that is currently provided by sites that are licensed for residential purposes and could provide significant problems for local authorities who have also licensed sites for mixed purposes. There would also be implications for permanent residents who might find themselves displaced if sites changed use. This issue will need to be addressed by this legislation in order not to provide a loophole that could be exploited by some site operators and owners.

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

The Welsh Government recognises the need for some form of fit and proper person test to be included in any new site licensing regime that is under consideration. However, the test that is contained in the Housing Act 2004 in relation to HMO licensing does need to be enhanced and I am glad to see that Peter has worked on this and now includes contraventions of equality legislation in his enhanced test. It would also have been useful if he had considered firearms offences for inclusion as the Scottish Government recently did in its private rented sector legislation. Again this is something that we could look at as the Bill progresses.

There also seems to be some confusion in the Bill's Explanatory Memorandum about how the test is going to be applied and who will need to pass it. For example, paragraph 61 states that "In order to be granted a licence the owner and manager (or other persons involved in the management of the site) will need to pass a **'fit and proper' person test**" and goes on to state that this largely replicates the test that is applicable to owners of HMOs under the existing licensing arrangements. However, the whole point of the test under the HMO licensing regime is to enable an owner who fails the test to retain ownership of the property and appoint someone who passes the fit and proper person test to manage the property on their behalf. This would also have to be the case with the licensing regime that is outlined in Mr Black's Bill. In that sense an owner does not have to pass the test so long as the person managing or operating the site does so. This point needs clarification before the Bill proceeds.

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?

The benefits of the amendments to the contractual relationship between mobile home owners and site owners/operators are recognised and I am pleased to see that Peter has tackled the issue of alleged "sale-blocking" and has clarified the role that the Written Statement plays within the contractual relationship. However, more work needs to be done on the costs associated with the new licensing regime and clarity is required around the issue of the additional costs for site owners being absorbed by them and what effect this will have on the numbers of sites in Wales. Will more site owners apply for a change of status for their sites to circumvent the new legislation? Will some site owners leave the industry altogether or choose to decrease investment in site facilities? These issues need addressing and are just mentioned in passing in the Bill's Explanatory Memorandum. The Bill needs to more fully address the issue of licensing costs rather than just allow Welsh Ministers to do this. There may be a case for allowing local authorities to determine their own licensing costs, either on a collaborative regional basis, or individually, provided they

publish a fees policy that would cover their approach to all the fees associated with site licensing. I gather this is what the Department for Communities and Local Government is proposing in the context of the Private Members Bill that is being taken forward in England. There may be merit in considering whether this approach could be adopted as an amendment to Mr Black's 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?

The intention that lies behind this Bill is a laudable one as it would improve the standards of management of mobile home sites and discourage some of the more undesirable practices that some site owners and operators engage in. This is the intended effect of the introduction of a fit and proper person test for site owners or their appointed managers. However, this measure alone is not a panacea, as experience with HMO licensing suggests that very few HMO landlords have actually failed the test to date. It is also arguably the case that a lack of evidence of previous criminal activity does not always show that a person is suitable to run a park home site as they could use other people to engage in intimidatory tactics that fall short of criminal activity and retain their fit and proper status. We need to be very careful in this regard and it may be the case that more stringent penalties for contravening site licence conditions are the answer in order to force people to comply with the legislation. Again these are issues to be considered as the Bill progresses. The key to improving the sector involves ensuring that local authorities can recover their licensing and enforcement costs through the new licensing regime. It should not become a revenue raising source for local authorities, but the powers to recover reasonable costs are undeniably needed and will modernise the sector.

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?

I think that it makes sense to convey the powers of jurisdiction for dealing with all disputes associated with the Bill onto the Residential Property Tribunal (RPT) as we recently did this in relation to disputes between mobile home site residents and site owners. Furthermore, the RPT has experience with disputes and appeals that arise out of the Housing Act 2004 and is probably best placed to fulfil this function. The Courts obviously also have an important role to play when cases occur in relation to non-application for licenses and other penalties for non-compliance with the proposed legislation.

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

There are issues with the projected costs associated with implementing the Bill as it currently stands both for local authorities and the Welsh Government. It is not clear what the additional cost implications are at this stage for local authorities, but the ability to recover the costs of the new licensing regime and associated enforcement costs should help in this respect. Collaborative working agreements, which the Bill provides for, could also be useful in keeping costs at an acceptable level if these are managed properly. Costs falling to the Welsh Government in terms of implementing the legislation are also difficult to quantify and could be in the region of £270,000, if all the secondary legislation and guidance that the Bill seems to require all have to be implemented. The Bill's accompanying Explanatory Memorandum does raise these issues but seems to be lacking in solutions to the problems that are currently being posed.

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)?

There seems to be a definite imbalance between the amount of subordinate legislation and guidance that the Bill requires when compared to the size of the Bill itself. Although the majority of the subordinate legislation powers place duties on Welsh Ministers to make Statutory Instruments it is evident that some of the content of the required subordinate legislation could have been included on the face of the Bill. The transitional arrangements from the existing licensing arrangements to the proposed new regime are an example of where this is the case. The HMO licensing arrangements in the Housing Act 2004, which Peter has based parts of his Bill on, include transitional provisions on the face of the Act itself.

More specifically, I am also a bit concerned about the way in which Part 4 of the Bill, which covers the Management of Regulated Sites, is currently drafted. It provides a discretionary power for Welsh Ministers to approve a code of practice covering the management of sites and to consult on a code, yet goes on to place a duty on Welsh Ministers to make regulations covering the management of sites. My question is whether both are needed? Surely well crafted management regulations would cover what is needed and requiring a code of practice as well amount to over regulation.

I also have concerns about Part 5 of the Bill, in particular Section 31(3), which provides an extremely wide-ranging power for Welsh Ministers to seemingly do almost anything in relation to site licensing under the Bill. Perhaps the Committee share my concerns and may wish to have more detail about this power?

General Comment

Even though residential Mobile Home Sites represent a relatively small part of the overall housing sector in Wales, there are problems associated with this type of accommodation. This is why I had intended looking at reforms to the site licensing system prior to this Members Bill being successful in the ballot last year. Whilst the intention behind the Bill is laudable, it still seems that more clarity is needed on quite essential aspects of it before implementation. The scrutiny stages will no doubt tease the relevant issues out and the Welsh Government will be considering what amendments are necessary to the Bill in due course. I thank Peter Black for the work that he has done on drafting the Bill and would reaffirm my commitment to work with him to produce legislation that will modernise the Mobile Home sector in Wales.

Huw Lewis AM
Minister for Housing, Regeneration & Heritage

20 November 2012



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21 November 2012

Ann Jones AM
Chair, Communities, Equality and Local Government Committee
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Dear Ann Jones

Consultation on the Regulated Mobile Home Sites (Wales) Bill

In its letter dated 5 November the Communities, Equality and Local Government Committee asked for views on the principles underpinning the Regulated Mobile Home Sites (Wales) Bill. The Communities and Local Government Committee of the House of Commons carried out an inquiry and reported on Park Homes on 20 June this year. The report is at <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomloc/177/177i.pdf>

Although we recognised that there are some good site operators, it was clear that action, including legislation, is needed now to improve the sector and drive the worst offenders out. We found that malpractice was widespread across the park home sector and complaints from residents about unfair fees, poor maintenance and site owners making it difficult for residents to sell their homes were common. While our primary focus was on England, we did receive some evidence from Wales and I have no doubt that the problem crosses the border and that the current legislation, which applies in both England and Wales, is inadequate. It neither deters the unscrupulous park home site owner from exploiting residents nor provides local authorities with effective powers to monitor or improve site conditions.

As the Committee's report indicates, the most common problem is 'sale blocking', which is when a site owner effectively prevents a resident from selling his or her home on the open market by withholding approval of the prospective buyer. A site owner can then force the seller to sell to them at a reduced price and then sell the existing home, or a brand new home placed on the pitch, at a profit. To eliminate this practice we recommended legislation to

remove a site owner's existing right to approve buyers. I am pleased that a private member's bill—the Mobile Homes Bill—is current before the House of Commons, which, if enacted, will tackle this and other problems in England. (According to explanatory notes, the Bill does not alter the legal position in relation to Wales and the new provisions contained in the Bill apply in relation to England only.)

The licensing regime also needs reforming. Park home sites are licensed by local authorities but the powers and arrangements are those suitable to the 1960s. The Committee concluded that the park home licensing regime has to be modernised to provide authorities with powers similar to those used to regulate other forms of housing. For example, instead of maximum fines of £2,500, there should be no upper limit, in order to deter site owners from breaching licence conditions. Local authorities must also be able to charge for issuing site licenses so that they are better able to resource their activities and are able to recover costs for all enforcement action taken against those found to be in breach of licence conditions. The Committee was clear that these costs have to fall on those who break the rules. It also concluded that the contractual obligations between park home owners and site owners were an area of confusion with some site owners failing to meet their obligations. The new legislation the Committee called for has to make clear the obligations on site owners for maintaining their sites. In addition, site rules, which can define obligations, have to be deposited with local authorities who should be given powers to enforce them.

I note that the legislation before the National Assembly for Wales would include, analogous with HMO licensing, a requirement for site operators (both owners and managers) to pass a fit and proper person test. In England, the Bill before the House of Commons would include a reserve power to institute a fit and proper person requirement. While the Committee welcomed the Government's consultation 'A Better Deal for Mobile Home Owners', it noted that these proposals did not include a fit and proper person test. The Committee pressed the Government to go further on two issues. First, there has to be a survey of the sector to ensure that any changes made are effective. Second, if the expected improvements do not happen, new legislation must provide a power for the Government to allow local authorities to withdraw and withhold licences from site owners found not to be 'fit and proper'.

A handwritten signature in black ink, appearing to read 'Clive Betts', written in a cursive style.

Clive Betts MP
Chair, Communities and Local Government Committee



Communities and Local Government Committee

House of Commons London SW1A 0AA

Tel 020 7219 3927

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Ann Jones AM

Chair, Communities, Equality and Local Government Committee

National Assembly for Wales

CARDIFF BAY

CF99 1NA

19 December 2012

A handwritten signature in blue ink, appearing to read "Ann Jones".

Regulated Mobile Home Sites (Wales) Bill

When I appeared before the Committee on 6 December I promised to write to you on the fit-and-proper person test and whether the manager or site owner was the most appropriate person required to be fit-and-proper.

In the course of our inquiry we received evidence of abuse and harassment at a number of park home sites in the UK. We considered the fit-and-proper person test would be a useful tool for local authorities to exclude the worst offenders from the sector and stop the most extreme incidents of abuse. A number of options for operating the scheme were presented to us and we concluded that a scheme combining aspects of both housing in multiple occupancy (HMO) licensing and consumer credit licensing would provide the most flexibility and best protection.

The scheme we proposed would enable local authorities to withdraw a site licence if the site manager were found not to be fit-and-proper. In addition, it would provide local authorities with a power to take over the management of a site (or in extreme cases compulsorily purchase a site), as the HMO scheme does, and would enable local authorities to consider the associates of a site manager before deeming them fit-and-proper, as the consumer credit licensing system does. These powers in combination would provide that management of a site could be taken over by the authority, or potentially someone chosen by the authority, if the site manager were found to be unfit either personally or potentially by association with an unscrupulous site owner.

I see drawbacks in requiring the site owners to be fit-and-proper. Firstly, as I said to your committee, we received evidence that some businesses that own park home sites have complicated corporate structures with subsidiary companies. These structures might be used to shift ownership between related companies to meet fit-and-proper person requirements.

Secondly, if the site owner were required to be fit-and-proper, in cases where they were found not to be, a new site owner would have to be found for the park to be licensed. Any resulting sale of a site might benefit residents in the long-term but in the short term this could cause disruption

found. There may be instances where installing a new manager at the site would be a more appropriate course of action though this would not be allowed under the above system.

I hope this is helpful and thank you again for the opportunity to give evidence to your committee. Do not hesitate to get in touch if you think I can help further.

A handwritten signature in blue ink, appearing to read 'Clive Betts', written in a cursive style.

Clive Betts
Chair of the Committee

NAPHR.

Established

1982

*A totally voluntary advisory service for
permanent Park Home & Mobile Home Residents*

29 November 2012

**NAPHR. Flat B
38 Abergele Road
Colwyn Bay
Conwy, N. Wales.
LL29 7PA**

Ms. Helen Finlayson
Legislation Office,
National Assembly for Wales
Cardiff Bay
CARDIFF CF99 1NA

Dear Ms. Finlayson,

MOBILE HOMES BILL

Having studied the proposed bill and watched the Committee Meeting I find there are some crucial points which I consider should be looked into.

If it is not too late to submit the following I would be grateful if you would attend to it for me.

- 1: **Electricity bills** not properly invoiced. No details whatsoever as to Meter readings or the price per unit.

There is a requirement for better instructions for both resident and site owner as some of the "good guys" are guilty of not producing proper bills.

Either an added sub section to Clause 22 (b) or an extra Clause added at the end of the Implied Terms.

- 2: **Pitch Fee Reviews.** A large majority of reviews just state "your pitch fee from January 1st will be £xxx. ." Nothing else!!! Not good enough. Site owners require to be educated as with the previous paragraph.
- 3: **Maintenance charges.** I have enclosed one example, these charges are in addition to an already sky high pitch fee. there are many others. This is why the Implied Terms should indicate what the pitch fee includes.
- 4: **Selling.** [REDACTED] frustrating sales of homes.
- 5: **Blocked drains.** A common problem, mainly caused by an elderly drainage system installed when the park was a holiday park after the last war and now unfit for purpose.

Again should be dealt with as in item 3.

Thanking you.
Yours Sincerely

Jim. Winchester.

Tel: 01492 535 677

Website. naphr.org.uk E-mail jim@naphr.org

Communities, Equality and Local Government Committee

Regulated Mobile Homes Sites (Wales) Bill

RMHS 15 Peter Black AM, Additional Evidence

Paratowyd y ddogfen hon gan gyfreithwyr Cynulliad Cenedlaethol Cymru a'r Gwasanaethau Ymchwil er mwyn rhoi gwybodaeth a chynghor i Aelodau'r Cynulliad a'u cynorthwyr ynghylch materion dan ystyriaeth gan y Cynulliad a'i bwyllgorau ac nid at unrhyw ddiben arall. Gwnaed pob ymdrech i sicrhau bod y wybodaeth a'r cynghor a gynhwysir ynddi yn gywir, ond ni dderbynnir cyfrifoldeb am unrhyw ddibyniaeth a roddir arnynt gan drydydd partion.

This document has been prepared by National Assembly for Wales lawyers and Research Services in order to provide information and advice to Assembly Members and their staff in relation to matters under consideration by the Assembly and its committees and for no other purpose. Every effort has been made to ensure that the information and advice contained in it are accurate, but no responsibility is accepted for any reliance placed on them by third parties

Regulated Mobile Homes Sites (Wales) Bill

Mobile Home Occupation & Utility Bills

Context

- 1) On 14 November 2012, it was agreed to provide a briefing note to the Communities, Equality, and Local Government Committee to assist the Committee in considering the Regulated Mobile Homes Sites (Wales) Bill (“the Bill”).
- 2) This briefing note cites relevant provisions of the Bill as it is currently drafted on introduction to the National Assembly for Wales.

Purpose

- 3) In summary, this briefing note clarifies and confirms the following:-
 - (i) the position relating to utility bills and Ofgem/Ofwat;
 - (ii) the provisions in the Mobile Homes Act 1983 relating to utility bills; and
 - (iii) the provisions in the Bill for licensing conditions and enforcement.

Utility Bills and Ofgem /Ofwat

- 4) The actual arrangements for utility bills vary across different mobile home sites in Wales. Some Mobile Home Owners have raised concerns about a lack of utility billing transparency and consumer choice, and the fact that that they are unaware of how their utility bills are calculated.

- 5) The relevant material factors will depend on the facts of each case, but these can include the content of the agreement / arrangement that exists between the site operator and the mobile home owner(s), and /or who is dealing with the Utility Company, and /or who is receiving the particular utility bill.
- 6) In general, the site operator will have a contractual relationship with the utilities supplier, and the site operator / manager will re-sell electricity, water and sewerage services to the mobile home owner(s).
- 7) Ofgem has power under the Gas Act 1986 (section 37) and the Electricity Act 1989 (section 44) as amended by the Utilities Act 2000, to set maximum resale rules known as maximum resale prices (“MRP” rules) on gas and electricity.
- 8) The MRP rules state that a reseller (site operator) cannot legally charge domestic residents (mobile home owners) more for utilities than they are billed by their energy company. The MRP rules also allow consumers (Mobile Home Owners) to dispute costs if they believe that they are being overcharged.
- 9) Ofgem has also produced guidance on the “Resale of gas and electricity for resellers” (2005).
- 10) In general, if a reseller owns the metering equipment or distribution system they are able to charge an administration fee for their services.
- 11) Ofgem rules state that the reseller (site operator) must be prepared if asked to show the purchaser (mobile home owner) the original bill from the main supplier showing the unit price and any standing charges, and any evidence to support their calculation in the cost per resident.
- 12) Ofwat has power under the Water Industry Act 1991 (section 150) to impose a MRP in relation to water and sewerage services. This prohibits the reseller (site operator) of water and or sewerage services from charging a Mobile Home Owner more than they are charged e.g. by the Water Company.

13) In the context of utilities, any breaches of Ofgem / Ofwat requirements and regulation should be reported to Ofgem/Ofwat.

Mobile Homes Act 1983

14) The Mobile Homes Act 1983 governs the contractual relationship between the site operator and the mobile home owner, and it provides for implied and express terms to be included in agreements between the parties.

15) Paragraph 21 of Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 sets out the mobile home owners obligations, and this includes, amongst other things, to pay to the site operator of a protected site all sums due under any agreement for gas, electricity, water, sewerage or other services supplied by the site operator. This is an implied term of all agreements, which cannot be overridden by any express terms.

16) Paragraph 22 of Chapter 2 of Schedule 1 to the Mobile Homes Act 1983 requires the site operator of a protected site to provide, if requested by the mobile home owner (free of charge), documentary evidence in support and explanation of any charges for gas, electricity, water, sewerage or other services payable to the site operator under the agreement. This is an implied term of all agreements, which cannot be overridden by any express terms.

The Bill, Licensing Conditions, & Enforcement

17) The Regulated Mobile Home Sites (Wales) Bill will not change the above requirements relating to utility bills and information.

18) Section 10 of the Bill sets out the licensing conditions that apply to site licences issued under the new licensing regime established by the Bill.

19) Section 10(1)(a) of the Bill requires that a licence must include a condition that makes it a requirement for the licence holder to comply with the terms of any agreement to which section 1 of the 1983 Act relates.

20) In practice, this means that any failure by the site owner to comply with the requirement to provide to the mobile home owner the documentary evidence and explanation set out in the Mobile Homes Act 1983 would constitute a breach of licence conditions.

21) Section 3(2) of the Bill imposes general duties on Site Licensing Authorities and this includes to make such arrangements as are necessary to secure:-

- (i) the effective implementation in its area of the licensing regime provided for under the Bill; and
- (ii) the effective enforcement of licence conditions.

22) Section 17 of the Bill covers enforcement and requires Site Licensing Authorities in discharging its statutory duty to enforce licence conditions effectively under section 3 of the Bill, to make appropriate enforcement arrangements, and in doing so to have regard to guidance issued by Welsh Ministers.

23) Therefore, taking account of the Bill as it is currently drafted, any breach of licence conditions including the failure of a site owner to provide to the mobile home owner with the required documentary evidence and explanation set out in the Mobile Homes Act 1983 would constitute a breach of the licence conditions which would be a matter for Site Licensing Authorities to enforce.

Helen Roberts, Legal Services / Gwasanaethau Cyfreithiol

Jonathan Baxter, Research Services / Gwasanaethau Ymchwil

30 November / Tachwedd 2012

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 16a Mrs Rachel Jebbett**

**National Assembly for Wales
Consultation on the Regulated Mobile Home Sites (Wales) Bill**

To **Ann Jones AC/AM**,
Chair of Communities, Equality and Local Government Committee

My name is Rachel Jebbett and I am a private individual, a park home owner living on a site in mid Wales with my husband. The views expressed in this document are mine alone and do not represent the views or opinions of any other person, group or organisation.

Thank you for the opportunity to write to you concerning the issue of the proposed dual licensing system, discussed at the evidence session of the Committee on 28th November 2012.

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What park home dwellers want is what society beyond our park boundaries takes for granted, that is:

- To feel comfortable in our houses
- To enjoy our gardens
- To come and go as we please in safety
- To make friends where we wish
- To be charged fairly for our household bills
- To be able to sell up and move on when we are ready

A well run park home site is a joy to live on; but too many of us encounter the ugly face of park home dwelling:

Irresponsible high profile marketing of an idyllic lifestyle draws you in.

Lack of transparent published information on the reality of the lifestyle you contemplate, commits you to a devastating mistake.

Inequality of police, judiciary and local authority protection destroys your defences.

Enforced vulnerability and consequent impotence annihilates your peace of mind.

Criminal financial predation robs you of your livelihood.

This is what I want the Bill to address, and I urgently request that the human perspective remains at the forefront of everyone's mind throughout the course of the preparation of the Bill and consequent legislation.

Dual licensing system

I am of the opinion that the licensing system must consist of two parts, i.e. the person licensed to operate the site must have what may be called a **personal licence**, and the site itself must be licensed separately; the **site licence**. Without such a system, residents will be left in a very vulnerable position.

The personal licence must have reference to fit and proper person status/professional background, management/running of the site, any training in legislation etc.

The site licence must have reference to the land, infrastructure, Health & Safety, appearance and so forth.

The area of land which sustains the siting of park homes and their occupancy by residents, only legally becomes a mobile home site when it has a valid site licence in force. Therefore, the site licence must remain in operation indefinitely. If this were not so, at the moment the site licence ceases to be in force, all homes on the land are illegally situated there. In this case, all residents would immediately be stranded, along with their only place of abode, in which all their assets are tied up, on land where they cannot remain, i.e. their homes cannot remain, and neither can they.

This would leave them in an untenable position.

Under current law, a park home site can be owned and run by anyone at all who can purchase the land and obtain a (single) site licence. Since this legislation is totally unfit for purpose, it is down to the integrity alone of the person owning the site as to whether the site is run honestly and fairly. Therefore, the only qualification required to govern this aspect of the business, is the character of the owner, a condition that would be the essence of the personal licence.

The Bill lays down conditions under which a dishonest, unfit owner can be prevented from further ownership of a site; after all, the removal of rogue owners from the industry is the major intention of the proposed new legislation. If, therefore, the site licence was revoked under the conditions of the Bill, the right of residents to occupy the site would be removed at the same time as the owner's right to own or manage the site. A dual licensing system would allow an unsuitable site owner to be stripped of his licence, without endangering the status of residents on the park.

In another possible scenario, if new legislation requires that the site licence will last five years and must be reapplied for, at that point, similarly, the land would cease to be a mobile home site until such time as the licence is re-applied. Suppose this did not happen?

a) the licence might be revoked.

b) the site owner might decide to retire.

c) over time, the infrastructure of a site naturally deteriorates, and in the case of a site badly managed and maintained over a long period, the prospect of the expenditure required to bring the site up to standard under new regulations might be sufficient to encourage the owner to simply walk away from the responsibility.

Therefore, under the conditions of the Bill, a dual licence **must** be instituted in order to protect residents whilst dealing effectively with dishonest site operators, which, I will reiterate, **is the purpose of the Bill**. I believe that this would be the most efficient way to resolve the dilemma.

-o0o-

Postscript:

I know that it is not possible for police matters to be addressed in any proposed legislation, although I am aware that discussions have taken place between Assembly Members and members of the Police Force during the process of drafting the Bill, which I hope will significantly influence the outcome, for the better protection of park home owners.

However, I would like you to be aware that I and my colleagues have also made some advances in this area. We have approached the Association of Chief Police Officers, the Assistant Chief Constable of Dyfed Powys Police and also the newly elected Police and Crime Commissioner for Dyfed Powys Police area. We have received favourable responses from all three, including the opportunity to meet with ACC Langley at police headquarters in Carmarthen in June this year, and the agreement to a meeting with the Police and Crime Commissioner early in 2013, at a time yet to be arranged.

Thank you for your kind attention.

Rachel Jebbett



4th December 2012

National Assembly for Wales
Consultation on the Regulated Mobile Home Sites (Wales) Bill

RESPONSE TO CONSULTATION
7th December 2012

My name is Rachel Jebbett and I am a private individual, a park home owner living on a site in mid Wales with my husband. The views expressed in this document are mine alone and do not represent the views or opinions of any other person, group or organisation.

What park home dwellers want is what society beyond our park boundaries takes for granted, that is:

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Criminal financial predation robs you of your livelihood.

This is what I want the Bill to address, and I urgently request that the human perspective remains at the forefront of everyone's mind throughout the course of the preparation of the Bill and consequent legislation.

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.

There is a most urgent 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. The state of mobile home law is chaotic and impotent in virtually every aspect of its current representation, interpretation and administration. Lawful, successful park home dwelling for residents who choose this lifestyle, is entirely dependent on the integrity of the park owner to run his or her business honestly and fairly, i.e. to interpret present inadequate legislation with honour, and respect for the resident - the customer - despite the opportunities it offers for prolific illegal financial gain, which is at the root of the current inexcusable deterioration of standards in the industry. In no other enterprise is the customer regularly treated so badly for such extraordinarily high financial gain.

The fact that the park home industry is host to honest, decent park owners is proof that it is possible to maintain a successful business whilst treating the residents who provide their livelihood with respect and fairness. This is the benchmark. Those who fall short of this standard have no place in this business and must be met head on with measures that will rid the industry once and for all of the corruption and moral turpitude that is destroying the lives of thousands of decent people. The site operator who is currently permitted to purchase a park (and with it control of the lives, livelihoods and future dispositions of the residents thereon), without reference to any licensing, regulatory, personal integrity, or any other standards, and thereafter fails to behave honourably, is the reason why this Bill has come into being.

It is of paramount importance to bring to the attention of the wider world, this hitherto largely unrecognised, despised and neglected housing sector, by augmenting and strengthening the duty, powers and financial support (where appropriate) of licensing authorities, and also to bring to the forefront of public awareness the necessity for widespread, up to date legal competence in respect of residential property tribunals (where used), the legal professions, courts, advisory and support groups, and any other agencies who may in the future become involved in this area.

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

Yes, I think that the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum. As hoped, the object of the Bill's primary focus is the fundamental reason for all the crime and nastiness prevalent in the industry, which is the lack of competent, efficient management of park home sites by honest, decent owners and managers. So the drawing together of a team of professionals to introduce and direct a collaborative regime to replace decadence and immorality with integrity, backed by the ability of Welsh Ministers to add secondary legislation to further the aims of the Bill, appears to me to be a sound platform from which to address the shameful state of the park home industry.

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

In my view, the licensing regime established by the Bill will not be suitable, and my reasons for the necessity to change are given below.

The licensing system must consist of two parts, i.e. the person licensed to operate the site must possess what may be called a *personal licence*, and the site itself must be licensed separately; the *site licence*. Without such a system, residents will be left in a very vulnerable position.

The personal licence must have reference to fit and proper person status/ professional background, management/running of the site, any training in legislation etc.

The site licence must have reference to the land, infrastructure, Health & Safety, appearance and so forth.

The area of land which sustains the siting of park homes and their occupancy by residents, legally becomes a mobile home site only when it has a valid site licence in force. Therefore, the site licence must remain in operation indefinitely. If this were not so, at the moment the site licence ceases to be in force, all homes on the land are illegally situated there, meaning that all residents would immediately be stranded, along with their only place of abode, in which all their assets are tied up, on land where they cannot remain, i.e. their homes cannot remain, and neither can they.

This would leave them in an untenable position.

Under current law, a park home site can be owned and run by anyone at all who can purchase the land and obtain a (single) site licence. Since this legislation is totally unfit for purpose, it depends entirely on the integrity alone of the person owning the site as to whether the site is run honestly and fairly. Therefore, the only qualification required to govern this aspect of the business, is the character of the owner, a condition that would be the essence of the personal licence.

The Bill lays down conditions under which a dishonest, unfit owner can be prevented from further ownership of a site; after all, the removal of rogue owners from the industry is the major intention of the proposed new legislation. If, therefore, the site licence was revoked under the present conditions of the Bill, the right of residents to occupy the site would be removed at the same time as the owner's right to own or manage the site. A dual licensing system would allow an unsuitable site owner to be stripped of his licence, without endangering the status of residents on the park.

In another possible scenario, if new legislation required that the site licence will last five years and must be reapplied for, at that point, similarly, the land would cease to be a mobile home site until such time as the licence is re-applied. Suppose this did not happen?

a) the licence might be revoked.

b) the site owner might decide to retire.

c) over time, the infrastructure of a site naturally deteriorates, and in the case of a site badly managed and maintained over a long period, the prospect of the expenditure required to bring the site up to standard under new regulations might be sufficient to encourage the owner to simply walk away from the responsibility.

Therefore, under the conditions of the Bill, a dual licence **must** be operated in order to protect residents whilst dealing effectively with dishonest site operators, which, I will reiterate, **is the overall purpose of the Bill**. I believe that this would be the most efficient way to resolve the dilemma.

The amount of the license fee must be proportional to the number of homes on the site to which the licence will apply, in order to share the cost/profit ratio fairly.

A watchful eye must be kept on the number of homes for which a site is licensed, which may need to be reduced. Modern park homes are larger than those for which mobile home sites were originally planned. Therefore the replacement of a small home by a larger one may mean that the site is no longer able to contain the same number of homes by virtue of the increased amount of space needed for fewer homes.

With regard to the enforcement regime, I think that what the Bill proposes is strong and resourceful. I would, however, like to see requirement of Building Control regulation included in the management of the infrastructure of mobile home sites. Administrative officers are unlikely to be qualified to judge either the quality of hard standings or of skirting, for example. The quality of hard standing construction recommended by the industry today is well above that of past years due to the increased size and weight of modern park homes. It may therefore be necessary to ensure that an old hard standing planned to be used to site a modern home is checked for its ability to sustain the weight and size of the new home, and also any modification to the hard standing in this respect, checked at intervals during its construction in the same way that the foundations of a brick building would be. The skirting must be positioned so that it does not touch the wooden base of the home and must also be within the inside edge of the drip rail to enable rainwater to flow freely to the ground. It must also contain apertures which allow a minimum measured area *per room in the house* of constant free airflow.

Provided Welsh Ministers' are confident that their powers of secondary legislation are sufficient to deal with follow up issues, I see no reason to doubt that the Bill's intentions will be achieved.

What most concerns me about new legislation is that it must be modern, and above all, watertight. As residents, we have discovered, greatly to our cost, that legislation that is carelessly crafted offers no protection at all, and it is this inadequacy in current law that has led to the serious problems we experience now, and the entrenchment of the criminal element of the industry. The Bill must seek to do very

well, those basic elements of its construction that will begin to turn the industry around, and adjust as necessary to issues that surface via experience, such as may arise as the new economics of the industry shake down, for example. With strength of purpose and great determination, the industry can be revived and taken forward into a successful new phase. At its best, the park home lifestyle is attractive and comfortable, and it can also be an economically sound investment for local authorities, in the sense that quite a lot of social care home expenditure is saved by the tendency amongst park home communities to look after their neighbours (particularly those with no near relatives), until the point is reached where there is absolutely no alternative to social care.

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

The Bill's proposals as shown, in relation to a fit and proper person test for site owners and operators, are appropriate to the extent that clarity is given to the requirement for evidence of fraud, discrimination, lawbreaking in respect of mobile homes, housing, landlord and tenant or town and country planning issues. I think that the inclusion of an Enhanced CRB check would be appropriate. However, it is a fact that records of crime perpetrated in relation to mobile homes are sparse in the extreme, and therefore a search of such records in isolation may not produce a reliable result. The recent findings of Consumer Focus Wales in particular, show that in the case of mobile home issues, a great deal of potential evidence of wrongdoing has been withheld by the victims because of fear of reprisals by the site operator, hence there will be a lack of information available to a researcher in the matter of fit and proper person checks. Therefore it is necessary for an agency engaged in assessing the suitability of a licence applicant (or holder – see following paragraphs), to be able to assess the integrity of the applicant based on local and/or shared knowledge and experience. This would entail referring to information gathered by Trading Standards and other agencies across the UK; I understand that proposals to institute shared registers of park owners are already in hand, and this will be an important addition to the process.

However, there is more to being a successful manager than paper records, and I think it would be useful to consider talking to the owner or manager of one or more successful parks in order to find out what personal qualities and methods they find effective in the management of their own sites. This could not be quantified of course, but in conversation with a prospective owner or manager at the point of application for the licence, a few well directed questions could determine to a degree the level of integrity of a person applying to run or manage a site.

The fit and proper person test must most certainly be applied to any new applicant for a license to run a park home site, and **equally importantly**, to site owners/operators already in possession of a licence, and also to any other person proposing to become involved in the management of a site. Rather than attempt a blanket application of the test to every site owner/operator in situ, the process would be applied to great effect on a gradual and more economical basis using local knowledge / suspicion alone / history of complaints of wrongdoing. The background of a suspected rogue operator would be investigated and the necessary procedures

applied according to the findings of the investigation. This is the way that Police Intelligence works.

Incontrovertible evidence of misconduct is revealed in (limited) police, court, Trading Standards and other records, to which must be added the wealth of anecdotal data provided through research (by Consumer Focus Wales in particular), consultation, inquiries etc in recent years. Although unproven in law, this latter form of evidence collectively brings substantial evidence to bear on the situation; such a large number of consultees cannot have fabricated corroborative evidence for the purposes of this project. This approach would enable a realistic challenge to be made against suspected or known unlawful park owners, and would make inroads into the task without compromising honest, diligent owners/operators.

If it is hoped that restraints other than retrospective application of the test on unlawful park owners, will provide the solution to the cessation of criminal activity by these operators, I dispute the efficacy of this course of action on the basis of the views given above and also on the grounds that swift and decisive measures are the deserved response to years of abuse, and would be of greater benefit to victims, who are the reason this Bill came into being, and who have already suffered enough. A prolonged period of 'increasing pressure' by the use of fines and other restraints, during which time the rogues would continue to maximise their opportunities for financial gain to the highest possible level, would not only prolong once again the suffering of residents, but also incur huge unnecessary expense in administration. After all, these site operators have for many years, gone out of their way to earn the right of summary dismissal from their jobs on the grounds of gross misconduct, and this should be applied forthwith, despite their regular bleat 'I own the land ...' which they consider renders them untouchable.

Predictably, it will be a consequence of new legislation that guilty park owners remaining in situ will maintain a low profile for a period while devising alternative methods of illegal profit-making that are not so overtly criminal, such as instituting limited liability partnerships, extending their influence to feed off other loosely regulated businesses and setting up 'ownership' of bogus utility companies through which they can charge their residents for water, gas, electricity etc at inflated price levels of their own choosing, ***a trend that is already in progress. This will require strenuous vigilance from all agencies associated with park home regulation in order to prevent the war from simply moving to a different battlefield.*** Also, the opportunity to appeal against the decision to refuse or revoke a licence, will be exploited by all subjects of such a decision, in which case, the evidence provided by the local authority supporting the refusal or revocation, will need to be substantial and robust, and the tribunal's (or other's) response equally robust and binding.

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?

I think the amendments to the contractual relationship between mobile home owners and site owners are largely appropriate.

I agree entirely with the measure to remove the site operator's veto in relation to the sale of a home by the occupier. However, in response to misgivings about the ability of the occupier/seller to complete the sale accurately and professionally, ***I offer the suggestion that a local authority staff member (possibly Housing department) meets briefly with the prospective buyer to ensure that the procedure has been carried out correctly and also to enable them to assess the buyer's general suitability to live on the site.*** The local authority will already have the ability to do this in relation to applicants for tenure of the authority's own accommodation, and this would be an effective and secure method of replacing the former responsibility of the site operator to undertake this task.

Site rules must continue to form part of the Written Agreement (Written Statement), and I agree that site rules must be submitted with any licence application and made available for inspection by the Local Authority. ***I suggest that this condition must also allow the local authority to have a minimal supervisory role in the updating and amendment of site rules to ensure they are reasonable and effective without being intrusive and in some cases, illegal, as is the case now.*** This would also support residents in the event of consultation by the site operator concerning changes to site rules. On a badly run park, residents in fear of their site owner will simply agree to all changes rather than risk reprisals by the owner for any disagreement, thereby negating the value of the consultation.

In view of a recent doubt that was put in my mind that the meaning of the 'pitch' is not fully understood, I offer a definition of the word in respect of mobile home sites.

Definition of 'pitch': the mobile home or preferably, park home, is sited on a solid concrete hard standing which is surrounded by what is effectively the garden. The garden consists of an area of land, minimum 3 metres wide, around all four sides of the home. The home must be no less than 2 metres distant from any roadway. This entire area - hard standing and surrounding area - forms the pitch. It has become a habit recently among rogue site owners to insist quite wrongly that the hard standing only is the pitch. In other housing sectors the area of land surrounding the house is deemed to be 'acquired ground' and thereby protected from abuse, but as usual, park home residents are accorded no such courtesy. The resident pays a monthly 'rent' to the site owner in return for stationing the home, which he or she owns outright, on the pitch. This 'rent' is known as the pitch fee.

Mobile home site residents pay council tax on their property which includes a percentage payment for the lease of the land on which the home stands. Site residents therefore pay **twice** for the use of the land beneath their house.

With reference to pitch fees, ***I would like to see specific conditions laid down regarding the difference between repairs and improvements to the site.*** Currently, the pitch fee must not include repayment of the cost of any repair, but may include that of improvements, which can only be implemented after consultation with residents. However, despite the terms of the Bill, I foresee a bid by site operators to attempt to recoup costs incurred by them in order to implement the changes made by the Bill. One way of doing this would be to try to muddy the water around what is

and is not a repair or improvement, in order to retrieve some of their expenditure, illegally, if they can get away with it.

With reference to page 25 of the Explanatory Memorandum, paragraph 109 states, 'pitch fees can only be increased in respect of **legislative changes which directly affect the actual costs of the management or maintenance of the site**, and have taken effect within the 12 months since the last review date. This would not include more general changes such as those affecting tax, overheads or other business or head office activities, **but would include matters such as, for example, enhanced environmental duties applicable to the site**'. These are dangerously ambiguous statements and will provide an instant loophole in the legislation which will be exploited to the extreme in very short order. **Conditions of this sort must be rigidly and very clearly defined.**

One item in the provisions relating to succession which has not been addressed is the question of inheritance of a park home. As things stand, a person inheriting a home may have no right to station the home on the park nor live in it, nor to sell the home on the park; the home must be moved off the park in order to be sold. The question of whether or not a commission is paid to the site operator as a result of the inheritance situation also complicates the matter.

With regard to residents' associations, the provisions are appropriate with the exception of one vote per household being the prerogative of the person first named on the Written Statement. I agree with the proposal made by Consumer Focus Wales that this should be changed to state that either occupier of a two-person household must be allowed to vote.

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

In my view, the Bill will extensively change the requirements on 'unsuitable' site owners/operators, and therefore the impact on them also, and change to a much lesser degree the requirements and impact applicable to honest owners/operators.

'Unsuitable' site owners/operators

They are in this business for financial gain alone, and since current legislation allows this to be achieved by criminal means, then that is what they do, and their methods are becoming increasingly sophisticated and subversive. The Bill will fundamentally require them to become law-abiding, with the penalties for non-compliance being designed to hit their most vulnerable spot – the wallet. The current state of the park home industry allows for no less a remedy than complete reversal of the status quo in the domain of such site operators, and the Bill and the resulting Act will have to be extremely robust, conscientiously administered and very tightly controlled to achieve the desired outcome.

Therefore, the initial impact will be an outcry by these site owners/operators against the necessity of payment for the licence to own/retain a park, and all other imposed expenditure. They have become accustomed to unlimited opportunities to make

unlimited profits and they will resent the curtailment of their ability to continue to accrue the same high levels of income by criminal means. They will immediately attempt to recoup what they will consider to be their 'losses' via demands for increases in any or all areas of the legitimate income to which they are entitled from the residents who are trapped on their sites; pitch fees, improvements, sales, commissions, utilities etc, and in any other way they can devise.

Residents must, therefore, ***NOT BE MADE TO PAY FOR GOOD BEHAVIOUR***. This is ***not*** our responsibility.

The 'In-Between' site owners/operators

The owner/operators that fall into this category are those who refrain from aggressive criminality, but behave unlawfully in that they are deliberately inept and careless in their approach to running their parks. They also receive an income above and beyond that to which they are entitled by the contract between them and their residents. They do this by failing to maintain their sites in good repair and taking little interest in the welfare of the enterprise as a whole. They may be 'absentee landlords' who visit the site as infrequently as possible and invest the absolute minimum amount of money and effort in upkeep and general management. They cheat their residents by reducing their standard of living to well below the level to which the residents have a legal right. Severe inadequacy of roadways, paths, utility installations and general safety are no less detrimental to the wellbeing of residents than other more publicly acknowledged shortcomings.

These site owners/operators will likewise not be supportive of the need to comply with the requirements of the Bill, but their alternatives will mainly be to smarten up their act (legally), or withdraw altogether. In either instance, the decision would be a good one from the point of view of fairness to their residents and to the industry's future health.

Honest site owners/operators

These site owners/operators are in the vulnerable position of running a good business in which their residents enjoy the benefits of a comfortable lifestyle in return for fair payment, while watching their industry inexorably working its way towards anarchy and collapse. They are no less susceptible to criminal acts themselves, as rogue owners wishing to buy another park are not above using physical threats as one of their negotiation tools. Honest operators should therefore welcome all measures designed to clean up their industry and prevent the ultimate loss of their own livelihood; it's only a matter of time. They are proof that the park home industry is capable of offering the opportunity to earn a good living without having to resort to illegal practices. When the industry is clean, their investment (via the Bill's requirements) will reap its own reward in the ongoing development of a successful and attractive lifestyle alternative to conventional housing, regulated by its own level of sustained appeal to potential park home dwellers, and the establishment of a robust, fair regulatory process by the provisions of the Act which will result from this Bill.

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.

I cannot disagree that the Residential Property Tribunal should have jurisdiction over all disputes aside from criminal prosecutions, because this course of action has already been adopted, and there is no alternative, since the legal professions in general know nothing about park home law. The efficacy of the RPT will be proved in a relatively short space of time.

I note in the Explanatory Memorandum a claim made on behalf of the RPT to the effect that 'its members do indeed have expert knowledge and experience of determining property related disputes', but I fear interpretation by the RPT of their role of 'tribunal' in this context as a tool of arbitration. The term 'dispute' (argument or disagreement) in the context of park home law is not strong enough to convey the meaning of 'response to a criminal act' (whether or not the Police would consider it a criminal act), and in order to be successful, the RPT must be made aware of the difference as it affects park home dwellers. Therefore further training of the RPT in this new area of responsibility by an appropriate and competent organisation is essential. The concept of the possible involvement of 'a site operators' trade association' in the training of RPT members, reported in paragraph 115 of the Explanatory Memorandum, **must be UTTERLY REJECTED**. Such a move would compromise the integrity of the RPT to a totally unacceptable degree.

My conclusion therefore, is to accept the RPT's role, hope that the measures proposed in this Bill will greatly reduce crime in the industry, and also hope that, as a result of approaches to the Police and discussions with them during the course of the preparation of this Bill, they will be prepared to come forward to offer greater protection to park home dwellers.

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

Local authorities in particular must be prepared to commit themselves to enthusiastic pro-activity in the execution of their new responsibilities. The Bill takes account of this by implementing the duty as well as the power to do the job, and offering sources of financial support, which to date has been the main obstacle to willing participation by some local authorities in park home licensing affairs.

Another potential barrier is the volume of responsibility immediately placed upon certain organisations. The Bill seeks to reduce the impact of this by encouraging the sharing of information and administration by means of a register of site operators and other means of establishing a network of shared experience and advice. Of particular value in this respect is the fact that some local authorities have been committed to their role in the management of park home sites for some time, so there is useful advice and information there in good supply. Likewise, Trading Standards and other bodies have much to share. No single organisation need work alone.

It must be remembered that the park home industry is simply another housing sector, and while there are certain attributes of this lifestyle which are unfamiliar outside our park boundaries, **park home residents are no different from any other tenant of a dwelling place they call home.** In this respect Housing, Licensing, Trading Standards and many other local authority functions are already in place and broadly equipped to deal with the administration of this area of social amenity. The adoption of as many aspects of established infrastructure as possible into the administration of mobile home sites will minimise the tendency to expect, and fear, that special measures are necessary in every aspect of the new regime.

It is also to be hoped that, through communication and diplomacy which has already begun during the preparation of the Bill, the Police will become amenable to providing better support for the needs of park home dwellers, thereby sharing the burden of responsibility. I am aware, however, that the Bill is not able to address this issue.

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.

The subordinate legislation as described in Section 5 of the Explanatory Memorandum seems to me (a layman) to encompass in one form or another, the ability to support, amend, adapt or guide the objectives of the Bill. I think the areas of mobile home site administration most urgently in need of attention have been correctly identified and addressed in the Bill, and the powers of subordinate legislation chosen to give a broad range of capability to uphold the focus and direction of the legislation. It's impossible to see round all the corners ahead, and I believe the Bill provides a good foundation from which to develop future legislation in a way that will be appropriate to the changing needs of the industry.

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 Exp Mem (the Regulatory Impact Assessment), which includes an estimate of the costs and benefits of implementation of the Bill.

The scale of the financial implications of the Bill is commensurate with the cost of administration of any other housing sector. HMO licence holders, for example, are charged a fee for their licence which is used to cover administration costs. In the case of mobile home sites, administration by the local authority has become a necessity because part of the 'landlord' element of the industry fails to uphold acceptable standards of business practice, therefore this sector must be brought up to standard by the same methods as were formerly used to raise standards in the HMO sector.

In doing so, the local authority and other agencies will be investing in their own interests by the implementation of good practice in this area. Should park home

sites cease to exist, thousands of homeless residents, who have sunk their capital into their homes, will need to be rehoused and financially supported. Equally valuable to the social care burden on a local authority is the tendency of park home communities to look after their neighbours for as long as possible before social care by the state becomes a necessity.

There will also be a financial impact on the site operator's business.

Referring to rogue site operators first, who are the reason that this Bill has come into being and requires funding for its implementation, the highly significant impact on residents' finances, of increasing levels of fraud and extortion over a considerable number of years, must be set against the site operators' claims that implementation of the Bill will financially disadvantage them. Many former elderly residents are now forced to access support from the state because their financial resources, which were planned to provide a sizeable contribution to their ability to be self supporting in their final years, were criminally depleted, and therefore many local authorities and government departments join them as victims of fraud. Consequently I see no reason to uphold the view that these site operators will suffer loss, since the 'loss' means nothing more than a threat to affluence and opulence, achieved by a criminal lifestyle.

Honest site owners should consider initial costs as an investment, since their industry is heading downhill towards anarchy and collapse, which will destroy their livelihoods as well. They are no less vulnerable to criminal acts themselves, as rogue owners wishing to buy another park are not above using physical threats as one of their negotiation tools. The investment will pay off via a clean, vibrant industry.

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

Question: Part 4 **28** (5): 'a failure to comply with a code of practice for the time being approved under Section 28 does not of itself make a person liable to any civil or criminal proceedings' – what is the purpose of a code of practice that can be ignored? What other circumstances would need to be present to induce liability to civil or criminal proceedings? This is not explained.

The proposed amendment to the fit and proper person test

I must comment on this proposal which has come about since the consultation on the Bill was launched, on the subject of applying the fit and proper person test to the manager of the site only, and not to the owner as well.

I vehemently disagree with this proposal which, if carried through, **will knock the heart and soul out of the Bill**. In respect of the criminality which is currently crippling the lives of thousands of residents and also the park home industry, the worst offences by far are being perpetrated by the rogue site owners, not the

managers, unless the two happen to be one and the same person. Everyone involved in this endeavour to rid the industry of criminality has publicly acknowledged the extent of the crimes committed by these people in the pursuit of profit through crime fed by greed.

The reason given in Evidence Session 1 of the Communities, Equality and Local Government Committee on 14th November, for bringing forward this amendment, appears to be that applying the fit and proper person test to the site operator 'would be very difficult to enforce and quite burdensome'. Please note that the volume and nature of crime being committed in the park home industry, and also in businesses associated with it, is *'quite burdensome'* to its victims.

No matter how many "suitably qualified" managers are in place, the dictates of the owner will always override any decision or behaviour favoured by a manager. **How will the legislation propose to separate the duties and authority of the manager from the jurisdiction of the person who employs him or her, and from whom the instruction regarding their duties is received?** Thousands of sickened, defeated, impoverished park residents have heard *ad nauseam* the park owners' anthem: ***'I own the land; I can do whatever I want.'***

The proposals offered in support of this change of direction appeared as indecision, guesswork and possibilities. I believe that tackling the rogue park owners head on with the fit and proper person test would, in the long run, be the easier (because the foundations have already been established), more efficient, and infinitely preferable course of action. It appears to me that neither option is any less or more difficult than the other to legislate for, and I consider the Bill's first choice of action will provide a sound foundation of robust legislation to start **immediately** the process of ridding the industry of the menace, supported by secondary legislation that can be used to refine and improve the basic rationale as necessary. **This is without doubt, the only sensible way forward.**

May I finish with a comment recently reported to have been made by a site operator who is attempting to evict from her home a disabled lady whose daughter has spent time with her recently to nurse her during a period of illness. He also tried to force her to get rid of her little dog and remove her .75m garden fence:

"THEY ONLY COME HERE TO DIE."

Should a site operator whose ethical code is pitched at this (gutter) level, be exempt from the application of a fit and proper person test?

Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 17 Anonymous

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?

The original Consultation Paper brought forward by Mr Peter Black AM acknowledges that only a 'minority of operators' do not meet required standards, but proposes to impose additional costs and expenses with less control of their Parks on all Park Owners. It is important to acknowledge that the current legislation under Mobile Homes Act imposes strict requirements on all Park Owners and provides a security of tenure for residents which is not available elsewhere in the private residential rental market. Assured Shorthold Tenancies only offer short term security but the Park Owner accepts the longer security of residents prescribed by the Mobile Homes Act.

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

There is a current licensing regime in existence and administered by local authorities. It is suggested that the existing licensing be made more effective rather than introducing unnecessary and costly new procedures.

3. In your view, will the licensing and enforcement regime established by the Bill be suitable?

The current restrictions imposed by the Mobile Homes Act, the Site Licence and the individual Park Rules are an essential safeguard for the Park Owner in his quest to maintain his property for his own benefit and for that of the other residents on the Park. Amending the current provisions in the manner proposed will seriously undermine the ability of the Park Owner to fulfil these requirements leading, in the longer term, to a deterioration in the quality of Home Parks and the living standards of residents. A reduction in the profit to the Park Owners, by an increase in costs and administration, as proposed in the Bill, will inevitably lead to a reduction in the ability of Park Owners to continue improve Home Parks for the benefit of residents. Local authorities already have powers to remove Site Licences. The level of fines may require further consideration, but large fines may have an adverse effect on the ability of the Park Owner to improve standards on the Park. If the Park Owner cannot operate his business at a profit he is likely to dispose of the Park or close it. Disposal may not be possible if the proposed changes to legislation are perceived as draconian and not conducive to operating an effective and profitable business. Management by local authorities is not regarded as being practical. The costs would be increased and any mortgagee is likely to 'step in' and seek a sale under its mortgage powers.

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

The logic seems to be confused as existing Park Owners could not be forced out of their Parks unless they are compensated for their loss. New Park Owners already have to run the Park in accordance with the Site Licence and the provisions of The Mobile Homes Act. Their background is irrelevant if they operate the Park in accordance with the Site Licence and the Act. Is it intended to extend this requirement to all private landlords as if not there could be implications under Human Rights legislation?

5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate?

Site Rules must be fair and reasonable and protect both the interests of the Park Owner and the residents. The Park Home is however sited on land owned by the Park Owner and residents should always be obliged to comply with any fair and reasonable Site Rules imposed by the Park Owner. The Paper only appears to envisage the Park Owner breaking the Site Rules or Written Agreement. Why is there no proposal to allow the award of damages or compensation against a resident in breach? His breach is equally likely to affect other residents on the Parks.

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

The Bill simply adds to the cost of the Park Owner, reducing the funds available to provide improved services and amenities to the Park. Over a period of time this is likely to result in a deteriorating standard throughout the industry. Many parks may be forced to close resulting in a loss of pitches for Park Homes. A reduction in the availability of Mobile Home Parks is surely a backwards step when the need for residential accommodation is increasing.

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?

The Residential Property Tribunal is already hearing disputes in this sector. The problem is that the decisions of the individual Tribunals are not binding on itself or on other Tribunals. The result is that there is no consistency, either for Park Owners or residents, with the result that uncertainty exists and is likely to become more prevalent in the future. This is harmful to all parties.

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

The proposal for Park Owners not to be able to pass on fees connected with the proposed changes to legislation is unacceptable. If the changes are designed to improve the rights of residents then surely those residents should also bear the costs. If the Park Owner is unable to meet the cost of repairs how is the local authority to meet these costs if it intervenes to take over the operation of the Park? All residents will probably agree that they would like to see improvements on their Park. However they are less willing to meet the cost of those improvements when their site rent is increased as a result. Park Owners are already having difficulty in collected RPI increases let alone improvement increases. If the cost is spread over a period of years then once again the Park Owner will be less likely to incur that cost and not carry out the improvements as he will have to bear the bulk of the cost in the initial years. Consideration should also be given to the position of Lenders. If there is a mortgage on the Park and the Park is 'taken over' by the local authority, what action is the Lender likely to take to protect its security? Will Lenders consider withdrawing from this sector if the legislation is introduced resulting in a reduction of the number of Mobile Home Parks and pitches.

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.

Great care should be taken in becoming involved in a sector which is providing a valuable service to those members of the public (particularly the retired sector) who choose to purchase a mobile home and site it on a mobile home park. The current legislation is perfectly adequate to protect the interests of residents, if it is properly enforced, and the proposal to pass addition legislation is flawed.

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.

The Bill simply adds to the cost of the Park Owner, reducing the funds available to provide improved services and amenities to the Park. Over a period of time this is likely to result in a deteriorating standard throughout the industry

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

Buying & selling Removal of the veto could severely impact on the lifestyle of the existing residents by giving effective freedom to dispose of a Park Home to anybody. The Park could suffer from the introduction of persons whom the Park Owner would otherwise refuse permission to reside. The existing residents could suffer a reduction in the value of their Homes unless control is maintained. If 'deemed consent' were introduced, what factors would the Residential Property Tribunal (RPT) have to consider to describe somebody as 'unsuitable'. That person or persons would also be in effective occupation of the Home by the time the issue was heard by the RPT, making their removal even more sensitive and unlikely. Alterations External alterations are often problematic. The Park owner has to ensure that the alterations do not cause a breach of the Site Licence by taking the Park Home outside the definition of a caravan under the 1960 Act. The current restriction is similar to covenants imposed by builders on new housing estates and designed to protect the value and amenity of other properties on the estate. If this right were to be removed then the Park Owner will lose effective control over his land to his detriment and that of other residents on the park. If a proposed external alteration were referred to an RPT by the Park Owner it is likely that the alteration will already have been made. Is the RPT likely to order its removal in those circumstances? Succession It must always be remembered that although the Home is owned by the resident, the pitch upon which is sited belongs to the Park Owner. In the same way that local authorities control rights of occupancy following the death of the tenant, there should be equal protection for the Park Owner.



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Our Ref:

DEC/JML

Your Ref:

4th December 2012

Ms Helen Finlayson
Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay
Cardiff CF99 1NA

Dear Ms Finlayson

Re: Consultation on the Regulated Mobile Home Sites (Wales) Bill

We are writing in response to the letter dated the 5th November 2012 from Ann Jones AC/AM in response to the Regulated Mobile Homes Sites (Wales) Bill.

We are pleased to attach our comments on the draft Bill for your consideration which we will also forward by email.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Curson', is written over a horizontal line.

DAVID CURSON
OPERATIONS DIRECTOR

Cc: PAT
File



CONSULTATION ON THE REGULATED MOBILE HOME SITES (WALES) BILL

The Berkeley Leisure Group Ltd., operate four parks in Wales with a total pitch number of 473 (not all occupied). The parks in Wales are part of a 45 park group in the UK., the majority of which are retirement parks for persons over the age of 50. As a multiple park operator we are more centrally administered from our Head Office in Yeovil. We have over 55 years experience in the Mobile Home Park Industry

Q1 - 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 Wales?

Yes, there is a need for a Bill to review the current arrangements with the Mobile Home park Licensing that exist. We can see the negative effect that rogue operators have on the business in terms of sales and interest in Park Homes. People are aware of rogue operators and some are aware that a park could be sold and fall in to the hands of such rogues.

There is clearly a need to ensure that Parks are operated and managed in a professional way and, unscrupulous operators discouraged from continuing in this business.

Q2 – Do you think the Bill as Drafted delivers the stated objectives as set out in the explanatory Memorandum:

While we agree that Legislation needs to be reviewed in respect of Mobile Home Parks we do have concerns as to the means by which it is done. We would agree with comments made by Welsh Assembly Members that it is a small minority that ruin and tarnish the industry for the majority.

We have raised objections to Legislative change and 'new' licensing arrangements in previous consultation because in our opinion, if a park operator follows the current Licence arrangements and the law, there should not be a problem. We are not sure if the Bill delivers the objectives as there is insufficient assurance that Rogue operators will be deterred by the measures proposed in the Bill.

We maintain that one of the problems is enforcement of the law, and no amount of re-writing of licensing process is going to change that unless a local authority has the powers to prosecute the rogues. We are aware of the minority of unscrupulous park operators and their behaviour. They have no respect for authority and Kirsty Williams mentioned the 'vile behaviour' she herself has witnessed ((National Assembly for Wales Record of Proceedings Wednesday 7th November 2012 p.54).

We do not think the Bill adequately makes provision to protect Buyer as well as seller. There is a significant amount of information to pass on from seller to buyer in the absence of the Park operator's involvement, and we are not sure how an elderly person in their eighties or an Executor is going to pass on the relevant information. Will the elderly buyer have sufficient protection when committing what might be their life savings towards what is likely to be their last house move? And, if that sale and purchase is not conducted properly, who then has the task of unravelling the errors and pursuing the potential debt?

The Bill does not make provision for the nature of construction of a Park Home and the potential pitfalls with regard to its condition, and so the buyer may be at risk under the new licensing regime.

Q3 –In your view, will the licensing and enforcement regime established by the Bill be suitable? If not how does the Bill need to change?

The Bill will only be suitable if it is used primarily to target the rogues first and foremost, and send a clear message that they will not be left alone as they have in the past. If Local authorities go for the soft targets first and exhaust their funds and resources on them then we do not think the Licensing and enforcement regime will be suitable.

We believe that it should be made clear in the Bill that Local Authorities should implement the new system on a risk based agenda, and target the poor performing parks first to test the system.

We have concerns with the provision in the Bill (para 7. (5) regarding Licence numbers as this is covered by reference to Model Standards, and 'some other maximum number decided by the authority' seems a bit arbitrary.

We have concerns with a 5 yearly cycle for the Licence. This creates unnecessary uncertainty for the future of a park. A prospective purchaser may be deterred from proceeding if they or their legal representative raises concerns about the unknown duration of a Licence and so the seller of a park home may be affected.

We would also need to be assured that the new legislation will not create an unwieldy mass of Legislation that conflicts with and confuses existing such as the 1960 Act and the 1983 Act, and also Model Standards.

Q4 – Are the Bills proposals in relation to fit and proper person test for site owners and operators appropriate, and what will the implications be?

While we support the concept of Fit and Proper person, any assessment of an individual must be fair and reasonable. We can see situations arising where you have a park operator who falls foul of a law unintentionally being branded unfit to run a park when they are more than likely able to learn from the experience and go on to be a better park operator from the experience. Would someone who had been caught and prosecuted for smoking a joint in his university days (for example) be barred from holding a licence?

We also have concerns with existing park staff. As a large company operating 45 Parks around the country, we have over 160 employees. We have not carried out the likes of CRB checks in the past, but may need to implement in the future. But what will be the process in the interim, if we have an existing employee who fails the fit & proper person criteria.

Q5 Are the Amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill (be) appropriate. If not how does the Bill need to change?

At present when a buyer of a 'new ' or 'previously owned' home move on to the park, a formal Agreement is entered into by the respective parties. This Bill effectively removes any right of the Park operator from fully knowing the facts of the Agreement they may be entering.

We agree that the Park Operator should not have such sweeping powers or such right of veto as it could be misused. Contractually we might not necessarily 'Agree' to that person and so it could hardly be called an Agreement.

While we can see the benefit of the principle of buyer selling direct to buyer and only a requirement to notify the park operator when all has been agreed, we do have concerns with the passing on of information to the buyer.

There is the potential situation where a purchaser may be ill advised, and it might be both time consuming and costly to contact the seller to put things right. We also feel it would be unfair to pursue an innocent, ill informed buyer over a breach that they were totally unaware of? As far as we can see the Bill does not make clear who or how these situations are to be dealt with and whether costs would be recoverable.

Our primary concern is that if the buyer is wittingly or unwittingly poorly informed it would be the Park operator's responsibility to put matters right or seek any debts (pitch fee or commission) this seems unfair as we have not been involved in the process beforehand.

Effectively, if the Park operator is restricted in knowing fully all the details of the contract between buyer seller and park operator, then there needs to be a shift in contractual responsibility to one of the other parties.

There needs to be a mechanism in place that identifies infringements of the Site Licence (some of which are currently addressed at time of Assignment in accordance with the 'Site Licence' (e.g. Timber sheds often removed on or before next Assignment). This needs to be an obligation for the seller to attend to or possibly pass on a timescale for compliance to the buyer. Moreover as the park operator would be unable to address these at Assignment it should be for the Local Authority to address with the occupier rather than the park operator.

We fully understand the need for legislation to stop the alleged abuses. However a park operator now has great difficulty in resolving Licence infringements and breaches of the park rules. The correct process would be to:

1. Conduct a site inspection, having given 14 days clear notice in writing.
2. Write to individual residents giving them a time scale for compliance
3. Re-inspect (after giving 14 days notice)
4. If infringement not resolved consider RPTS application.

This procedure is formal and likely to worry elderly residents and also be very costly and time consuming. We would need to introduce frequent site inspections to find the infringements, not all of which are easily visible. We are sure it can be appreciated that residents on the park would not welcome this intrusion, and we would no doubt be branded as operating a police state. However a Local authority is likely to be unsympathetic, and with their new powers to impose fines we would have little choice.

Q6 – In your view, how will the Bill change the requirements on the site owners/ operators, and what impact will such changes have, if any?

As a park operator we can foresee a number of changes to our administrative workload and processes.

We will need to Administer Licensing arrangement for our 4 Parks in Wales from our HO in England and ensure they are current, and timely applications made.

We will need to provide greater detail for fit and proper person criteria, and review and change our recruitment process, thus increasing the administrative burden.

We may need to keep a watch on new residents to ensure they are aware of the various park rules and site licence requirements, and introduce regular and formal site inspections.

We may need to take more expedient action through the RPTs in the event of a Resident breaching Site Licence conditions or park rules rather than addressing these matters at Assignment (addressing infringements and park rule issues at time of Assignment means we don't have to 'harass' our residents whilst on the park. Sadly to do this means we will cause bad feeling amongst our existing residents.

We may need to issue new Agreements to residents with accurate plan of pitch in accordance with more recent legislation, and subject to buyer's consent, which will have significant administration, time resource and cost implications

There is likely to be a greater administrative burden as we foresee an increase in correspondence with Solicitors seeking clarification (which we may not be able to give).

Greater costs borne by the park operator. For example:

Licence Fee

Legal and administration expenses for licence applications.

Greater use of RPT system for resolving licence and park rule issues and seeking recovery of debt if buyer ill advised of outgoings and commission.

Admin costs for new agreements and accurate plans.

Loss of income year on year from change to the CPI. Park operating costs and expenditure has little relevance to Consumer Prices.

Q – 7 Do you agree that the RPT should have jurisdiction to deal with all disputes relating to this Bill, aside from criminal prosecutions? Please give your reasons

Yes, provided that it has the powers to ensure there is a remedy. It will not work if either the Park owner/ operator or the resident then has to go to the courts to enforce the decisions of the RPT.

Q8 – What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

Local Authority Resources to carry it through. – We are not convinced the Bill takes in to account the staffing required at Local Authorities to actively deal with unscrupulous park operators or to staff the maintenance and management of poorly performing parks.

Police intervention to prosecute the 'vile' crimes of the unscrupulous that are really damaging our industry. To really get to the heart of the problems any legislation needs to address the criminal activities of the rogues. We fear that they will find other ways to prevent sales and intimidate residents in order to secure a pitch.

Q9 – What are your views on powers in the Bill for Welsh ministers to make subordinate legislation.

No comment.

Q10 Financial implications – 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 Pt. 2 of the Explanatory Memorandum (the regulatory Impact assessment), which includes an estimate of the costs and benefits of implementation of the Bill.

As discussed above we foresee a significant increase in our operating costs for the park, which in turn may impact on the level of investment on the park. Additional costs will include:

Licence Fees

RPTS costs

Legal costs

Administration costs

Reduction in income from change to CPI. While we may only be talking of 1% difference over the years this will be multiplied in effect.

Potentially increase in wage costs if we need to attract better trained or able people.

It is difficult to fully assess the overall impact until it is implemented and we see how it works. But there is going to be a reduction of income to the park as a result of these measures which we consider to be unreasonable for a law abiding operator.

Q11 – Are there any other comments you wish to make about specific sections of the Bill?

We are concerned that the proposals and administration of QRA information has been underestimated. As an example we were provided with a list on one of our parks that had just over 50% membership but of those there were 30 errors which would mean they would not qualify. Will the Local authority be able to monitor and check names of membership if they are to hold and support that information?

Irrespective of whether there is a QRA (and of our 45 parks there are 7 QRA), every resident is able to raise a concern or an objection and we will endeavour to respond.

Maintaining an up to date list will require some work by both the QRA and the Local Authority as it will change regularly with Assignment Sales and sadly through the death of residents which is a unhappy occurrence on a park that is for retired people.

The administration of the QRA is likely to be part of the licensing process and if so (bearing in mind that this legislation will not allow the park operator to pass on costs) it suggests that the Park Operator is funding an organisation some of which can be unnecessarily militant that is directly opposed to the park operator .

SUMMARY

As one of the largest park operators we welcome any change that is going to improve the industry and drive out the rogues. We want to see a flourishing industry and provide an alternative form of housing that is attractive to all and in particular the retirement sector who are looking for a peaceful uninterrupted lifestyle. We believe that we are able to achieve that with existing legislation. We would accept we are not perfect and need to learn and move with the times. We have witnessed significant changes in recent years, mainly for the better and we are constantly having to adapt to them. It would be welcome to have some stability in our industry but at the same time see the rogues dealt with by applying the rules that exist.

Of course what we do not welcome is a further financial burden for very little benefit or effect and unless Local Authorities can address the rogue element that is sadly what will happen.

Ymateb i'r Ymgynghoriad

1. A oes angen Mesur i ddiwygio'r trefniadau ar gyfer trwyddedu a gwneud darpariaeth ar gyfer rheoli a gweithredu safleoedd cartrefi symudol a reoleiddir yng Nghymru?

Mae 20 o safleoedd 'cartrefi mewn parciau' preswyl ym Mhowys, gyda'r mwyaf gyda lle i dros 100 o anheddau. Mae gan rai ohonynt rwydweithiau dosbarthu cymhleth ar gyfer gwasanaethau fel trydan a dŵr. Mae llawer yn cael eu meddiannu gan bobl hŷn sy'n agored i niwed. Mae gan y rhan fwyaf ddim neu ddim ond ychydig o warchodaeth rhag cael eu hecsploetio. Mae effaith y datblygiadau hyn ar adnoddau awdurdodau lleol yn sylweddol o nifer o safbwyntiau gan gynnwys iechyd a lles, ac agweddau cymdeithasol ac economaidd. Mae safleoedd sy'n cael eu cynnal yn wael yn cynyddu'r galw i lefel sylweddol uwch ac yn ychwanegu pwysau ar wasanaethau'r cyngor, yn enwedig lle mae angen gorfodi. Nid yw deddfwriaeth gyfredol y DU wedi cadw i fyny â'r newidiadau i'r gwaith o reoli safleoedd rhai cartrefi mewn parciau ac nid yw'n rhoi digon o bŵer i reoli gweithgareddau'r lleiafrif o berchnogion diegwyddor sy'n elwa ar y diffygion hyn. Mae'n hen bryd cael cyfundrefn drwyddedu sy'n adlewyrchu'r sefyllfa hon a byddai'n cael ei chrosawu cyn belled â bod y cymorth priodol yn cael ei roi i awdurdodau i'w gweinyddu.

2. Ydych chi'n credu bod y Mesur, fel y'i drafftwyd, yn cyflenwi'r amcanion a nodwyd fel y nodir nhw yn y Memorandwm Esboniadol?

Mae peth pryder ynglŷn â sut y bydd y cynigion a gynhwysir yn y Mesur yn cyd-fynd â'r Ddeddf Safleoedd Carafanau a Rheoli Datblygu 1960. Yn ddelfrydol, byddai rhyw fath o atgyfnerthu yn well i sicrhau bod y cynigion yn integreiddio â'r gyfundrefn drwyddedu bresennol yn hytrach na gosod ail ofyniad trwyddedu. Ond mae'n ymddangos bod y prif bryderon a fynegwyd gan drigolion y safleoedd yn cael sylw gan y Mesur (gweler yr ymateb i C6 isod).

3. Yn eich barn chi, a fydd y drefn drwyddedu a gorfodi a sefydlwyd gan y Mesur yn addas?

Efallai y bydd cyflwyno hysbysiadau cosb benodedig a hysbysiadau gwella yn cynorthwyo i sicrhau mwy o gydymffurfio â'r safonau. Ond gallai'r baich ariannol sy'n gysylltiedig â chyflawni 'gwaith diffygiol' a'r anawsterau a'r gost sy'n gysylltiedig ag adennill costau yn dilyn hynny roi'r awdurdodau lleol mewn sefyllfa anodd, yn enwedig os yw perchennog y safle mewn trafferthion ariannol.

Gallai'r cynnig bod yn rhaid i gymdeithas preswylwyr fod ag o leiaf 50% o'r preswylwyr fel aelodau fod yn feichus. Nid oes gan rai safleoedd gymdeithas preswylwyr weithredol.

4. A yw cynigion y Mesur mewn perthynas â phrawf person addas a phriodol ar gyfer perchnogion a gweithredwyr safleoedd yn briodol, a beth fydd y goblygiadau?

Byddai datgeliad CRB manwl yn ffordd briodol o benderfynu ar addasrwydd mewn perthynas â throseddau cofnodadwy. Mae canllawiau ynghylch beth yw trosedd

berthnasol (yn debyg i Ddeddf Trwyddedu 2003) ac ynghylch sut y caiff y drosedd honno ei thrin yn hanfodol er mwyn sicrhau cysondeb, gan gadw mewn cof y gall perchennog fod yn meddu ar safleoedd mewn mwy nag un awdurdod.

Os yw'r gweithredwr presennol wedi cael ei ddyfarnu'n euog o drosedd berthnasol ac yn methu prawf y person addas a phriodol wedi hynny, pwy sy'n gyfrifol am reoli'r safle? Mae posibilrwydd hefyd i drwyddedau gael eu trosglwyddo i aelodau o'r teulu er mwyn osgoi asesiad addas a phriodol andwyol yn unig, pan yn ymarferol mae'n bosibl y bydd y troseddwr yn cael ei adael yn gyfrifol.

Mae penderfynu os oes gan berson "lefel ddigonol o gymhwysedd i gael ei gynnwys" ac "os yw strwythurau rheoli a threfniadau ariannu arfaethedig yn addas" yn llawn problemau. Bydd angen canllawiau tynn i gefnogi gweithredu'r darpariaethau hyn.

Bydd angen i awdurdodau lleol gymryd i ystyriaeth unrhyw daliadau, rhybuddion neu gamau gorfodi a gymerir gan awdurdodau trwyddedu eraill. Bydd angen rhoi gwybod i awdurdodau eraill am unrhyw gamau gorfodi a gymerir yn erbyn perchnogion y safle. Byddai cronfa ddata ganolog o berchnogion trwyddedig yn hanfodol i gefnogi'r gwaith gorfodi.

5. A yw'r diwygiadau i'r berthynas gytundebol rhwng perchnogion cartrefi symudol a gweithredwyr safleoedd a fyddai'n deillio o'r Mesur yn briodol?

Y diffyg cytundeb dilys a chlir rhwng y perchennog a'r gweithredwr yw'r achos mwyaf dros anghydfod. Mae Powys yn ymwybodol o wrthdaro sy'n gysylltiedig â 'rhwystro gwerthu', ailgodi tâl am gost cyfleustodau, cynyddu ffioedd lleiniau o ganlyniad i welliannau amheus i safleoedd, ac ati. Croesewir y bwriad i gryfhau'r berthynas hon a chefnogi rhwymedigaethau cytundebol gyda dull o gymrodeddu drwy dribiwnlys ac ymhen amser byddai hyn yn datrys llawer o'r problemau cyfredol hyn. Yn anffodus mae llawer o'r anghydfodau hyn yn arwain at aflonyddu a bwlio preswylwyr oedranus ac agored i niwed.

6. Yn eich barn chi, sut y bydd y Mesur yn newid y gofynion ar berchnogion / gweithredwyr safleoedd, a pha effaith y bydd newidiadau o'r fath yn ei gael, os o gwbl?

Y newid mwyaf amlwg yw'r angen i fodloni meini prawf ynghylch person addas a phriodol. Gallai hyfforddiant fod yn ofynnol. Bydd methiant i gwrdd â'r meini prawf yn cael effaith sylweddol ar unigolyn. Mae'r baich o orfod talu ffi trwydded flynyddol yn gost ychwanegol sy'n gysylltiedig â rheoli'r safle.

Mae pryder y bydd y cynigion yn codi disgwyliadau i'r pwynt lle bydd trigolion yn mynnu "safon aur" ar gyfer eu safle ac yn pwyso ar awdurdod lleol i'w gorfodi.

7. Ydych chi'n cytuno y dylai'r Tribiwnlys Eiddo Preswyl fod ag awdurdodaeth i ymdrin â phob anghydfod sy'n ymwneud â'r Mesur hwn, ar wahân i erlyniadau troseddol?

Mae unrhyw ddewis arall sy'n fwy hygyrch a rhatach i'r llysoedd ar gyfer preswylwyr neu berchnogion sy'n ceisio datrys gwrthdaro yn well. Ond mae yna rai amheuan. A

fydd gan 'RPTs' y gallu i ddelio â llif y gwaith newydd ac a oes ganddynt y profiad i ymdrin â'r materion hyn?

8. Beth yw'r rhwystrau posibl i weithredu darpariaethau'r Mesur ac a yw'r mesur yn eu hystyried?

Y prif broblemau i awdurdodau fydd cost ac adnoddau. Mae potensial i 'agor y llifddorau' i gwynion yn erbyn perchnogion safleoedd a allai yn ei dro orlethu'r adnoddau a'r gallu i ddelio â hwy. Mae'r cyfle i godi referniw o drwyddedau yn bwysig wrth helpu i gwrdd â rhywfaint o'r galw hwnnw. Ond mae profiad drwy'r Ddeddf Trwyddedu wedi dangos y gall y gost o adnewyddu trwydded gael ei leihau'n sylweddol os cyflwynir darpariaethau i atal am beidio â thalu ffioedd.

9. Beth yw eich barn am bwerau yn y Mesur i Weinidogion Cymru wneud is-ddeddfwriaeth?

Dim gwrthwynebiadau mewn egwyddor.

10. Yn eich barn chi, beth yw goblygiadau ariannol y Mesur?

Mae'n bryder y bydd y ffi arfaethedig yn talu am gost prosesu a chyhoeddi trwyddedau yn unig. Yn amlwg, bydd y costau sy'n gysylltiedig â phenderfynu ar addasrwydd a phriodoldeb yn sylweddol, gan gadw mewn cof yr angen am weithdrefn apelio. Bydd y rhain yn ffurfio rhan o gost prosesu. Ond bydd cost y gorfodi ychwanegol sy'n gysylltiedig â'r darpariaethau newydd yn disgyn ar awdurdodau lleol. Gallai hyn fod yn faich ariannol sylweddol i Bowys. Dylai cost yr arolygiad ymddangos wrth gyfrifo'r ffi a dylai fod yn seiliedig ar gyfanswm cynhwysedd a ganiateir y safle yn hytrach na'r nifer gwirioneddol o gartrefi mewn parciau.

Nid ydym yn glir ynghylch pwy fydd yn ysgwyddo'r cyfrifoldeb am fonitro cyfansoddiad pwyllgorau'r preswylwyr, ond gallai hyn hefyd effeithio ar adnoddau awdurdodau lleol.

Gallai'r gost sy'n gysylltiedig â chymryd cyfrifoldeb dros reoli safle sy'n methu fod yn sylweddol ac mae'n bosibl na ellir ei hadennill yn llwyr.

11. A oes unrhyw sylwadau eraill yr hoffech eu gwneud am adrannau penodol o'r Mesur?

Byddai cynllun sgorio cenedlaethol sy'n gysylltiedig â chydymffurfio (yn debyg i'r un sy'n bodoli ar gyfer safleoedd bwyd yng Nghymru) yn hyrwyddo gwelliant ac yn rhybuddio darpar breswylwyr am safleoedd a reolir yn wael.

Dylai amodau trwyddedau gael eu cyfyngu i'r rhai sy'n ymwneud â mwynderau a diogelwch y cyhoedd gan osgoi unrhyw ddyblygu gydag unrhyw ddeddfwriaeth arall megis y Ddeddf Cartrefi Symudol neu'r Gorchymyn Diwygio Rheoleiddio Tân.

Strwythur ffioedd cynyddol yn dibynnu ar nifer y lleiniau waeth p'un a ydynt wedi eu meddiannu neu beidio yw'r un symlaf. Mae angen rhoi ystyriaeth hefyd i sicrhau bod

safleoedd gwyliau sy'n cynnwys 1 neu 2 o leiniau preswyl a feddiannir gan wardeiniaid neu reolwyr safleoedd yn cael eu heithrio o'r cynigion.

Consultation Response

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?

There are 20 residential 'park home' sites in Powys, with the largest accommodating over 100 dwellings. Some have complex distribution networks for services such as electricity and water. Many are occupied by elderly, vulnerable people. Most have little or no protection against exploitation. The impact of these developments on local authority resources is considerable from several perspectives including health and well being, social and economic. Poorly run sites raise the demand to a significantly higher level and add pressure to council services, particularly where enforcement is required. Current UK legislation has not kept pace with the changes to the management of some park home sites and does not provide sufficient power to control the activities of the minority of unscrupulous owners who profit from these shortcomings. A licensing regime which reflects this position is long overdue and would be welcomed provided that the appropriate support is given to authorities in administering it.

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

There is some concern about how the proposals contained in the Bill will sit alongside the Caravan Sites and Control of Development Act 1960. Ideally some form of consolidation would be preferred to ensure that the proposals integrate with the current licensing regime instead of imposing a second licensing requirement. It appears though that the major concerns expressed by site residents are addressed by the Bill (see response to Q6 below).

3. In your view, will the licensing and enforcement regime established by the Bill be suitable?

The introduction of fixed penalty notices and improvement notices may assist in achieving greater compliance with standards. However the financial burden associated with carrying out 'works in default' and the difficulties and expense associated with subsequent cost recovery may place local authorities in a vulnerable position, particularly if the owner of the site is in financial difficulty.

The proposal that a resident's association must have at least 50% of the residents as members could prove onerous. Some sites have no active resident's association.

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

An enhanced CRB disclosure would be an appropriate way of determining fitness in relation to recordable criminal offences. Guidance as to what constitutes a relevant offence (similar to the Licensing Act 2003) and to how that offence is treated is essential in order to support consistency, bearing in mind that an owner may possess sites in more than one authority.

If the current operator has been convicted of a relevant offence and subsequently fails the fit and proper person test, who has responsibility for managing the site? There is potential also licences being transferred to family members purely to avoid an adverse fit and proper assessment, when in practice the offender may be left in charge.

Determining if a person has “a sufficient level of competence to be involved” and “if proposed management structures and funding arrangements are suitable” are fraught with problems. Tight guidelines will be required to support the implementation of these provisions.

Local authorities will need to take into account any pending charges, cautions or enforcement action taken by other licensing authorities. There will be a need to inform other authorities of any enforcement action being taken against site owners. A central database of licensed owners would be essential to support enforcement.

5. Are the amendments to the contractual relationship between mobile home owners and site operators which would result from the Bill appropriate?

The lack of a valid and clear agreement between owner and operator is the greatest cause of dispute. Powys is aware of conflict connected with ‘sale blocking’, recharging the cost of utilities, increasing pitch fees as a result of dubious improvements to sites, etc. Strengthening this relationship and supporting contractual obligations with a means of arbitration via a tribunal is welcomed and in time would resolve many of these current issues. Regrettably many of these disputes result in harassment and bullying of elderly and vulnerable residents.

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

The most obvious change is the need to meet fit and proper person criteria. Training may be required. Failure to meet the criteria will have a significant impact on an individual. The burden of having to pay an annual licence fee is an extra cost associated with site management.

There is a concern that the proposals will raise expectations to the point where residents will demand a “gold standard” for their site and press a local authority to enforce it.

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?

A more accessible and cheaper alternative to the courts for residents or owners seeking to resolve conflict is preferable. However, there are some reservations. Will RPTs have the capacity to deal with the influx of new work and do they have the experience to deal with these matters?

8. What are the potential barriers to implementing the provisions of the Bill and does the bill take account of them?

The main issues for authorities will be cost and resource. There is the potential to 'open the flood gates' for complaints against site owners which in turn may overwhelm the capacity and capability to deal with them. The opportunity to raise revenue from licences is important in helping to meet some of that demand. However experience through the Licensing Act has shown that the cost of renewing a licence can be reduced significantly if provisions to suspend are put in place for non payment of fees.

9. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation?

No objections in principle.

10. In your view, what are the financial implications of the Bill?

It is a concern that the proposed fee will cover the cost of processing and issuing a licence only. Clearly the costs associated with determining fitness and propriety will be significant, bearing in mind the need for an appeal procedure. These will form part of the processing cost. However, the cost of the additional enforcement associated with the new provisions will fall to local authorities. This financial burden could be considerable for Powys. The cost of inspection should feature in the fee calculation and should be based on the total permitted capacity of the site rather than the actual number of park homes.

We are not clear on who will bear the responsibility for monitoring the constitution of resident's committees but this too may impact on local authority resources.

The expense associated with taking over the management of a failing site could be significant and may not be fully recovered.

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

A national scoring scheme linked to compliance (similar to that in place in food premises in Wales) would encourage improvement and alert prospective residents to poorly managed sites.

Licence conditions should be restricted to those pertaining to amenity and public safety avoiding any duplication with any other legislation such as the Mobile Homes Act or the Fire Regulatory Reform Order.

An incremental fees structure depending on number of pitches regardless of whether they are occupied or not is simplest. Consideration also needs to be given to ensuring that holiday sites containing 1 or 2 residential pitches occupied by site wardens or managers are exempted from the proposals.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 20 Rockbridge Park Residents Association**

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6th December 2012

Ms. Helen Finlayson, Clerk
Legislation Office
National Assembly For Wales,
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CF99 1NA

Consultation - Regulated Mobile Homes sites (Wales) Bill

Dear Ms Finlayson,

Following a recent meeting with our Park site owner Mr. Glenn Jones in conjunction with Mr. Silvano Geranio from Prestige homes, it was decided that a joint response to the regulated mobile home site act for Wales be submitted to the committee concerned with this bill.

As I understand it the main concern from our Mr Glenn Jones, and in a similar way from Mr Silvano Geranio was that some of the regulation seems to be a stage too far like taking a sledgehammer to crack a nut.

I would like to make clear that it is recognised that not all park owners are unscrupulous and we on this park are particularly fortunate that Mr. Jones does not fall into this category. He is very approachable and Residents Association minded. I believe we have a good rapport and a responsible working relationship, however we do disagree over some of the points made in the bill and other documentation associated with it. We have decided to provide you with this joint response in the belief that it will help to dispel the "them and us" attitude which prevails in some places and is therefore perhaps unique in its approach.

Mr. Jones believes that the loss of the right to veto the sale of a property would leave him with very little control over who lives on the park. I however, believe that all of the concerns that he might have regarding this criteria could well be contained within documentation which already exists. I refer in particular to the written statement which every person living on a residential site should have, together with the park rules which everyone on site must agree to. I do not believe it is beyond the wit of man or local authority to include in these documents all of the criteria necessary for living on any particular park. These can include all of the particular concerns that each park may well have on their particular site. It was suggested by Mr. Geranio that solicitors should be involved at all stages of the proposed sale as already happens within the sale of bricks and mortar buildings.

This is a sensible approach but would involve each person in extra cost during the course of the sale. It would not however, of itself prevent unscrupulous park owners from carrying on with the lawless methods they have used in the past. It would however be a major step in the right direction.

I believe that there is a good argument to be made for a middle road approach. The requirements for living on the site should be made clear to the prospective buyer by the seller once a commitment to the sale is made. Perhaps at this stage, a notice of intent to buy be produced, all of this done without the presence of the park owner. Once this has been done it would be of great help for the park owner to meet the buyer, perhaps the presence of a representative from the Residents Association or the solicitors would be of value. This would of course be important to both parties for multivarious reasons. It is at this point that any anomolies could be ironed out.

I have been asked for advice on many occasions about some of the problems that your bill will help to rectify and I would like to offer one suggestion over and above what you have done so far.

Residents associations can and do have a very marked affect for good on park life in general. Unfortunately, because of the nature of the U.P.Os where they operate, residents associations will be discouraged by threat and other means and as a consequence, any attempt to produce a legitimate Residents Association will be thwarted. I would like to see some ruling outlawing this practise in any of its forms. This should include any attempt by U.P.O.s to threaten cajole or bully.

I am fully in favour of a correct licensing procedure. I believe that Local Authorities should in part or whole be recompensed for the work involved. Publicans must renew their license each year and I do not believe that a park home business should be any less confined by law. If it is right for the licensed trade then surely it is not unreasonable to expect the same thing to happen to a park home business. I do not believe that it is unreasonable for them to pay a reasonable figure each year. It must be seen however, that this is a legitimate charge to carry on a legitimate business and not a reason for local authorities to make unreasonable demands on these businesses. I do believe however that it is reasonable for local authorities to expect some recompense in the dealing, administration and overseeing of the these businesses. Since the park owners income is based on the site fees made, and these are controled by government figures it follows that any increases to license fees should be restricted to either the R.P.I. or C.P.I. figures

In all things where there is dispute, the R.P.T. should be used and final decisions made there. I refer to my response to question one on Peter Blacks request for response where I and other asked that the R.P.T. be manned by people who have direct and detailed knowledge of park life. It is different and must be approached with specialised knowledge of both the law and the circumstances surrounding the life on a park

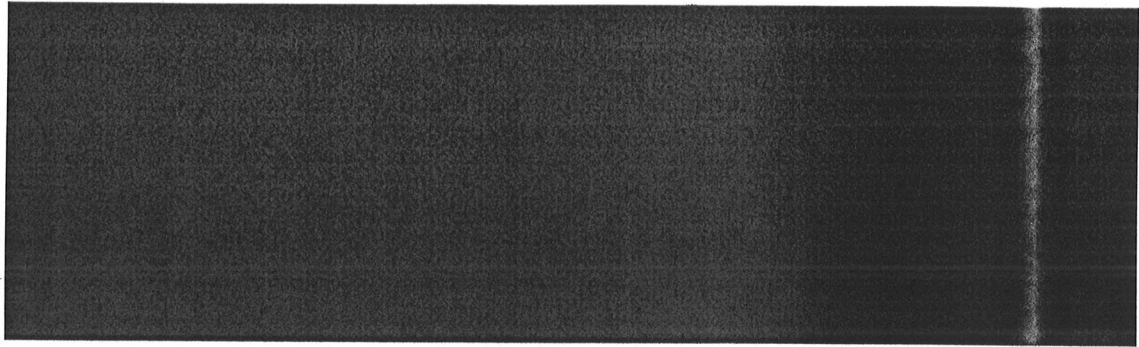
Surely the point of this bill is to redress the one sided situation that now prevails on parks. We are not dealing with the odd individual who is out to make trouble. We are dealing with U.P.O.s who have over many many years flouted, if not the law, then certainly good practice in dealing with peoples lives. I refer to my early response of the 25th June 2012 to Mr Peter Black and would ask that notice is taken of it and others like it.

Once again many thanks for your hard work,

yours sincerely,

D.J.Bromage
(Chairman Rockbridge Residents Association)

Communities, Equality and Local Government Committee Meeting
Regulated Mobile Homes Sites (Wales) Bill
RMHS 21 Barr's Residential & Leisure Ltd

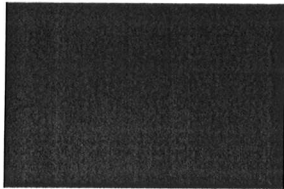


06/12/2012

Dear Helen Finlayson,

I am a Park Owner and my family and I have been in the park home Industry now for many years (3 generations now). I own and operate several parks in my group. There is one Park in particular which has been in the family for many years now(16 years) it is called [REDACTED] Going back 3 years ago my wife and I, who is not in good health purchased the park from the rest of the family. My wife and I have worked very hard on this park for a number of years as the Park is in my opinion has got to be one of the most beautiful parks in the country. The park has been a major investment to my wife and I, not only to purchase the park but putting in new and upgraded water inforstructure around a park home estate that sits in 23 acres of land. We have also invested heavily in ornate structures to enhance the park, like water falls etc. The park has been a labour of love but over the last 12 months were has experienced hostility from a few residents, and I feel we have been bullied. I realise there has been a lot of bad press about park owners, and there are some bad ones out there but my wife and I are not one of them eventhough a few residents have tried to treat us like one. I have enclosed a letter from a resident on this park and her comments are self explanatory, as there are two sides to be viewed eventhough the good Park Owners I think have not been heard. I await to hear from you

Yours Sincerely



2 letters enclosed



Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 22 Anonymous

- 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?**

Yes long overdue to gradually weed out Unscrupulous park owners.

- 2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?**

Yes especially the sale blocking problem.

- 3. In your view, will the licensing and enforcement regime established by the Bill be suitable?**

Anything that deters park owners from neglecting their parks and abiding by the rules will help.

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

Hopefully it will make park owners think more carefully about who they employ as managers because bad managers can ruin a park.

- 5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate?**

No response

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

It should require them to keep the parks in a good state of repair, be open and transparent about charges ie. giving sight of park utility bills, stop sale blocking and allow residents to sell their homes more freely without harrassment.

- 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?**

An easier, cheaper and less intimidating service than going to court.

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

Uproar from park owners about changing to the CPI as opposed to the RPI as a measure for pitch fees because they will maybe lose a little bit of money. However this is a very important point to keep in the bill without any amendment because of the home owners predominantly being retired and on fixed incomes which are now pegged to the CPI.

- 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.**

The powers that the WAG have been given in this bill should enable them to enforce changes to the unlawful practices that some park owners have been getting away with for yeras

- 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.**

Many park owners will rebel at all the financial implications i.e. licensing costs, change to CPI from RPI but good park owners would not have much to fear because if they run their parks well they will not be penalised by the authorities for bad practice, the bad park owners will lose out on the profit they make from stopping residents from selling their homes.

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

Please let it go through without an amendments, it has been a long time coming and hopefully it will gradually weed out the bad owners who have made many lives a misery. The local councils and all the powers that be i.e. police, licensing authorities must start using their powers to enforce this legislation, unlike now where they have a lot of powers but choose not to use them.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 23 The City & County of Swansea**

Consultation Questions

General

Q1 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.

Swansea Council welcomes the Bill and amendments to the legislation relating to mobile homes in Wales. The current legislation is, in many ways, outdated and lacks satisfactory enforcement powers: it is cumbersome and not effective. The licensing regime is something we have used with houses in multiple occupation (HMOs) since changes in the Housing Act 2004 took effect in 2006. We see how licensing could have benefits for mobile home sites and welcome the additional controls that would be placed upon licence holders, which in turn would give greater satisfaction for residents of mobile home sites.

Q2 Do you think that the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

The Bill does appear to deliver the stated objectives. IT seeks to introduce a new licensing regime and the proposals cover terms and conditions of a licence as well as a fit and proper person test (further comments on this are included in response to Question 4). The Bill proposes new and increased powers for local authorities which should be more workable and productive than existing powers.

The introduction of a new code of practice by Welsh Ministers would be welcomed along with management regulations and the proposals relating to security of tenure for home owners appear to be more satisfactory than existing arrangements.

Q3 In your view, will the licensing and enforcement regime established by the Bill be suitable? If not, how does the Bill need to change?

It appears that only the owner of the regulated site can be the licence holder: Section 6(2) says that the licence application must identify the person who is the owner and who is to be the manager and Section 7(2) says that the authoritymay grant a licence to the person who is the owner (or the persons who are the owners) of the site.

In some cases the owner will be a person or persons remote from the regulated site who do not take an active role in its operation and who actually

employ others to carry out this role on a day to day basis, not just as managers, but in practical terms as site operators.

The Bill, as drafted, will specifically preclude such other persons as being the licence holder.

It would be helpful for clarification as to whether this was the intention of the Bill or whether this has been an oversight (further comments are also included in response to Question 4).

This is also not clear in Section 22 where offence relating to regulated sites may be committed by the owner or person who has control or manages the site.

Section 10(1) requires the licence holder to ensure that copies of the licence (including standard written statement and rules) are prominently displayed at a place on the site which is readily accessible to occupiers. It may be a practical and helpful suggestion to include in the Bill that the licence holder should also provide copies of the licence to site home owners at their request.

A maximum term for a licence of five years seems appropriate with the ability to review, vary and revoke at any time during that term, depending on circumstances.

Section 18 deals with the local authority's ability to carry out work in default. This seems clear where a licence has already been issued and subsequently it becomes apparent that work is needed for the licence holder to comply with the licence conditions. In such a case the authority may serve notice in writing on the licence holder requiring the licence holder to carry out the works in question and the authority may carry out work in default if the licence holder fails to complete the work within the specified time period.

Clarification is needed as to the procedure when a licence holder fails to complete the work required a licence conditions by the specified time when the licence is first issued. Does an additional notice have to be served on the licence holder or merely a notification by the authority that the licence holder has failed to comply with the licence conditions and the authority is going to carry out the work? (This would of course be in addition to any legal proceedings the authority may instigate for the licence holder failing to comply with the licence conditions.)

The ability for an authority to charge for preparing and serving a notice under Section 18(1) is welcomed although not without its own risks relating to debt recovery.

The power for a local authority to appoint an interim manager **instead** of revoking the licence is an interesting proposal. There may be potential conflicts here as the licence holder still retains responsibility for the regulated site and has to comply with the licence conditions, but the interim manager may be under specific directions of the authority. The Bill says that if the

licence is subsequently revoked the appointment of the interim manager ends, but what would then happen to the site and the home owners in occupation?

Whilst the powers of entry etc for officers contained in Section 21 are welcomed clarification is sought on the hierarchy for authorisation.

The maximum penalty of level 5 on the standard scale for a person fails to license a licensable site seems low and would not necessarily be a deterrent, particularly when viewed alongside the maximum fine of £20,000 for the parallel offence relating to HMO licensing under the Housing Act 2004. However, the introduction of an unlimited financial penalty on conviction on indictment is welcomed and one which will have to be tested by the Courts.

Section 10(4) says that a licence may not include conditions imposing restrictions or obligations on a particular person other than the owner unless that person has consented to the imposition of the restrictions or obligations and yet Section 22(3)(d) says that an employee or agent of any of the persons referred to in paragraphs (a), (b) and (c) commits an offence if that person knowingly causes or permits any failure to comply with any condition of the licence.

Is there to be an offence for providing false or misleading information on a licence application?

The Bill's proposals for fixed penalties introduce a new element into any housing work. The imposition of a fixed penalty for failure to comply with a licence condition will clearly penalise the person directly but will not necessarily encourage improvement except for the expectation that the licence holder will not be caught again. These must be used appropriately and their use be monitored to ensure that they are being used effectively. They should not be used for serious breaches.

If the fine is not paid there is the need for additional enforcement and debt recovery, which is itself costly.

Section 23(3) says that the person cannot be convicted of the offence if the fixed penalty is paid by the relevant time. However, if the fixed penalty is paid and the licence contravention then continues could a new date of offence be noted and other enforcement action, including legal proceedings, be taken if appropriate?

The introduction of a range of enforcement notices which the authority could serve in cases of breaches of licence conditions or failure to comply with a management code of practice would be a positive step forward.

Q4 Are the Bill's proposals in relation to a fit and proper person test for site owners and operators appropriate and what will the implications be?

Section 9 talks about the fit and proper person status of the owner of the regulated site or the manager or anyone involved in the management of the site. There is no mention of a site operator.

Prior to granting a site licence the authority must be clear on who the persons are who will be involved in managing the site, both in order to determine that the proposed management arrangements for the site are satisfactory (as required in Section 7), but also relating to their fit and proper person status.

There will need to be a requirement on site owners to notify the authority of any changes in persons involved in the management of the site. This may be time consuming and costly (can a licence variation fee be charged by the authority in such circumstances and will there be a penalty for not informing the authority of such changes promptly?)

It seems overtly restrictive that the fit and proper person test is relevant to whether a person is fit and proper to be the owner of a regulated site (Section 9(1)(a)). It is not clear how the Bill could remove the ownership of land and also leaves no option for an alternative licensee if the owner failed the fit and proper person test. This would leave home owners on an already licensed site in a precarious position if the owner was subsequently found not to be fit and proper or if a new application was refused and would also place licensing authorities in the position of having to appoint an interim manager or taking over the management of a site rather than being able to work with the owner to find an alternative solution.

Has consideration instead been given to the option to determine that an owner may not be considered a fit and proper person to be the licence holder and then they could nominate another suitable person, such as a manager to be the licence holder with appropriate financial resources etc as in the Housing Act 2004 for the licensing of HMOs?

Paragraph 62 of the Explanatory Memorandum says that it will be open to local authorities to request evidence of a person's criminal convictions. It should be noted that many of the housing related offences referred to in the Bill, whilst criminal, are not centrally recorded and so authorities would be dependent on an applicant's self-declaration or local knowledge within the authority.

Q5 Are the amendments to the contractual relationship between mobile home owners and site owners which result from the Bill appropriate? If not, how does the Bill need to change?

The amendments seem appropriate.

Q6 In your view, how will the Bill change the requirements on site owners/operators and what impact will such changes have, if any?

Site owners will need to be more open about their business arrangements: company details, employees (if there are any) and how an individual site is managed.

There will be financial implications as they will now have to pay for a licence which is a new requirement. If prosecuted for an offence under the Bill there is also the possibility of additional financial penalties in fine and costs, but also with home owners being able to apply for repayment orders.

With the introduction of the fit and proper person requirements, a new Code of Practice and hopefully, management regulations, it will be clear to site owners what their obligations are and what enforcement and penalties may be applied. This should introduce a more transparent system for regulating sites for all involved.

Q7 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.

Yes, the Residential Property Tribunal (RPT) should have jurisdiction to deal with disputes relating to mobile homes, but it is important that offences under the Bill should be criminal offences and should be pursued through the court system.

The RPT, providing it is properly resourced, has the ability to adjudicate on disputes within a relatively short timescale and in a more informal manner than the court system which may encourage residents with issues to seek proper settlement, even taking into account the changes that are proposed for the RPT as part of the judicial system in England.

The RPT for Wales already has a role in housing matters, but unlike the RPT in England, does not publish any of its decisions under the Housing Act 2004 online. This would assist everyone involved, not just local authorities, in being aware of and understanding decisions and, whilst the decisions are not case law, would benefit future enforcement and determinations in the future. This is particularly important when new legislation is being introduced.

Q8 What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

With the introduction of any new legislation there is a need for education, training, publicity, changes to procedures, data recording and resources. Welsh Government will have a role to play in this and this is mentioned in the Explanatory Memorandum to the Bill.

It will be crucial that site owners and home owners are informed about the implementation of the provisions and what it actually means for them. This must be done at a national level with back-up at a local level.

There will need to be a run-in period for all site owners to submit their licence applications: may be a 'period of grace' after the introduction of the legislation.

The Bill's requirement for collaborative discharge of functions will mean local authorities having a new approach to site licensing. This will require ratification through Councils' political procedures and clarification as to how this will work on a practical basis.

Q9 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)?

Additional subordinate legislation would be welcome, particularly relating to licence applications, a code of practice and management regulations.

Q10 In your view, what are the financial implications of the Bill? Please consider the scale and distribution of the financial implications.

The estimate of costs and benefits included in Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment) are broadly accepted. It is clear that there will be costs to all parties involved, but the current licensing regime is outdated and needs to be replaced to raise standards and security across the country.

From a local authority's perspective it may be more straightforward for those who are operating a busy HMO licensing regime as they will have some tried and tested licensing procedures which could be a good foundation for the new regulated sites licensing processes.

It is important that site licence fees are set at a level which contribute largely to the costs of the regime although it is doubtful that a new licensing scheme would be self-financing.

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 24 British Holiday & Home Parks Association, Supplementary
Evidence**

*The representative body of the parks industry including
caravans, chalets, lodges, park homes, tents and
all types of self catering accommodation.*



**BRITISH HOLIDAY
& HOME PARKS
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Regulated Mobile Home Sites (Wales) Bill

Further to the written and oral evidence provided to the Communities, Equality and Local Government Committee, we would comment as follows.

Residential Parks in Wales

Part of the discussion during the oral evidence on 28 November was to address the size of residential park businesses in Wales. We stated that the majority are microbusinesses.

The Consumer Focus Wales Report states 'The majority of sites in Wales have fewer than 50 residential mobile homes' (page 23) and includes the following table (page 24).

The figures in the top row indicate the number of park homes on a particular park.

This indicates that there are 16 residential parks in Wales with 10 or fewer homes, and 58 parks in Wales with between 11 and 50 homes.

This confirms that 74 (80%) Welsh residential parks have 50 or fewer homes.

None of these will be 'multi-million pound businesses'. It is doubtful if any would achieve a six-figure turnover.

Table 1 Profile of mobile home sites in Wales

	Number of sites in the local authority area					Total
	Up to 10	11-50	51-100	101-200	201+	
Powys	4	8	1	1	-	14
Pembrokeshire	2	9	1	-	-	12
Carmarthenshire	3	6	3	-	-	12
Ceredigion	4	3	2	-	-	9
Flintshire	-	7	-	-	1	8
Vale of Glamorgan	-	3	-	2	-	5
Conwy	1	3	1	-	-	5
Isle of Anglesey	-	4	-	-	-	4
Swansea	-	1	2	1	-	4
Rhondda Cynon Taff	-	2	1	-	-	3
Monmouthshire	1	2	-	-	-	3
Newport	-	2	-	-	-	2
Gwynedd	1	1	-	-	-	2
Denbighshire	-	2	-	-	-	2
Bridgend	-	1	-	1	-	2
Wrexham	-	1	1	-	-	2
Torfaen	-	1	-	-	-	1
Neath Port Talbot	-	1	-	-	-	1
Merthyr Tydfil	-	1	-	-	-	1
Total	16	58	12	5	1	92



President:
Ros Pritchard OBE
David Bellamy OBE

Director General:
Ros Pritchard OBE
MBA, BA(Hons), DipM, MTS



Member, European Federation
of Campingsite Organisations
& Holiday Park Associations

Registered Office - as above. Registered No 713398 England.

We hope that these figures emphasize the need for the National Assembly to consider the costs proposed by the Regulated Mobile Home Sites (Wales) Bill against businesses' ability to meet them.

BH&HPA Membership Standards

We also addressed how BH&HPA applies membership standards.

BH&HPA's Articles of Association are appended for the Committee's information. However, given their length and complexity, notes are provided below with regard membership standards.

Article 1 gives definitions, including the definition of a Member's 'Colleague' and of 'Disciplinary Action'

Article 6D confirms where applicants are admitted to membership, they are 'probationary' members for the first year so that the membership is reviewed after 12 months.

Article 6E confirms membership admission is at the discretion of the BH&HPA Board who adhere to the principles of natural justice. The BH&HPA Board can take an applicants' 'Colleagues' (as defined in Article 1) into account on their membership decision. This mirrors 9(3)(a) of the Bill requiring Local Authorities to consider a park owner's current and previous associates.

Article 11A explains that once a Disciplinary Action has commenced, the member cannot resign the membership to circumvent the Membership Committee's work in reviewing allegations of conduct unworthy of a member. The resignation cannot take effect until the Disciplinary Action is concluded.

Article 11D confirms that where a membership is terminated by the Membership Committee, any other memberships associated with that individual are also automatically terminated.

Recommendation: This is one of the most important points when considering the requirements of the Bill. There is no requirement drafted to ensure that if an individual is judged unfit to manage a particular park, this would apply across all parks within their control.

Article 12 explains the constitution and work of the Membership Committee (adhering to the principles of natural justice) in addressing 'any allegation made ... that a member or a Colleague shall have been guilty of conduct of unworthy of a member'. This can include:

- i. The breach of the criminal or civil law in relation to the carrying on of any trade, business or undertaking of the member;
- ii. Conduct calculated or likely to bring the member or any trade, business or undertaking of the member into disrepute;
- iii. Conduct calculated or likely to bring the Association into disrepute;
- iv. The breach of or failure to comply with any Code of Conduct, Code of Practice, Grading Scheme or other requirement prescribed by the Directors from time to time as being applicable to the membership or any trade, business or undertaking of members.

(There are currently no additional requirements under iv.)

Article 13 explains that the Membership Committee can suspend or terminate a membership.

Articles 14 and 15 explain how a decision of the Membership Committee can be appealed to the Membership Appeals Committee (upon payment of a fee to prevent vexatious appeals – the fee is refunded if the appeal is successful). The Membership Appeals Committee also adheres to the principles of natural justice in its work.

We would be glad to provide any further information to assist in the scrutiny of the Bill and development of reforms for the industry in Wales.

7 December 2012

COMPANY LIMITED BY A GUARANTEE AND NOT HAVING A SHARE CAPITAL

**ARTICLES OF ASSOCIATION
OF
BRITISH HOLIDAY AND
HOME PARKS ASSOCIATION LIMITED**

INTERPRETATION

1. In these Articles:-

¹"The Act" means the Companies Act 2006 and any statutory modification or re-enactment thereof for the time being in force.

²"Act of Insolvency" means in relation to the qualifying business of a member:

- (a) the making of an application for an administration order or the making of an administration order
- (b) the appointment of an administrator
- (c) the appointment of a receiver or manager or an administrative receiver
- (d) the making of a winding-up order
- (e) striking-off from the Register of Companies
- (f) the making of a bankruptcy order against the member.

³"Articles" means these Articles of Association.

"The Association" means the above named Company.

"Clear days" in relation to the period of notice means that period excluding the day when notice is given or deemed to be given and the day for which it is given on or on which it is to take effect.

"Colleague" shall include in respect of a Member

- (a) their spouse,
- (b) their civil partner,
- (c) their cohabitee,
- (d) their child or stepchild,
- (e) their business partner or co-director (or shadow director) of any company of which they are director or shadow director,
- (f) their employee,

¹ Amended by Special Resolution of the Association passed on 3 February 2009.

² Amended by Special Resolution of the Association passed on 8 February 2012

³ Amended by Special Resolution of the Association passed on 3 February 2009.

- (g) any body corporate of which the Member is an officer or shareholder and
- (h) any person who is a colleague (which expression shall be defined as if they were a Member) of any of the persons listed at (a) to (g) above (inclusive)

⁴“Disciplinary Action” means the process that follows the referral by the Directors of a Full Member to the Membership Committee under Clause 11(D) of these Articles including any appeals to the Membership Appeals Committee.

"Executed" includes any mode of execution.

"Month" means calendar month.

"Office" means the registered office of the Association.

"Area Branches" means groupings of members of the Association within local areas of the United Kingdom.

"The Seal" means the common seal of the Association.

"Secretary" means the secretary of the Association or any other person appointed to perform the duties of the secretary of the Association, including a joint, assistant or deputy secretary.

"United Kingdom" means Great Britain and Northern Ireland.

"In writing" includes the written, printed or lithographed word, or partly one and partly another and includes communication by telex or facsimile and other means of communication of the written word in legible and durable form.

Words importing the singular number only shall include the plural number and vice versa.

Words importing the masculine gender only shall include the feminine gender. Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Association.

2. The provisions of Section 113 of the Act shall be observed by the Association, and every member of the Association shall either sign a written consent to become a member or sign the register of members on becoming a member.
3. The Association is established for the purposes expressed in the Memorandum of Association.

MEMBERS

- 4.⁵ Membership of the Association shall consist of Full Membership, Past Park Owner Membership, Potential Membership, Probationary Membership, Associate Membership and Honorary Membership and except where otherwise expressly stated any reference to a “member” in these Articles shall include any

⁴ Amended by Special Resolution of the Association passed on 8 February 2012

⁵ Adopted in place of the former clause by Special Resolution of the Association passed on 25 September 1996.

person granted any of such memberships referred to in this Article 4 and “membership” shall be construed accordingly.

5. The subscribers to the Memorandum of Association of the Association and such other persons as the Directors shall admit to the membership in accordance with the provisions hereinafter contained shall be members of the Association.
6. Full Membership shall be open to individual persons who regularly carry on a trade business or undertaking of a nature described at Clause 3(a) of the Memorandum of Association whose businesses comply with such grading standards (if any) as may be adopted from time to time by the Directors (herein referred to as a "qualifying business") provided that in the case of a qualifying business being operated by a partnership, company or local authority in such a manner as would if operated by an individual person qualify that person for admission as a Full Member under this Article up to four partners, directors, employees or members thereof, as the case may be, shall be qualified to be admitted jointly as a Full Member of the Association. The names of any such individuals shall be entered on the Register to show the qualifying business with which they are connected and that they are joint members admitted as a Full Member.⁶
- ⁷6A. Membership may at the discretion of the Directors be retained by Full Members on and during retirement from a qualifying business. Such Full Members shall upon such event be known as Past Park Owner Members and the appropriate entries shall be made in the Register of Members to reflect the change of class as members.
- ⁸6B. Potential Membership shall be open to any person who satisfies the Directors that it is his intention to commence a Qualifying Business within a reasonable period of time after his application for membership. Such members shall be known as Potential Members.
- ⁹6C. Associate Membership shall be open to any person who satisfies the Directors that his business has a sufficient connection with the objects of the Association or is otherwise connected with the interests of Full Members of the Association. Such members shall be known as Associate Members.
- ¹⁰6D. Where the Directors are minded to confer Full Membership upon an Applicant he shall for a period of twelve months from the first consideration of his application by the Directors be a Probationary Member and as soon as possible following that period the Directors shall either confirm his membership as a Full Member or decline it or extend the Probationary Membership for such period of time as they think fit.
- 6E. Admission to any class of membership shall be at the discretion of the Directors who shall nevertheless follow the principles of natural justice. In an appropriate case the Directors shall be entitled to have regard to any Colleague of the applicant for membership and any connection of the Colleague with the qualifying business of the applicant.
7. Honorary membership shall be open to any person whether or not carrying on a qualifying business who, in the opinion of the Directors, has at any time had an interest in or has rendered assistance or service to the Association.

⁶ Adopted in place of former clause by Special Resolution passed on 24 January 2000.

⁷ Amended by Special Resolution of the Association passed on 8 February 2012

⁸ Adopted by Special Resolution passed on 15 February 2011.

⁹ Adopted by Special Resolution passed on 15 February 2011.

¹⁰ Adopted by Special Resolution passed on 15 February 2011.

- 8.¹¹ Any person who qualifies under the provisions of Articles 6, 6A, 6B, 6C and 7 hereof may be admitted by the Directors in their sole discretion to be a Full Member, Past Park Owner Member, Potential Member, Probationary Member, Associate or Honorary Member respectively. Written application for membership in a form required by the Directors shall be made to the Secretary of the Association and shall be accompanied by a written nomination of a Full Member of the Association.
- 8A¹² Admission to any class of membership shall be at the discretion of the Directors who shall nevertheless follow the principles of natural justice. In an appropriate case the Directors shall be entitled to have regard to any Colleague of the applicant for membership and any connection of the Colleague with the qualifying business of the applicant.
- 8B¹³ Any person who qualifies under the provisions of Articles 6, 6A, 6B, 6C and 7 hereof may be admitted by the Directors in their sole discretion to be a Full Member, Past Park Owner Member, Potential Member, Probationary Member, Associate or Honorary Member respectively.
- 8C¹⁴ The Secretary shall notify the applicant of the decision of the Directors in respect of their application together with their right of appeal (if any) and the fee which the Directors have determined the applicant would be required to pay in the event of an appeal. An applicant who is aggrieved by the decision of the Directors to refuse their application for Full Membership, Probationary Membership or Potential Membership may request that their application be reconsidered by the Membership Appeals Committee by way of appeal. Any such request shall be made to the Secretary in writing within 21 days of the date of notification of the decision of the Directors. The Membership Appeals Committee shall hear such an appeal in accordance with the procedure set out in the Article 15 substituting the applicant for the member in Article 15. Article 15(C)(vii) shall not apply to an appeal by a person aggrieved by the refusal by the Directors of his/her application for Full or Potential Membership. This Article 8C shall not apply to an applicant for Associate Membership as there is no right of appeal.
- 8D¹⁵ At the same time as they lodge their appeal under Clause 8C of these Articles the applicant shall pay to the Association a fee determined by the Directors having regard to the likely costs and expenses of the appeal to the Association. No appeal shall be valid unless and until the fee is paid in full. That fee shall not be repaid to the applicant unless their appeal shall be upheld when it shall be repaid as soon as practicable.

SUBSCRIPTIONS

- 9 (A) Every member shall pay to the Association on joining such fee and shall thereafter pay such membership subscriptions of such amounts calculated in such manner and payable on such day or days (hereinafter "due date") as shall from time to time be determined by the Directors, with power to determine different subscriptions for different classes of member.
- ¹⁶(B) A member whose membership subscription remains unpaid shall not be entitled to vote at any General Meeting of the Association and if the subscription remains unpaid three months after the due date he shall have his name removed from the list of current members and shall

¹¹ Adopted in place of the former clause by Special Resolution of the Association passed on 25 September 1996.

¹² Adopted by Special Resolution passed on 15 February 2011.

¹³ Adopted by Special Resolution passed on 15 February 2011.

¹⁴ Adopted by Special Resolution passed on 15 February 2011.

¹⁵ Adopted by Special Resolution passed on 15 February 2011.

¹⁶ Amended by Special Resolution of the Association passed on 8 February 2012

thereafter not be entitled to attend or otherwise participate in any meeting of the Association not to receive any notice or publication of the Association, and all membership rights of such member shall thereupon cease. However where at the relevant time there is any Disciplinary Action outstanding in respect of any Full Member the provisions of this Clause 9(B) of these Articles shall not come into effect to terminate that Full Member's membership until the Disciplinary Action has concluded.

- (C) The Directors may in their absolute discretion re-admit to membership any person whose membership has lapsed or been terminated for any cause, subject to such conditions and on payment of such sum or sums (if any) as the Directors in their absolute discretion may determine.

10. Membership of the Association shall not be transferable.

TERMINATION AND EXPULSION

11.¹⁷¹⁸ Membership of the Association shall be terminated:-

- (A) By any class of member giving to the Directors written notice of their resignation. However in the case of a Full Member against whom Disciplinary Action is outstanding at the date of the service of the notice the effect of any such written notice shall be suspended and shall not come into force to terminate that Full Member's membership until the Disciplinary Action has concluded.
- (B) In the case of an individual jointly a Full Member with others under Article 6 of these Articles by that individual notifying the Secretary of their desire to cease being recorded as such or by the other individual or individuals appearing with them on the Register notifying the Secretary in writing that they have ceased to be associated with the qualifying business or have died.
- (C) In the case of a Probationary, Potential, Past Park Owner or Associate Member by resolution of the Directors that their membership should be suspended or terminated. The Directors shall not be obliged to give any reasons or explanation for such suspension or termination and there shall be no appeal against such a resolution.
- (D) In the case of any Full Member if his membership is terminated by resolution of a committee to which the matter shall be referred by the Directors ("the Membership Committee") established in accordance with Clause 12 of these Articles. Where the membership of a Full Member is terminated under this paragraph (D) all joint memberships under Article 6 of these Articles held by that Full Member shall be terminated as regards that Full Member.
- (E) On the death of a member.
- (F) In the case of any class of member in the event of an Act of Insolvency.

12.¹⁹²⁰ The Membership Committee shall consist of the Vice-Chairman of the Association from time to time who shall otherwise determine its constitution by appointing not less than two and not more than four Directors to act with him. In considering a resolution to suspend or terminate the membership of a

¹⁷ Amended by Special Resolution of the Association passed on 8 February 2012

¹⁸ Adopted by Special Resolution passed on 15 February 2011.

¹⁹ Amended by Special Resolution of the Association passed on 8 February 2012

²⁰ Adopted by Special Resolution passed on 15 February 2011.

member:-

- (A) The Membership Committee shall nevertheless respect the principles of natural justice; and
- (B) The Membership Committee shall have regard to any allegation made to the Association that a member or a Colleague shall have been guilty of conduct of unworthy of a member. The expression “conduct unworthy of a member” shall be deemed to include (but the following list shall not be exhaustive):-
 - i. The breach of the criminal or civil law in relation to the carrying on of any trade, business or undertaking of the member;
 - ii. Conduct calculated or likely to bring the member or any trade, business or undertaking of the member into disrepute;
 - iii. Conduct calculated or likely to bring the Association into disrepute;
 - iv. The breach of or failure to comply with any Code of Conduct, Code of Practice, Grading Scheme or other requirement prescribed by the Directors from time to time as being applicable to the membership or any trade, business or undertaking of members.
- (C) The Membership Committee shall have regard to any allegation made against any Colleague and in particular that a Colleague was refused admission to membership of the Association or has been the subject of a referral to the Membership Committee or whose membership has been suspended or terminated.

- 13²¹. (A) When a member is under consideration by the Directors under clause 11(C) of these Articles or has been referred to the Membership Committee by the Directors the Directors (in the case of a reference under Clause 11(C)) or the Membership Committee may at its discretion suspend the membership of the member until as the case may be the Directors or the Membership Committee have concluded the consideration of the referral. The Directors or the Membership Committee shall cause any such suspension to be notified to the member by the Secretary and all the privileges of membership shall be suspended as regards the member pending the consideration of the referral by the Directors or the Membership Committee.
- (B) Before passing a resolution to suspend (other than a suspension pending consideration of the referral under Article 13(A)) or to terminate the membership of a member the Directors or as the case may be the Membership Committee shall take the following steps:
1. inform the member in writing of their intention to consider such a resolution.
 2. inform the member of the facts giving rise to that intention.
 3. give the member not less than twenty-eight clear days’ notice in writing of their intention to consider the resolution and of the time and place where it shall be considered.
- The member and/or his appointed representative and (but at the discretion of the Directors or the Membership Committee) any person making an allegation against the member may make oral and written representations to the Directors or as the case may be the Management Committee as he reasonably desires

- ²²(C) The Directors or as the case may be the Membership Committee may at the time fixed for

²¹ Adopted by Special Resolution passed on 15 February 2011.

²² Amended by Special Resolution of the Association passed on 8 February 2012

consideration of the resolution referred to in Article 11(C) or 11(D) of these Articles take Disciplinary Action by way of suspension or termination of the member's membership and/or the removal of the member's name from any list published by the Association. If it shall appear to be appropriate in all the circumstances of the case the Directors or as the case may be the Membership Committee may restrict any such action to one or more of any individuals who are members jointly to the exclusion of the others. The Directors shall determine whether a member whose membership has been suspended shall remain obliged to continue to pay their subscription or whether payment of the subscription shall be suspended and if so for what period.

- 14.²³ (A) A Full Member whose membership is suspended or terminated by resolution of the Membership Committee (other than a suspension pending consideration of the referral under Article 13(A)) may within twenty one clear days of the resolution being notified to him by notice in writing to the Secretary (together with the notice of the fee payable under Article 14(B) below) appeal against such resolution of to the Membership Appeals Committee stating the grounds of their appeal, and the Secretary shall furnish the Membership Appeals Committee as constituted by Article 15(C)(ii) below with any documentary evidence considered by the Membership Committee, any written representations made by the member and member's notice of appeal.
- (B) At the same time as they lodge their appeal under Article 14(A) of these Articles the member shall pay to the Association a fee determined by the Directors having regard to the likely costs and expenses of the appeal to the Association and that fee shall not be repaid to the member unless their appeal shall be upheld when it shall be repaid as soon as practicable.
- (C) The appeal of a member shall not be valid unless and until the fee payable under Article 14(B) of these Articles is paid in full. That fee shall not be repaid to the appellant unless their appeal shall be upheld when it shall be repaid as soon as practicable.
- (D) Until a member's appeal is considered by the Membership Appeals Committee the resolution of the Membership Committee to suspend or terminate membership of that member shall stand but in the event of the appeal being successful or the member being deemed to be reinstated pursuant to Article 15(C)(vii) of these Articles the resolution of the Membership Committee shall be deemed to be of no effect from the outset.
- 15.²⁴ (A) The Membership Appeals Committee shall save as provided by the next sub-clause of this Article 15 consist from time to time of such of the Branch officers from time to time of the Area Branches of the Association as are full members of the Association.
- (B) The President, Vice-President and Directors shall not be eligible for the Membership Appeals Committee.
- (C) The Membership Appeals Committee shall (except as appears below) regulate its own business but in any event the following principles shall apply to its business:-
- i. It shall as soon as practicable upon the adoption of these Articles appoint a Chairman from among its members. The Chairman shall retire from office after a period of two years and for the purpose of this sub-clause of this Article 15 the present Chairman shall

²³ Adopted by Special Resolution passed on 15 February 2011.

²⁴ Sub-clauses (A), (B) and (C)(ii) to (vii) adopted in place of the previous sub-clauses by Special Resolution passed on 18 March 1993. Sub-clause (c)(i) adopted in place of the previous sub-clause by Special Resolution of the Association passed on 25 September 1996

be taken to have been appointed to office on 1 November 1995. The Chairman from time to time shall remain in office until:-

- (a) He retires by rotation in accordance with this sub-clause of Article 15; or
- (b) He ceases to be a member of the Membership Appeals Committee; or
- (c) the said Committee by majority vote determines otherwise.

And the said Committee shall appoint further Chairman as and when the occasion arises.

- ii. The Chairman of the Membership Appeals Committee shall determine the constitution of the said Committee for any appeal. In determining the constitution the Chairman shall not appoint a member to hear the appeal of a member of the Association from the Area Branch he represents.
- iii. Three of its members shall constitute a quorum.
- iv. Its business shall be decided by a majority of votes.
- v. The Chairman shall in the event of an equality of votes have a second or casting vote.
- vi. It shall receive oral and/or written evidence from such persons as it shall deem appropriate for the equitable determination of the appeal.
- vii.²⁵ Its Chairman shall give the Membership Committee and the member appealing to it at least twenty-eight days' notice of the time and place at which the appeal will be considered provided that the appeal shall be heard not later than 200 days after the entry of a valid appeal and if it is not so heard the member shall be deemed to be reinstated.

GENERAL MEETINGS

- 16. The Association shall hold a General Meeting in every calendar year as its Annual General Meeting (in addition to any other meetings in that year) at such time and place as may be determined by the Directors, and shall specify the meeting as such in the notices calling it, provided that not more than fifteen months shall elapse between the date of one Annual General Meeting and the next. An Annual General Meeting shall receive and consider the accounts, balance sheets and reports of the Directors and of the auditors, the election of Directors in place of those retiring and the appointment of, and the fixing of the remuneration of the auditors and to transact any other business.
- 17. The Directors may call General Meetings and, on the requisition of Full Members pursuant to the provisions of the Act, shall forthwith proceed to convene a General Meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient Directors to call a General Meeting, any Director or any Full Member of the Association may call a General Meeting.

²⁵ Adopted by Special Resolution passed on 15 February 2011

NOTICE OF GENERAL MEETINGS

18. An Annual General meeting and a General Meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other General Meetings shall be called by at least fourteen clear days' notice but a General Meeting may be called by shorter notice if it is so agreed:-
- (a) in the case of an Annual General Meeting, by all members entitled to attend and vote thereat; and
 - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together not holding less than ninety-five per cent of the total voting rights at the meeting of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting shall specify the meeting as such.

The notice shall be given to all the members and to the Directors and auditors.

19. The accidental omission to give notice of a meeting to, or the non-receipt of such notice by, any person entitled to receive notice thereof shall not invalidate any resolution passed, or proceedings had, at that meeting.

PROCEEDINGS AT GENERAL MEETINGS

20. No business shall be transacted at any General Meeting unless a quorum is present. Save as herein otherwise provided ten Full members personally present shall be a quorum.
21. If within half an hour from the time appointed for the holding of a General Meeting a quorum is not present, the meeting, if convened on the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, or at such other place as the Directors may determine, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the Full Members present shall be a quorum.
22. The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting, but if there be no such Chairman, or if at any meeting he shall not be present within fifteen minutes after the time appointed for holding the same, or shall be unwilling to preside, the Full Members present shall choose some Director, or if no Directors be present or if all the Directors present decline to take the chair, they shall choose some Full Member of the Association who shall be present to preside.
23. The Chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give such notice.
24. A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provision of the Act,

a poll may be demanded:-

(a) by the Chairman; or

(b) by at least three members having the right to vote at the meeting

and a demand by a person as proxy for a member shall be the same as a demand by the member

25. Unless a poll is duly demanded a declaration that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
26. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
27. A poll shall be taken as the Chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
28. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall be entitled to a casting vote in addition to any other vote he may have.
29. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the Chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if demand had not been made.
30. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

VOTE OF MEMBERS

- 31.²⁶On a show of hands every Full Member present in ²⁷person or by proxy shall have one vote. On a poll every Full Member present in person or by proxy shall have one vote. In the case of individuals admitted jointly under Article 6 of these Articles as a Full Member the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the others; and seniority shall be determined by the order in which the names of the individuals appear in the Register. No member save a Full Member shall be entitled to vote.
32. No Full Member other than one duly registered, who shall have paid every subscription and other sum (if any) which shall be due and payable to the Association in respect of his membership, shall be entitled to vote on any question either personally or by proxy, or as a proxy for another member, at any General Meeting.
33. A proxy must be a Full Member.

²⁶ Adopted in place of former clause by Special Resolution passed on 24 January 2000

²⁷ Amended by Special Resolution of the Association passed on 3 February 2009

I/We, of,
being a Full Member/Members of the Association, hereby appoint of
or failing him, of
as my/our proxy to vote in my/our name[s] and on my/our behalf at the Annual/General Meeting of
the Association to be held on 20 , and at any adjournment thereof

This form is to be used in respect of resolutions mentioned below as follows:- Resolution No. 1

*for *against

Resolution No. 2 *for *against

*Strike out which is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed this day of 20 "

39. A vote given or poll demanded by proxy shall be valid not withstanding the previous determination of the authority of the person voting or demanding a poll unless notice of determination was received by the Association at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

OFFICERS

40. A President may be appointed for life (or for such term as specified by the General Meeting at the time of his appointment) at an Annual General Meeting. The appointment may be revoked at any time by ordinary resolution of the Association in General Meeting.
41. The Directors may recommend to an Annual General Meeting that the office of Vice-President shall be created and that Vice-Presidents who shall number not more than fifty at any one time, may be elected. Vice-Presidents shall be elected annually at the Annual General Meeting on the recommendation of the Directors, shall hold office for one year but shall be eligible for re-election.
42. Subject to the provisions of the Act the Secretary shall be appointed by the Directors for such period at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by them. The Directors may from time to time, if there is no Secretary or no Secretary capable of acting, by resolution appoint an Assistant or Deputy Secretary who shall be deemed to be the Secretary during the term of his appointment.
43. A Treasurer may be appointed by the Directors for such period at such remuneration and upon such conditions as they may think fit and any Treasurer so appointed may be removed by them.

DIRECTORS

- 44.³¹ Until otherwise determined by a General Meeting, the number of Directors shall not be less than seven nor more than thirty-five.

³¹ Adopted in place of former clause by Special Resolution passed on 9 February 2004

- 45.³² Only a Full Member of the Association shall be eligible to hold office as a Director
46. Subject as provided by the next following Article the Directors may from time to time and at any time appoint any Full Member of the Association as a Director, either to fill a casual vacancy or by way of addition to the Directors, provided that the prescribed maximum be not thereby exceeded. Any member so appointed shall retain his office only until the next Annual General Meeting, but he shall then be eligible for re-election. Such a Director shall not be taken into account in determining the Directors who are to retire by rotation at the meeting. If not re-elected at the meeting, he shall vacate office at the conclusion thereof.
- 47.³³ The Board of Directors shall consist of at least one representative from each area branch, the extent and number of which shall be determined by the Directors from time to time. Each Director shall be responsible to the Board of Directors for the administration of the branch within the area in respect of which he is elected. In filling any vacancy the Directors shall appoint a Full Member from the area in which the vacancy has occurred.
- 48.³⁴ No person who is not a member of the Association (of whatever category) shall in any circumstances be eligible to hold office as a Vice President of the Association

POWERS OF DIRECTORS

49. Subject to the provisions of the Act, the Memorandum and these Articles and to any directions given by special resolution, the business of the Association shall be managed by the Directors who may exercise all the powers of the Association. No alteration of the Memorandum or these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles and a meeting of the Directors at which a quorum is present may exercise all powers exercisable by the Directors.
50. The Directors may, by power of attorney or otherwise, appoint any person to be the agent of the Association for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.
51. The continuing Director or Directors may act notwithstanding any vacancy in their body; provided always that in case the Directors shall at any time be or be reduced in number to less than the minimum number prescribed by or in accordance with these Articles, it shall be lawful for them to act as Directors for the purpose of admitting persons to membership of the Association, filling up vacancies in their body, or of summoning a General Meeting, but not for any other purpose.
52. The Directors may from time to time make byelaws for the regulation of the affairs of the Association and may amend or vary such byelaws at any time. Byelaws shall have the same force and effect as if they were contained in these Articles but where there is any inconsistency between these Articles and byelaws these Articles shall prevail.

³² Adopted in place of former clause by Special Resolution passed on 9 February 2004

³³ Adopted in place of former clause by Special Resolution passed on 9 February 2004

³⁴ Adopted in place of former clause by Special Resolution passed on 24 January 2000

INDEMNITY

- 53.³⁵ Subject to the Act, but without prejudice to any indemnity to which a Director may otherwise be entitled, each Director or other officer of the Association (other than any person (whether an officer or not) engaged by the Association as auditor) shall be indemnified out of the Association's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Director or other officer of the Association or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006) in the actual or purported execution and/or discharge of his duties, or in relation thereto including any liability incurred by him in defending any civil or criminal proceedings, in which judgement is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him relief from liability for negligence, default, breach of duty or breach of trust in relation to the Association's affairs.
54. The Association may buy and maintain insurance against any liability falling upon its Directors or other officers which arises out of their respective duties to the Association, or in relation to its affairs.

THE SEAL

55. The seal shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the secretary or by a second Director.

DISQUALIFICATION OF DIRECTORS

56. The office of a Director shall be vacated:-
- (A) If he becomes bankrupt or he makes any arrangement or composition with his creditors generally.
 - (B) If he becomes of unsound mind.
 - (C) If he ceases to be a Full Member of the Association.
 - (D) If by notice in writing to the Association he resigns his office.
 - (E) If he ceases to hold office by reason of any provision of the Act or becomes prohibited by law from being a Director.
 - (F) If he is removed from office by a resolution duly passed pursuant to Section 168 of the Act.

ROTATION OF DIRECTORS

57. At the first Annual General Meeting and at the Annual General Meeting to be held in every subsequent year, one third of the Directors for the time being (other than the President and any Vice-Presidents) who are subject to retirement by rotation, or if their number is not a multiple of three then the nearest to one-third, shall retire from office.

³⁵ Added by Special Resolution of the Association passed on 3 February 2009

58. The Directors to retire shall be those who have been longest in office since their last appointment, or re-appointment. As between Directors who became or were last re-appointed Directors on the same day, the Directors to retire shall in the absence of agreement among themselves be selected from among them by lot. A retiring Director shall be eligible for re-election.
59. The Association may, at the meeting at which a Director retires in manner aforesaid, fill up the vacated office by electing a person thereto from the area in which the vacancy occurred, and in default the retiring Director shall, if offering himself for re-election, be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office, or unless a resolution for the re-election of such Director shall have been put to the meeting and lost.
60. No person not being a Director retiring at the meeting shall, unless recommended by the Directors for election, be eligible for election as a Director at any General Meeting.
61. The Association may from time to time in General Meeting increase or reduce the number of Directors and, determine in what rotation such increased or reduced number shall go out of office, and may make the appointments necessary for effecting any such increase.
- 62.³⁶ In addition and without prejudice to the provisions of Section 168 of the Act, the Association may by Special Resolution remove any Director before the expiration of his period of office, and may by an Ordinary Resolution appoint another qualified Full Member in his stead; but any person so appointed shall retain his office so long only as the Director in whose place he is appointed would have held the same if he had not been removed.

PROCEEDINGS OF DIRECTORS

63. The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum as necessary for the transaction of business. Unless otherwise determined, five shall be a quorum. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the Chairman shall have a second or casting vote.
64. Each Director shall have power to appoint any Full Member of the area branch which he represents to be a Director in his place for any period or successive periods not exceeding six calendar months each and at his direction by instrument in writing to remove such alternate Director and on such appointment being made the alternate Director shall (subject to the express provisions of these Articles) be subject in all respects to the terms and conditions subsisting with reference to the other Directors of the Association. An alternate Director shall be entitled to vote at meetings of the Board of Directors in the place of the Director appointing him and the Director so appointing shall not be responsible for the acts and defaults of the alternate Director so appointed. Such appointment shall take effect on notification being given to the Secretary of the Association of such appointment whether by lodging with the Secretary an instrument in writing in the following form or otherwise provided that where notification is not given by lodging such an instrument the appointment shall nonetheless be effective provided that confirmation in writing be lodged with the Secretary within 7 clear days of such notification being given.

³⁶ Amended by Special Resolution of the Association passed on 3 February 2009

“I,

A Director of the above named Association, in pursuance of the power in that behalf contained in the Articles of Association of the Association, do hereby appoint

of

to act as alternate Director in my place for a period of from

and to exercise and to discharge all the duties of a Director of the Association in my stead.

Signed this day of 20 "

Any instrument removing an alternate Director shall take effect upon being lodged at the office.

- 65.³⁷ On the request of any three Directors the Secretary shall summon a meeting of the Directors by notice served upon the several Directors. A Director who is absent from the United Kingdom shall not be entitled to notice of a meeting.
- 66.³⁸ The Directors shall from time to time elect from the Board of Directors a Chairman and a Vice-Chairman and may determine for what period they are to hold office. The Chairman, or in his absence the Vice-Chairman, shall be entitled to preside at all meetings of the Directors, but if no such Chairman or Vice-Chairman be elected or if at any meeting neither the Chairman nor the Vice-Chairman is present within five minutes after the time appointed for holding the meeting and willing to preside the Directors present shall choose one of their number to be a Chairman of the meeting. The Chairman and the Vice-Chairman shall be ex-officio members of the Board of Directors, provided that the Vice-Chairman shall only be entitled to vote (except by the exercise of a casting vote as Chairman) at meetings of the Directors if there is no other representative of his Area Branch or if the representative of his Area Branch is absent and has duly appointed him as an alternate Director.
67. A meeting of the Directors at which a quorum is present shall be competent to exercise all the authorities, powers and discretions by or under the regulations of the Association for the time being vested in the Directors generally.
- 68.³⁹ The Directors may delegate any of their powers to committees consisting of such Director or Directors as they think fit, and any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations imposed on it by the Directors. The meetings and proceedings of any such committee shall be governed by the provisions of these Articles for regulating the meetings and proceedings of the Directors so far as applicable and so far as the same shall not be superseded by any regulations made by the Directors.
69. All acts bona fide done by any meeting of the Directors or of any committee formed by the Directors pursuant to Article 69 of these Articles or by any person acting as a Director, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director, or a member of a committee duly formed by the Directors.
70. The Directors shall cause proper minutes to be made of all appointments of the Officers made by the Directors and of the proceedings of all meetings of the Association and of the Directors and of

³⁷ Adopted in place of former clause by Special Resolution passed on 24 January 2000

³⁸ Adopted in place of former clause by Special Resolution passed on 9 February 2004

³⁹ Adopted in place of former clause by Special Resolution passed on 9 February 2004

committees formed by the Directors pursuant to Article 69 of these Articles, and all business transacted at such meetings, and any such minutes of any meeting, if purported to be signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting, shall be evidence of the proceedings.

71. A resolution in writing signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors; but a resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

AREA BRANCHES

72. The Directors may in their discretion and under their direction organise the membership of the Association into area branches for closer liaison and ease of administration, and may re-organise the Area Branches as desirable from time to time, and in the absence of a representative approved by the Directors elected by members within an Area Branch shall appoint a Director from the Board who shall be responsible for the administration of each Area Branch and for causing proper books of account to be kept with respect to:-

- (a) All sums of money received for or expended by the Area Branch. (b) All sales and purchases of goods by the Area Branch.
- (c) The assets and liabilities of the Area Branch.

Each Area Branch shall also be responsible for making proper returns for taxation purposes to the relevant taxation authorities in respect of the Area Branch funds, property and assets, the Area Branch being responsible for all liabilities incurred in respect thereof.

- 73.⁴⁰ Area Branches shall have the following powers:

- (i) To appoint an Honorary Branch Chairman and Honorary Branch Vice Chairman each of whom shall be a Full Member of the Association and it shall be permissible for more than one of the individuals admitted jointly under Article 6 of these Articles to be appointed to these honorary positions. Further the Area Branch may appoint any individual (whether a member of the Association of any category or not) as administrative officers such as branch treasurer or branch secretary and further to form Committees (within its own membership and otherwise) and to liaise with other branches to form joint committees.
- (ii) To arrange and hold local meetings for the purpose of conducting the local affairs of the Association.
- (iii) To pay the expenses of such Officers and meetings in accordance with the directions from time to time of the Directors.
- (iv) To collect subscriptions due to the Association from members of the Association in their Area, if so instructed by the Directors.

⁴⁰ Adopted in place of former clause by Special Resolution passed on 24 January 2000

- (v) To receive local area subscriptions from members for Area Branch funds and to organise meetings, functions, social events or otherwise obtain revenue for Area Branch Funds, all such funds to be independent of the Association and not within its control.
- (vi) To utilise Area Branch funds for such purposes as they in their discretion see fit.

ACCOUNTS

- 74. No member shall as such have any right of inspecting any accounts, records or other book or document of the Association except as conferred by statute or authorised by the Directors or an ordinary resolution of the Association.

NOTICES

- 75. Any notice to be given to or by any person pursuant to these Articles shall be in writing except that a notice calling a meeting of the Directors need not be in writing.
- 76. A notice may be served by the Association upon any member, either personally or by sending it through the post in a first class prepaid letter, addressed to such member at his registered address as appearing in the register of members.
- 77. Any member described in the register of members by an address not within the United Kingdom, who shall from time to time give the Association an address within the United Kingdom at which notices may be served upon him, shall be entitled to have notices served upon him at such address, but, save as aforesaid, and as provided by the Act, only those members who are described in the register of members by an address within the United Kingdom shall be entitled to received notices from the Association.
- 78. Any notice, if served by first-class post, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office as a first-class prepaid letter.

DISSOLUTION

- 79. Clause 7 of the Memorandum of Association relating to the winding up and dissolution of the Association shall have effect as if the provisions thereof were repeated in these Articles.

Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 25a Carmarthenshire County Council

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?

Carmarthenshire does not have a great amount of mobile home sites and most are relatively well maintained and managed with the exception of a few. Although, the majority of sites are of a satisfactory standard the current legislation and standards are somewhat outdated and need to be looked at which this Bill achieves. The Caravan Sites and Control of Development Act does allow for the regulation of standards on sites and council officers do have the discretion to implement additional conditions on the site licence or vary them accordingly. What's more important is the way in which sites are managed which councils under the current pieces of legislation find it difficult to regulate particularly when it comes to contractual arrangements between resident and site owner. It is refreshing to see that this has been included in the Bill. From our experience, such sites are occupied by vulnerable or elderly groups of residents and are somewhat exposed to 'underhand' tactics by the site owner. They are also exposed to unnecessary conditions in their contractual agreements that causes a huge amount of stress and anguish. Individual agreements need to be fair and the site residents need be fully informed of their contractual rights and how to seek assistance. The new Bill takes steps to addressing this and ensuring fairness. There is a good opportunity here to tie up several pieces of legislation relating to Mobile Homes in one Bill. Initial thoughts on the Bill suggests that it will allow local authorities will be able to regulate the sites in their districts more effectively and allow for collaborative working between local authority departments i.e. public health, licensing, trading standards and planning. Currently the different pieces of legislation means that departments work in isolation and that there is little sharing of information. In turn, this will allow for a more consistent approach in dealing with Mobile Home Sites. In addition to the above there is also an opportunity here to revisit the penalties or fines upon prosecution for not complying with the conditions. As it currently stands the maximum fines imposed for breaches under the Caravan Sites and Control of Development Act are minimal and therefore do not act as a significant deterrent for site owners. Under the current legislation should a site manager be convicted of an offence on three separate occasions then the licence may be revoked, but the reality is that they will set up under a different company. The 'fit and proper person test' should take care of this. On the whole, we are happy to support the principles of the Bill and the content and see it as a good opportunity to bring what is fairly old legislation up to date. Also, when considering the research undertaken by Consumer Focus Wales and the identification of 92 Mobile Home Sites in Wales, the licensing regime shouldn't come at any additional burden to local

authorities and really should complement the enforcement work that is already done.

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

As stated in the policy context the preferred choice of occupation for over 3400 households in Wales is to live in Mobile Homes. The majority of those households are people of a vulnerable age, on low incomes and could possibly be taken advantage of by unscrupulous site owners. For far too long owners of the sites have imposed harsh conditions on their residents particularly around contractual agreements. This Bill takes huge steps in trying to control that by introducing some clearly defined legislation around the purchasing and selling arrangements between owner and resident. Sale blocking is often a problem that officers encounter but find it extremely difficult to enforce against. Standards on Mobile Home Sites have never really been an issue, especially here in Carmarthenshire. Setting up licence conditions for standards and ensuring that they are maintained is a fairly straight forward process. The stumbling point has always been the management of the site and the low fines imposed for breaches of the licence conditions. Site owners regularly flaunt their responsibilities knowing full well that authorities are reluctant to prosecute against them because of the costs involved and the relatively low fines. This Bill takes into account this fact and the introduction of higher fines and fixed penalty notices will act as a significant deterrent for site owners. Likewise, the introduction of the 'fit and proper person test' is very useful tool to use against site owners when discussing the possibility of prosecution, revoking of licences and possibly taking over the management of sites for not being a fit and proper person.

3. In your view, will the licensing and enforcement regime established by the Bill be suitable?

The argument made by Grant Shaps following the Communities and Local Government Select Committee in 2011 that comparisons shouldn't be made between HMO licensing and Mobile Home Licensing are completely unjustified. We would agree that many things in Part 2 of the Housing Act 2004 could be laid out better but the principles of the both the Act and the Bill remain the same, that is, better regulation of sites through licensing, the introduction of fit and proper person test, ability of enforcing authorities to impose additional conditions that don't only include physical standards and significant penalties for breaches. The licensing regime has proven to be quite successful in improving standards of management, however, there is very little evidence available to suggest that HMO licensing has contributed to a significant reduction in anti social behaviour. Quite honestly, because of the types of occupants on the site it is unlikely that ASB is going to be a big problem other than a couple of isolated incidents.

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

This question has been answered elsewhere in the response, however, the general view is that all site owners need to prove that they are fit, proper and competent to manage a Mobile Home Site. The 'fit and proper person test' will be a fundamental part of the new Bill and will prove to be very useful to local authorities in the way in which they regulate site. As part of the application process the authorities need to ensure that they request details of all senior officers if sites are owned and managed by a limited company. Where prosecutions are taken local authorities need to prosecute against directors, company secretaries or equivalent to avoid that person setting up another company under a different name and continue to run sites in the same unscrupulous ways.

5. Are the amendments to the contractual relationship between mobile home owners and site owners which would result from the Bill appropriate?

The Bill appears to afford occupiers/consumers an effective mechanism for gaining redress when residing at unlicensed sites. However as is the case in any civil action, the occupiers success in pursuing such an action will ultimately depend upon the site owner's financial viability. This is also obviously an issue when pursuing an order against a limited company. It may also be prudent to reflect/incorporate aspects of, or at least the ethos behind the Unfair Terms in Consumer Contracts Regulations 1999 in any prospective codes of practice/management regulations. e.g. to cater for the retention of deposits in sales of homes on sites etc.

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

It is not anticipated that the Bill will place an additional burden on site owners or that they will have to vary the site standards or the way in which it is managed that significantly. The Bill is likely to make their practices far more transparent and for local authorities and site residents this is a good thing but will cause some inconvenience for site owners as they adapt to the changes especially around the contractual issues.

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?

The RPT has proven to be a fast effective process when dealing with matters in relation to the Housing Act 2004. This process needs to be replicated in this Bill to ensure that site owners have an easy, low cost way of challenging decisions made by local authorities. Although, local authorities don't want to be embroiled in tribunal cases this allows any contentious matters to be discussed at an early stage which can only be beneficial to the owners, enforcing authority and site residents.

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

It is difficult to foresee any potential barriers to the implementation of the scheme. Local authorities have a duty to enforce the provision of the Caravan Sites and Control of Development Act and the Mobile Homes Act anyway, therefore, this will complement and bring together all pieces of legislation. There may be some resistance or discontent from site owners because of the fees imposed but realistically the amount of revenue that they receive from operating such sites will far outweigh the cost of the fee's. The likelihood is that owners will express their disgruntlement when the Bill is first imposed and when local authorities collect their fee's but will then be soon forgotten. From experience residents and residents associations are unlikely to object to the implementation of the Bill, what they may request is that more regulations are imposed on site owners (what those may be, who knows).

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.

The Bill as it stands now should satisfy the majority of issues encountered when regulating mobile home site. However, Welsh Ministers need the flexibility to introduce regulations, orders and directions in order to keep the Bill effective and current for as long as possible. Before making such orders or regulations there needs to be a review on the effectiveness and the impact of the Bill and how sites will compare to before it was introduced. As mentioned previously in this response there is a need for consistency. One of the main criticisms of Part 2 of the Housing Act 2004 which deals with the licences of Houses in Multiple Occupation is that it allowed local authorities to develop their own individual schemes to deal with the private rented dwellings in their area. Inevitably schemes varied from one authority to another and landlords with properties in two

adjoining local authorities would get confused with all the different variations.

Part 2 of the Act was set up with this in mind because of the different housing markets in each local authority and therefore allowed for that inconsistency. The consistency came with how authorities came to that decision not the fact that all schemes should be the same. Welsh Government again has an opportunity to set up 'codes of practice' in advance of the new legislation, standardised forms and fee's so that all local authorities use the same methods when licensing sites. Should Welsh Government have a defined fee structure for all authorities to use as this would make it far more transparent and less justification would be required from us if we set up the fees ourselves. Clear guidance is also required on how to determine a 'fit and proper person' and how to deal with Ltd companies. It may also be appropriate to request as part of the licence application that a copy of the contractual agreement between resident and owner is supplied. Under the Housing Act 2004 we cannot interfere with the tenancy agreements submitted but it may be appropriate in this case that we are able to have some leverage over the content of the agreements to ensure the terms and conditions are favorable to both parties.

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.

From a local authority perspective the financial implications can only be positive. We have a mandatory function to inspect and enforce conditions on the site, therefore, it is unlikely to come at an additional cost. The recouping of some of the costs involved through the licence fees and fixed penalty notices can be seen as a positive. The fee's do however, need to be proportionate to the time and resources invested by the local authority (possibility an incremental fee structure depending on the size of the site). When the Housing Act 2004 was introduced and local authorities particularly in Wales were empowered to adopt additional licensing schemes it was feared that many landlords would turn their backs on the business and remove the property from the private rented sector.

Although we haven't seen a huge increase in homelessness in Carmarthenshire due to this many newer landlords have shied away from renting properties out as HMO's because of the additional licensing scheme imposed. We don't believe that this would be the case for licensing of Mobile Home sites because they tend to be well established and the annual revenue for site owners would far outweigh the licence

costs. Having a five year licence for a 'nominal fee' will have very little if any effect financially for site owners.

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

No response

Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 25b Carmarthenshire County Council

Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee



To: Local Authorities

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

10 December 2012

Dear Colleague

Thank you for providing written evidence to the Communities, Equality and Local Government Committee's Stage 1 scrutiny of the Regulated Mobile Home Sites (Wales) Bill. During the course of our scrutiny, we have heard evidence about the potential impact of the Bill on local authorities, who will have duties under the Bill to administer, monitor and enforce the new licensing regime.

We would be grateful if you could let us know whether there is anything that you would like to add to your previous written consultation response in respect of the following questions:

1. What financial impact would the Bill, if it were to become law, have on local authorities?

It is not anticipated that this will have any negative financial implications for local authorities, in fact it is likely to be quite the opposite. Carmarthenshire County Council currently runs a proactive inspection program for all Caravan and Mobile Home Sites throughout the county which incurs costs and a proportion of our resources each year is allocated to this area of work. The introduction of charging for licences within the Bill will ensure that some of the costs incurred by local authorities will be recuperated and resources can be adequately placed to deal with proposals of the Bill. The regulation of caravan sites tend to sit under the

Housing Enforcement Sections of the authority and the vast changes in Housing Legislation and increasing housing demand over the past couple of years has seen this element of work pushed to one side. Through introducing a charging structure for Mobile Home Licensing will enable local authorities to prioritise the work for their regulation better and ensure that each and everyone meets minimum standards and are managed well.

2. The Committee has heard evidence that the provisions relating to local authority collaboration in the Bill as drafted do not go far enough, and that local authorities should be required to collaborate. Do you have any views on this?

Collaboration on a regional level we do not think is appropriate due to the relatively small numbers of Mobile Home Sites involved. In terms of collaborative work within the local authorities themselves, there needs to be a lot more communication between departments i.e. Housing Enforcement Team, Planning Services, Trading Standards, Housing Benefit, Council Tax etc. At the moment it seems that departments and officers work within their own individual areas and do not share information.

Several Site owners own and manage sites in different local authorities therefore it is important to share information especially when determining whether or not a person is 'fit and proper'. Landlord Accreditation Wales have a specific section for local authorities where they can update details about a person/ landlord i.e. prosecutions etc.

3. The Committee has heard evidence about who the fit and proper person test should be applied to. In your view, what would be the preferred option, and what might the unintended consequences be of applying the test to:
 - site owners;
 - site managers; or
 - both?

The fit and proper person test should be applied to all persons involved in managing the site. The consequences of not applying it in this way could mean that sites are managed by persons who not appropriate to do so. The unintended consequences for site operators could be that they do not pass the fit and proper and that they wouldn't be able to manage the site themselves which they have done for years. However, just because they have managed sites for years doesn't make them good managers.

As stated in the previous consultation, the 'fit and proper person test' must include an element whereby the owner/ manager demonstrates their competency and a

duty to maintain their knowledge of management through continual professional development.

4. Are local authorities adequately equipped, in terms of resources, capacity and expertise, to monitor and enforce the new licensing regime in accordance with the duties they will have under the Bill?

As stated above authorities should already regulating these site by way of a proactive program and the additional revenue that will be generated through charging for licences every 5 years will enable enforcement teams to claw back some of the cost.

5. What are your views on the power under the Bill to issue fixed penalty notices, and is £100 an appropriate level?

The fines under the current legislation for breach of conditions is so minimal that it acts as no deterrent for site owners. Being able to issue fixed penalty fines will allow officers to deal with breaches quickly, recover costs and build up a stronger case for prosecutions for persistent no compliances.

6. In your view, is there a need under Part 4 of the Bill for Welsh Ministers to introduce a management code of practice (section 28) **and** management regulations (section 29)?

Yes- clear guidance is required to ensure that all local authorities operate such scheme consistently and that standards and management are kept at a minimum acceptable level.

7. Is there a risk that some site operators might apply to change the use of their sites as a result of the Bill, and if so, when site operators apply for change of use from home park to holiday park, should they be asked to provide reasonable evidence that the home owners on the site have primary homes elsewhere?

Difficult to say. However, in saying that, running a mobile home site is extremely lucrative and asking owners to licence site for a nominal fee is not likely to influence their decision whether or not to continue operating as it is, sell or change use to a holiday site. The likelihood is, that site owners will feel a bit disgruntled at the start but overall we do not anticipate that site owners will withdraw from the business.

From experience, this happens far too often in the private rented sector, whereby the officers serve landlords with enforcement notices to undertake works and then that landlord, instead of doing works, serves his tenants with a notice to end the

tenancy in retaliation for reporting it to the authority. It is therefore, vitally important that if the owner decides to change the use of the site or end it that he/she provides valid justification for doing so and that it should be determined in County Court. For an owner to decide on this course they must be fully aware that they are likely to be in breach of their contract with the resident and ultimately it will be for a court to decide whether they can or cant do it and how will the residents be compensated. This could also place a huge burden on local authorities in terms of re-housing vulnerable, possibly disabled occupants, in suitable, appropriately adapted properties. This is something which we would be keen to avoid

8. What, in your view, are the priorities for transitional arrangements, and should such arrangements be reflected on the face of the Bill, or contained in subordinate legislation?

The release of any codes of practice for local authorities to implement and manage the scheme needs either coincide with the date that the new legislation is released or before. This will then allow for the scheme to be implemented as quickly as possible without the need for a lead in period. Any lead in period to allow site owners to licence their sites should be included on the face of the Bill and ideally no longer than 6 months from its introduction.

If possible, it would be helpful to receive your response by close of business on Monday 17 December.

Yours sincerely

A handwritten signature in black ink that reads "Ann Jones". The signature is written in a cursive, flowing style.

Ann Jones AC / AM
Cadeirydd / Chair

**Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 26 Scotchwell Residential Park**

**RESPONSE OF DECEMBER 2012 TO NATIONAL ASSEMBLY FOR WALES
CONSULTATION ON THE REGULATED MOBILE HOME SITES (WALES) BILL
(Communities, Equality and Local Government Committee)**

RESPONSE FROM:

**S Llewellyn (residential park owner/operator)
Scotchwell Residential Park
HAVERFORDWEST
SA61 2XE
scotchwell@onetel.net**

I would like to provide members of the CELG Committee, with the following observations, which I hope they will find helpful when considering the Bill.

Introduction

We have been owners and operators of our residential park since 1964 – when we set it up. The third generation of our family is now involved in the business, and we would like to see it continue to operate as a family owned park for generations to come. We only operate the one park and live adjacent to it. We have a full residential licence for up to 56 homes. We currently have 44 homes upon the park – all of which are owned by their occupants – who pay us a weekly ground rent/pitch fee. Our residents are a mixture of ages, and include families, working people, and retired couples. The occupant who has been on the park the longest first moved to us over 40 years ago. Many of our residents tend to remain on the park for 10 years plus.

The Unique Nature of Parks

We are concerned by the categorisation by lumping together of residential parks with houses in multiple occupation (HMOs,) and the proposed ‘cut and pasting’ of HMO criteria and legislation. Both the residential park concept and the park owner/park resident relationship is unique, and different from the traditional landlord/tenant relationship which exists in the rental property market, or for HMOs. If new legislation and a new regime is deemed necessary, it should be tailor made, in recognition of this.

Sale Blocking & the Pre-Sale Process

In our 47 years’ experience, we have seldom raised objections to a proposed ‘sited sale’ (ie. where the seller wishes to sell the home to a person who wishes to take up residence in it, and enter into a Park Agreement with us.) However, it is important to note that homes which are to be sold ‘sited’ need to be of an acceptable age, condition and value - to ensure that park standards are maintained. We would seek to object to a ‘sited sale’ in instances where we were aware that the potential purchaser had a history of debt or anti-social/bad neighbour behaviour – and were thus more likely to breach the terms of the Park Agreement and become problem clients for us, or problem neighbours for our existing residents.

Legislation should not prevent sale blocking. Used responsibly it is a tool which enables us to operate a well run park and to maintain the standards, which attract residents to live with us in the first place. We are very concerned about the proposals to remove the park owner’s right to veto a prospective purchaser (or any suggestion that the onus should be upon him to apply to a Residential Property Tribunal regarding this point.) If we can give an example, at present, if somebody expressed interest in purchasing a home on the park, and we were aware that they had been evicted from a council-

owned property for anti-social behaviour, we would say that they were unsuitable as a prospective resident. However, were the new proposals adopted we would be robbed of the right to veto them, and would probably balk at the prospect of applying to a RPT in case we lost, and incurred significant costs - and maybe also faced being sued by the seller for damages arising from a loss of 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 we would be stuck with a new resident that we'd known from the outset wouldn't fit it... but were then expected to try and 'police' using the terms of the Park Agreement. There is no doubt that we and the neighbours would also have to seek assistance from the Local Authority Environmental Health team. It is a daunting prospect for a park owner to be faced with the suggestion that they should play no part in the pre-sale process, be compelled to enter into a Park Agreement with a party with whom they do not wish to deal, and subsequently bound to deal with them as residents on a daily basis. Such 'arranged marriages' will inevitably cause difficulties further down the line. Were landlords of HMOs compelled to accept every tenant who applied for a tenancy in their property, we anticipate that the number of HMO properties available to rent would very quickly diminish.

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 will probably 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 LA Environmental Health teams. The current legislation and Park Agreement outlines the recourse available to a home owner, in the event that he feels approval has been unreasonably withheld.

We do not feel it is necessary for seller, potential purchaser and park owner to all meet at one appointment – and in some cases this would be impractical (eg. Where the seller has relocated abroad, and appointed an Estate Agent to advertise the 'sited sale' of the home.) However, we feel it is crucial that the park owner and any serious potential purchasers meet before any sale is agreed – as it gives them the chance to 'get the feel' for one another, discuss the Park Agreement, and what will happen if there is an agreement between all parties to proceed with a sited sale.

It is our practice to ask existing residents to advise us if they wish to sell their home 'sited.' We then advise them in writing whether or not we agree with this suggestion –and if we agree in principle, we remind them of the relevant terms within the Park Agreement. Once they (or their Estate Agents) have found a serious potential purchaser we make an appointment to meet with them. At this meeting we provide them with a copy of the Park Agreement to take away and peruse, and we exchange questions and concerns. Following the meeting, we advise the seller (or their Estate Agent) in writing, whether not we 'approve' the person as a potential resident upon the park – and if so, remind them of their obligations (we suggest within the letter that a copy is also passed to the potential purchaser.) This arrangement seems to work very well and provides sufficient clarity to avoid confusion or dispute further down the line.

Succession and Inheritance

We reiterate our earlier concerns regarding our need to ensure that potential purchasers/residents will not threaten the quiet enjoyment of our existing residents, and would seek to retain our ability to 'approve' a person who acquires the home via a Will or the rules of intestacy where he is not already resident on the park.

Local Authority Inspections – Frequency & Associated Costs

We would be happy to be inspected by the LA on a yearly basis – but anticipate that on a well-operated park such as ours this would generate unnecessary work for the LA staff... who are already visibly stretched. We would suggest that the LA reserved the right to inspect and advise yearly – but were allowed to apply their knowledge of the park and park owner, and free to elect to inspect parks with greater or lesser frequency. This would allow them to apportion more time to parks on which they needed to keep a closer eye, without wasting valuable time and resources doing ‘box ticking’ exercises on parks with which they were already happy. It should not be forgotten that it also falls upon LA staff in holiday areas to inspect a large number of holiday parks – so their workload is already significant.

The financing of inspections should come direct from the Welsh Government budget, as the proposed regime will require more manpower – and we would not wish to see the costs of these borne by an already stretched Local Government budget. We would strongly object to being asked, as park owners, to fund this cost. However, were this the case, we would expect the WG to include a provision for us to pass on this cost to residents (either via an appropriate increase in Ground Rent/Pitch Fee or as an additional charge.) That said, we are not in favour of the principle of either park owners or park residents being asked to fund greater bureaucracy... which will be superfluous in many cases.

Were the Welsh Government to issue guidance on the frequency and nature of such inspections (which we are not convinced is necessary) we would suggest that it is formulated in conjunction with our industry representatives, and is issued as ‘guidance’ only, and not made mandatory.

Matters included within any licence conditions should typically address issues of safety and public health. At present, park owners are able to have park rules (re: dogs, children, operating businesses, construction of sheds, porches, garages, etc.) Licensing conditions should cover the bare bones needed for public health and safety, but should not seek to over-regulate, or seek to make all parks identical. Again, we would suggest that any standardisation of licensing conditions should be formulated in conjunction with our industry representatives.

It is crucial that if new licensing conditions are to be imposed upon existing parks, it is acknowledged that existing park layouts cannot be changed or altered with any degree of speed. By example, when our site licence was first issued, the average home was 8 foot wide. Single width homes are now typically 12 foot wide. Recommended safe distances between homes (fire safety consideration) have also increased. This has meant that as old homes have gradually been removed from the park we have had to shuffle spacing to accommodate the increased space requirements. As old homes are not moved en bloc, but taken out one by one as residents vacate the park, the task becomes even more challenging. We have ‘lost’ some of our original plots because of this. We anticipate that new park homes will be sited on the park for 20 years. They are bricked in and walled around, and often placed between existing homes. Residents often do significant work to their gardens. We would not expect to be asked to adjust the layout of these homes until they were removed from the park... and were we to ‘lose’ plots as a result of these requirements, we would expect to be granted a variation of our licensed layout plan, which enabled us to re-site our ‘lost’ plots elsewhere upon land on or immediately adjacent to our park.

Shelf-Life of Licences

Careful thought would have to be given as to whether licences should have a standard ‘shelf-life’ and whether LAs should be able to grant shorter licences if necessary. It is important to remember the capital outlay invested by both the park owner and the park home purchaser. Thought should be given as to what will happen to residents if licences are for fixed periods, and are then not renewed. In most 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 or left un-renewed, 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.

It should not be forgotten that park owners are operating businesses. Should they need to fund the development of their business by borrowing from a bank, they are highly unlikely to be able to secure funds if they are unable to prove that their licence (and their business) has a long term future.

There could be value in a LA being able to grant licences for shorter periods in instances where new residential parks are granted planning permission. However, it is our understanding that (perversely, bearing in mind the housing shortage in Wales) policy does not encourage the creation of new parks, so we cannot see that this would be much used.

Licensing Fees & Charges

We are against the suggestion that LAs should be able to charge fees for licensing residential parks, or to levy a regular annual charge to cover on-going administrative costs. This smacks of an elaborate money-making exercise and encapsulates our earlier concerns of greater bureaucracy at the expense of the business owner, and to the benefit of few.

If parks are being charged an annual charge and residents are paying Council Tax this is ‘double dipping’ – and also fosters the idea that people who live on residential parks are not entitled to be treated in the same way as those who live on housing estates in regular bricks and mortar properties. (Incidentally, our residents were delighted when we were able to change our name so that it read ‘Scotchwell Park’ instead of ‘Scotchwell Residential Caravan Site’ – so references to ‘parks’ rather than ‘sites’ would be very much appreciated!)

However, were an annual fee/charge introduced, its calculation formula would need to be arrived at in consultation with our industry representatives. We would like to point out that park income is generated per pitch, and we would not like to see a fee based on total area of park – as this would discourage park operators from including green space and generously sized plots.

When a resident moves onto our park we enter into Park Agreement with them – within which they agree to their payment of a ground/rent pitch fee. The Park Agreement also details the procedure and rules governing increases to this sum – and the fact that we are allowed to pass on additional costs that result from legislative changes. It would be unreasonable for the Bill to seek to negate this Agreement. It is also unrealistic to assume that park operators would be able to finance these sums themselves.

When considering the ‘cost of parks to LAs’ it should be remembered that most parks fund their own lighting, road and sewerage systems and maintain their own grounds. These are costs that the LA does not have to meet – but our residents do not have their council tax reduced accordingly. It is interesting

to note that at present, the street lighting in our town is switched off between midnight and 5am... whilst we continue to leave our park street lights on for the safety and welfare of our residents.

Fit and Proper Person Test

We have no objection to the suggestion that site operators must pass a fit and proper person test before being granted a licence. We would suggest that the formula for the test be arrived at in consultation with our industry representatives.

The fit and proper person test is seeking to establish that the park operator is likely to be just, honest, capable and reasonable in his running of his business. Apart from criminal convictions, a known history of contraventions of landlord/tenant law and breaches of environmental health related legislation could also be relevant. However, we would suggest that each application would need to be considered on its merits.

Fines and Penalties

We have no objection to a proposed increase in the level of fines, provided that they are fairly applied to obvious cases of deliberate breach only. Further, actual fines should reflect the potential seriousness of the condition breached (for example, a minor administrative failing should not incur as large a fine as a breach which possibly jeopardises the safety of residents.)

If LAs are given power to issued Fixed Penalty Notices, they should be asked to do so only in instances where they park owner is persistently refusing to engage or co-operate with them. We would not like to see a situation whereby FPNs are being used as a source of easy revenue by LAs. It should be remembered that both park operators and LA officers are trying to do a job, and if a good working relationship is established this works to the benefit of all – we would not wish to see FPNs jeopardising this... or officers being ‘encouraged’ to serve FPNs without discretion or the authority to apply their knowledge of the park and the park operator to each situation that they find.

Local Authority Powers to serve Enforcement Notices and carry out Work in Default

We think any power of the LA to serve enforcement notices and carry out work in default should be limited to instances of repeated and flagrant breach, and where the continued breach of the relevant condition would place the residents at significant risk of serious harm. However, we would be interested to know how happy the LAs themselves are to take on this responsibility.

Revocation of Site Licences

A site licence should only be revoked in cases of last resort – where there have been repeated and flagrant breaches of licence conditions by the park operator, that are such that they place the residents at significant risk of serious harm.

We reiterate our earlier observations that it is important to remember the capital outlay invested by both the park owner and the park home purchaser. Thought should be given as to what will happen to residents if licences are revoked. In instances where a park was known to be ‘bad’ it is hard to envisage finding a person willing to purchase, operate and ‘rescue’ it – particularly in light of extensive legislation and the possibility of significant fines and personal liability in the interim.

We would envisage a plethora of potential practical difficulties involved in the taking over of a park by the LA, or its management by the residents. It should not be forgotten that many people move onto parks in later life, after downsizing, and because they want an easier life – we anticipate that many of

our residents would balk at the prospect of being asked to take over the management of the park were our licence revoked.

Internal Alterations to Homes

Whilst we agree that home owners should be able to make some alterations and improvements inside their home (provided that they own it) without requiring the consent of the park operator, there are some items which we should continue to be able to refuse – eg. Installation of solid fuel fires/heating systems, or subdivision of home to facilitate a greater number of sleeping occupants than those for which it was originally designed.

External Alterations to Homes

Having operated our park since the 1960's, and moved away from a regime whereby residents sought to, and made significant external alterations to their home – we can say with confidence that to erode the park operators control in this area would be a real step backwards in the industry. Unfortunately, what is deemed 'appropriate, in good taste and of quality workmanship' can be a subjective – and unless the park operator has clear authority in this area, it will provide a definite source of conflict and disagreement – to the detriment of both the park owner and residents. The Park Agreement, which residents agree to abide by when they move onto the park is clear on this point. As it stands, residents are clear that the home that they purchase (or live next door to) will not alter significantly from the outside – no extensions will be built on, or allowed to crowd the plot, it will not be painted a garish colour or creatively cladded. Those who purchase a second-hand home which is sited on the park know that it has not been subject to amateur or sub-standard DIY. It is important to remember that many people who move onto parks appreciate the additional clarity provided via the Park Agreement - particularly the knowledge that there are limits to what their neighbours can and can't do. From experience, significant alteration of the exterior of homes by residents also presents difficulties to the local Environmental Health team – as residents inadvertently jeopardise their own safety, and that of those around them.

For the reasons outlined above, we would deem it fair and reasonable to refuse residents permission to alter the exterior of their home visibly, beyond acceptable changes in paint colour and the construction of appropriate skirting beneath the home.

Financial Impact of the Bill (and knock-on effects)

We do not feel able to accurately estimate the financial impact of the proposed Bill on ourselves or our business at this stage. However, we have no doubt that the value of our business as a saleable asset, and the attractiveness of it as a viable business option to a potential purchaser (should we wish to sell it) will be drastically reduced. Should the Bill bring about shelf lives for Park Licences, and consequent insecurity for both park owners and residents, this will completely undermine the unique park owner/resident relationship – and have a negative impact on the security and financial viability of the park, and the value of the resident's home. We feel it to be completely unrealistic to defray all costs associated with this Bill to the park owner.

We fear that many existing reputable park owners will exit the industry, and that there will be few would-be park owners coming forward in view of the potentially profound financial impact resulting from the Bill. Further, few will choose a long term business venture via which they find themselves bound indefinitely into 'arranged marriages' with multiple residents. The loss of park owners will lead to the gradual decline in the number of residential parks and plots in Wales. This would be a great shame, when it is an acknowledged fact that residential parks provide an attractive and affordable

housing choice for many people – particularly those who are older or on fixed income - and thus more limited in finding affordable and suitable properties to purchase.

6th December 2012

Answers to consultation questions.

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?

No. The English Bill being discussed is more fit for purpose and would keep a level playing field across the whole of the UK. This is yet more ad hoc legislation and will lead to companies such as our's, managing sites in England and Wales, having two sets of rules to abide by.

The existing licensing regime is quite capable of covering all licensing matters.

The rest of the matters being considered amount to management issues which could be dealt with by introduction of a separate Welsh management license if necessary.

There is already legislation in place to deal with bad practice in the industry, or for site license breaches, it is simply not used. Local authorities should be directed to enforce the law more thoroughly where necessary.

There is already enough red tape without separate laws in Wales to those in the rest of the UK.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the explanatory memorandum?

The explanatory Memorandum states as the objectives,

5. This Bill has a number of objectives. Firstly, to introduce a new licensing regime for mobile home sites and to give local authorities sufficient powers to enforce that regime. This will include ensuring that site owners and managers pass a fit and proper person test, modelled on the test that already applies to Houses in Multiple Occupation (HMOs). The Bill will also give the Welsh Ministers powers to approve a code of practice with regard to the management of sites as well as powers to make management regulations. Additionally, the Bill seeks to modernise a number of aspects of the contractual relationship between mobile home owners and site operators, including changes to the process by which homes are bought and sold.

These objectives seem to be easily broken down into 4 parts,

1. A new licensing regime.
2. A fit and proper person managers/owners test.
3. Codes of management and powers to enforce them.
4. Changes to contractual arrangements by alterations to the 1983 Mobile Homes Act.

We do not believe that there is any necessity for a new licensing regime in Wales.

The existing licenses issued by local authorities in Wales cover most of the purely licensing matters being discussed in the draft Bill. Even if they did not, local authorities already have the power to put into an existing license under the Caravan Sites and Control of Development Act 1960 any extra conditions which they consider necessary. If Welsh Ministers feel this necessary why not simply issue local authorities guidance on a set of standard conditions.

From our own experience, local authorities Issuing licenses to sites we manage are already covering the issues which seem to be causing the concerns raised in the bill and memorandum. For instance, licenses are now placing conditions on the management and upkeep of all communal areas on sites, the placement, number and maintenance of fire fighting equipment, the requirement for adequate lighting, etc. Most of the spacing and amenity requirements are standard across the UK and are included in the current licenses.

Quite simply, the licenses are already there and the local authorities have the necessary powers, through a variety of legislation, to enforce them. If they are not, then maybe all that is required is direction and education of the local authorities.

What is being proposed in this Bill is mostly a duplicate of the role of the existing license regime, with new management conditions and a fit and proper person test.

Why then the need for a new license? Why not simply a new managers/operators license, separate to the existing license laying down the general conditions on a site, which would cover the fit and proper person test and the management standards required by Welsh Ministers?

This would be a much more sensible, easier and cost effective way of ensuring that the objectives of the bill are met and would completely cover the aims at points 2 and 3 above.

We will deal with the contractual issues at the appropriate question below.

Recommendations.

- Leave the site logistics to the existing licensing regime, updated if felt necessary, and have a separate management license, with fit and proper person test, particular to the person applying, not the site, which covers all sites under that persons management/control thereby cutting costs and bureaucracy caused by multiple identical applications.
- Give the local authorities powers to enforce license conditions against residents of sites causing breaches. This would cut out claims of harassment for site owners genuinely trying to force compliance.
- Promote the idea of local authorities making licenses include any problems with individual plots and putting in place mechanisms for these problems to be dealt with upon sale, gifting or long stop dates, as with [REDACTED]. This would inform potential purchasers of problems with a pitch they were proposing to occupy when they viewed the license, and would again cut out claims of sale blocking when site owners were genuinely trying to inform incoming tenants of any problems.

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

As drafted the Bill will create two licenses which will overlap and duplicate conditions. If a separate license is to be created it should deal with management issues only and be specific to the owner/manager and cover multiple sites in the same ownership/management.

Why should the applicant have to go to the expense of applying for multiple licenses, giving the same information to local authorities to obtain the same license multiple times?

Problems with the Bill as drafted which we have noted are as follows,

Part 2

5. Requirement for regulated sites to be licensed.

(2) A licence under this Part (a "regulated site licence") is a licence authorising the stationing on the site of no more than the maximum number of mobile homes specified in the

licence.

The numbers allowed on a residential mobile home site are dictated by the planning consent and the current model standards for licenses under the Caravan Sites and Control of Development Act 1960. If a site has permission for a number of homes which will not fit under the model standards the owner already has to limit the numbers by law.

There is no need to legislate further it is simply a matter of the local authority checking spacing distances on new sites and taking appropriate action against the owners.

In the case of older sites where homes do not meet the spacing requirements the local authority already have the power to either take immediate action or to put in place mechanisms for the breaches to be rectified at set dates, as was the case at [REDACTED].

6. Application for licenses.

(3) The application must be accompanied by—

(a) a standard written statement to be given to occupiers of the site under section 1 of the 1983 Act,

(b) a statement of any rules (whether or not forming part of the agreements to which the written statement referred to in paragraph (a) relates) which are to govern the conduct of persons residing on or visiting the regulated site,

(a) & (b). The tone of the entire licensing regime as drafted seems to imply that there may be some sort of right for residents or the local authority to alter the content of agreements or site licenses. The contents of the agreements and rules set the tone for the running of the park and purchasers have every chance to read them and take independent advice if necessary before purchase, whether it is a new home or pre-owned home. If they do not want to be bound by these terms, which are for the smooth running of the site, and benefit the residents, then they need not buy and can look elsewhere.

This is extremely dangerous, and a step too far for owners of residential mobile home parks. What seems to be being proposed here is a chance for occupiers to re write the site rules and agreements which they have entered into. This could mean that there are different rules for different occupiers on a park making management almost unworkable. We would go as far as to say that if there was any interference, or efforts to enforce changes to what are legally binding agreements between the owner and occupier there would be legal challenges. It would also completely undermine the right of a site owner to manage their site as they would not have the right to set the regime on what is a privately owned property.

(c) evidence as to any consultation that has been carried out with—

(i) occupiers of mobile homes positioned on the site,

(ii) prospective occupiers of mobile homes to be positioned on the site,

(iii) representatives of the persons referred to in sub-paragraphs (i) and (ii), in relation to the terms of the statements referred to in paragraphs (a) and (b).

(c) This is nonsense. What is there to consult on? The owner/manager is simply applying for a license to run the site. There is already a mechanism in place in the 1983 Act which lays down the procedure for changing the rules and the agreement is already a legally binding contract between the 2 parties, which has been beefed up with regard to occupier's rights several times over the past few years.

How can you possibly consult with prospective occupiers? How are you supposed to know in advance who your customers will be?

(d) specify the maximum fees which may be fixed by an authority for the purpose of subsection (6) (whether by specifying amounts or methods for calculating amounts),

6(3) (d). We see no reason for the fee to be set by plot numbers. The same checks on the fit and proper person tests will apply however many plots there are. The same inspections will be necessary on whichever site and in general the thrust of the new licenses seems to be the general state of the park, for example, condition of roads and communal areas. The fire fighting equipment, street lighting and the like are already checked under the current licensing regime and it seems that there will be very little extra work required.

There is a proposed fee of £100 per pitch per license. This equates to £14,500 for a site the size of [REDACTED], a very substantial fee, which would be payable every five years if the Bill is adopted in its current form.

It is notable that Vale of Glamorgan Council already carries out site inspections every 12 months free of charge, and reports any failings directly to the site owners/managers. What is now suggested By Consumer Focus Wales is that the local authority carry out these visits once every 30 months, which equates to £7,250 per visit, hardly good value.

There should be a flat rate fee per site, or more practically, a small, or no fee, and a much more robust power for local authorities to punish serious breaches of the license and bad practice for the few rogue owners in Wales. This could go along the lines of an initial breach notice with spot fines followed by prosecution with higher fines for those site owners who either did not comply, or appealed and showed good reason why they should or could not. This would punish the few bad owners not the majority of good owners/managers who would, if the draft is carried pay very substantial fees for no gain whatsoever.

7. Grant or refusal of license.

(3) The matters are—

(a) that the site is reasonably suitable for the stationing of not more than the maximum number of mobile homes mentioned in subsection (5) or that it can be made so suitable by the imposition of conditions under section 10,

(5) The maximum number of mobile homes referred to in subsection (3)(a) is—

(a) the maximum number specified in the application, or
(b) some other maximum number decided by the authority.

(3) (a) & (5) (a) & (b). As explained above, there is absolutely no need for the local authority to be involved in the numbers allowed on sites. There are already mechanisms in place which regulate this.

8. Tests as to suitability for the stationing of mobile homes.

(1) The site licensing authority may not be satisfied for the purposes of section 7(3)(a) that the regulated site is reasonably suitable for the stationing of a particular maximum number of mobile homes if it considers that the site fails to meet prescribed standards for the stationing of that number of mobile homes.

(2) But the authority may decide that the site is not reasonably suitable for the stationing of a

particular maximum number of mobile homes even if the site does meet prescribed standards for stationing of that number of mobile homes.

(3) In this section "prescribed standards" means standards prescribed by regulations which must be made by the Welsh Ministers.

This seems to propose an open ended power for local authorities to make the law up as they go along as this will mean a completely different set of model standards in Wales in comparison with the rest of the UK. This may have very far reaching effects on the value of parks in Wales. What are the "prescribed standards" and are these not covered under the 1960's license.

9. Tests for fitness etc. and satisfactory management arrangements.

We have no problem with there being a fit and proper test in the legislation.

It should be noted that the management of a residential mobile home park is not that complex. In general it is simply ensuring that the site runs smoothly. We manage 3 sites in Wales and the work consists of visiting the parks on a regular basis to check that the gardening contractors are keeping the park tidy, that the roads are clean, etc.

We also liaise with occupiers who have specific problems, such as a blocked drain, or just need advice.

There are no daily tasks and there is absolutely no need for an on-site manager.

When it comes to sales, whether the customer is purchasing a new home from the site owner or a pre-owned home from the occupier, we make sure that they are made fully aware of the agreement which they will be entering into, the site rules which are the same for everyone, including the over 50 rule, and the site license. At the earliest opportunity we send them copies of the agreement, site rules and site license and advise them that if there is anything contained in the documents which they do not understand they should seek independent legal advice.

(c) whether any proposed management structures and funding arrangements are suitable.

9 (5) (c) It is hard to see where funding arrangements are necessary. If the owner has further legal obligations put upon him which he can't fund he will have to sell the site.

10. License conditions.

(1) A licence must include conditions requiring the licence holder—

(a) to abide by the terms of any agreement to which section 1 of the 1983 Act relates,

(b) to enforce any rules of the kind referred to in section 6(3)(b) above,

(c) to ensure that copies of—

(i) the licence,

(ii) the standard written statement referred to in section 6(3)(a), and

(iii) the rules referred to in section 6(3)(b)

are at all time prominently displayed at a place on the site which is readily accessible to occupiers,

(1) (c) (ii) What is "the standard written statement"? Does this mean the written statement which is given to residents of that site, or some other written statement which will become necessary to be given?

On a practical note, the documents listed as needing to be prominently displayed amount to a considerable number of pages. A notice board required would need to be very large and there may not be room on a particular site to station such a board. Would it not be practical to have a notice pointing out that anyone proposing to live on the site should view these documents and letting site visitors know where these documents are available to view, possibly at the local authority offices as they will now be holding these documents, or on line.

(3) Those conditions may, in particular, include (so far as appropriate in the circumstances)

(a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the site by persons occupying it;

(3) (a). This seems to be aimed at stopping site owners making applications to develop communal areas of a site. There should be no control over what parts of a site are used for occupation as this is dealt with under planning law when an application is made. We cannot see where the local authority should have any extra power to stop any part of a site with the relevant planning consent from being used.

(c) conditions requiring facilities and equipment to be made available on the site for the purpose of meeting standards prescribed by regulations made under section 29;

(d) conditions requiring such facilities and equipment to be kept in repair and proper working order;

(e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;

(c), (d) & (e) appear to be duplications of site owner's obligations under the current law and 1960's licensing regime.

11. Licenses; general requirements and duration.

Following the committee meeting of 14th November during which Peter Black AM took questions from the scrutiny committee there became the possibility that there may now be 2 licenses required in Wales. We do not see why?

There is already enough red tape and regulation without now having to hold two licenses for one site.

If this is to be the case much of the substance of the Bill with regards the license and its intended content seems to already be covered in the existing licenses under the 1960 Caravan Sites and Control of Development Act. Is it proposed that the site license conditions, such as separation distances, permitted numbers and the like are to remain in the existing license? If they are it appears that what are left for the new license are management issues. We fail to see why these can't be simply put into the existing license and made specific to sites in Wales. If there are to be two licenses, which will take precedence? If there are to be two licenses is the license fee to be for the new license alone, as the existing license is already detailed and free of charge?

Surely any new conditions can be consolidated into the existing license, with, if necessary, a separate fit and proper manager's license being required to manage a site in Wales.

There would not then be the need for a new license for each site an owner or manager manages as the management license could cover multiple sites.

- (6) That period must not end more than 5 years after—**
(a) the date on which the licence was granted, or
(b) if the licence was granted as mentioned in subsection (4), the date when the licence comes into force.

11 (6) Why an end date for a license which is held by the same owner/manager who made the original application? If the management of the site stays the same and there have been no serious breaches of the license conditions, why should the owners be required to pay for what will be a license renewal which will be a rubber stamping exercise? There is already an obligation on the owner/manager of a regulated site contained in the bill at **10 (1) (e)** to notify the local authority of any change of circumstances with regard to the original license application so any information required for the re licensing would already be known to the local authority who have the power to suspend the license should they see fit. This must be viewed as a money raising exercise for it has no other logical reason.

This could be replaced by a requirement that a new license be applied for in the event that the site changes ownership, or a new manager is appointed, or the existing license is revoked under section **(13)**. In the case of a new manager being appointed the suggestion of a separate management license would make sense which would negate the need for a full new license.

12. Variation of licenses

- (3) The authority may not vary a licence by varying the terms of the document referred to in section 11(2)(b) (insofar as the rules in question do not form part of the agreement or agreements referred to in section 6(3)(a)) unless—**
(a) there has been consultation on the terms of the proposed variation with—
(i) all occupiers of mobile homes on the regulated site, and
(ii) any qualifying residents' association in respect of the site, and
(b) it appears to the authority that a majority of the occupiers agree to the variation.

(3). As with 6 (3) this seeks to give the local authorities powers to alter existing legally binding agreements between site owners and occupiers and is not acceptable. There should be much more emphasis on prospective occupiers having sight, and if necessary legal advice, on the agreement, license and rules prior to purchase. If an owner wishes to include conditions in the agreement, or rules on the park which are not suited to a potential occupier they will have the right to purchase elsewhere. There needs to be protection for site owners to be able to set the regime on site which is, as stated, a private rental business.

- (4) Subsection (5) applies where the authority—**
(a) is considering whether to vary a licence under subsection (1)(b); and
(b) is considering what number of mobile homes is appropriate as the maximum number authorised to occupy the regulated site to which the licence relates.

(4) (b) See above **(5) (2)** with regards numbers. local authorities should have no power at all to vary numbers on sites. These are already regulated. There could quite simply be a maximum number of homes per hectare/acre included in the license as per model standards.

14. Register of licenses.

(1) A site licensing authority must maintain a register of regulated site licences relating to sites in its area.

(2) The register—

(a) must contain copies of all licenses currently in force, and

(b) must be available for public inspection at the authority's main offices during normal office hours.

There needs to be a mechanism put in place where prospective residents are required to see licenses, agreements and rules applicable to a site they are contemplating moving to. The register of licenses held by LDCs could be a very useful part of any such mechanism. There needs to be a safeguard written into the Bill to insure that occupiers selling a home are liable under the law for making purchasers aware of all the documents. Why can it not be a condition of the Bill that prospective purchasers must make contact with the licensing authority and see copies of the agreement, rules and license held by the authority? The licensing authority could also inform them of any licensing conditions which affect the home which they are contemplating purchasing. This would insure that the incoming occupier is aware not only of the obligations that they are to be bound by, but also any specific licensing issues which may affect the home which they are purchasing.

18. Execution of works by the licensing authority.

(1) If it appears to the site licensing authority that any works are required to be carried out to a regulated site in order to ensure compliance with any condition included in the licence relating to that site the authority may serve notice in writing on the licence holder requiring the licence holder to carry out the works in question, to the satisfaction of the authority, within such reasonable time as is specified in the notice.

We would hope that it does not become the norm for a site inspection to simply be followed by notices and fixed penalties. We have good relations with the LDCs which we operate under and would hope that the present situation, where any problems or issues are discussed informally first continues. This will offer site owner the opportunity to carry out whatever works are required prior to the expense of the notice.

19. Appointment of interim manager.

(1) If any of the cases mentioned in section 13(2) applies, the site licensing authority may, instead of revoking the licence, appoint an interim manager of the regulated site.

We cannot see how the licensing authority would have the necessary know how to appoint a manager. Where would the manager be found as there is not a ready supply?

23 Fixed penalties.

(1) If an authorised officer of a site licensing authority has reason to believe that a person has committed an offence under section 22(3) the officer may give a written notice to that person offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

Whilst we have no particular problem with a fixed penalty notice we do feel that it is not particularly well specified in the bill. If the licensing authority makes a site visit and finds, for instance, two street

lights not to be working and the grass on the common areas not to have been cut recently will that equate to 3 fixed penalties or 1 fixed penalty. This could be a green light to an authority wishing to raise cash through penalty notices and needs clarification.

It may be a better idea to specify that any minor breaches found during a site inspection are first informally notified, and then if not rectified all go onto one notice with one fixed penalty.

It should also be noted that most minor problems on parks are noticed by the occupiers who live there and reported to the site owner/manager. There are instances when we are not made aware of the problem, for example a street light not working, and have not visited the park in darkness and could not reasonably have known without being notified. The same applies to blocked drains and the like.

Recommendations.

- Numbers on a site should be left to the planning consent and the UK guidelines.
- There should be no powers for a local authority or site occupiers to alter existing site rules or legally binding agreements between site owners and occupiers, or between sellers of pre-owned homes and incoming occupiers.
- There should be small, or no fees for licenses. The expense of policing licenses should be raised by larger fines for license breaches by bad operators/owners, who are the people that the Bill is aimed at and the cause of the costs in the first place.
- There should be a separate license required to manage/operate sites in Wales which should include the fit and proper test and management issues and should be specific to the applicant, not individual sites.
- There should be no requirement to renew a license at all where a park remains in the same ownership or under the same management. The license should only require renewal when a site changes hands. The requirement to pay fees for a license when nothing has changed on a site is simply an unfair expense.
- Local authorities should be given powers to give fixed penalty notices, or ultimately prosecute, occupiers of sites who are breaching license conditions directly. This would be in line with the powers local authorities can take against tenants of HMOs under the HMO licensing regime.

4. Are the Bill's proposals for a fit and proper person test for site owners and operators appropriate, and what will the implications be?

We can see no specific issues with regards the fit and proper person test other than that we believe that they should be part of a separate management license.

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?

Amendments to the Mobile Homes Act 1983 – Schedule 1 (introduced by section 27).

Part 1, Chapter 2 of schedule I proposed amendments

"8A(1) This paragraph applies in relation to a protected site in Wales.

(2) The occupier shall, subject to sub-paragraph (3)(b), be entitled to sell

the mobile home, and to assign the agreement.

8 (2) We fully support the Bill's aim to stamp out the bad, and already illegal, practice of sale blocking. This is a blight on the good name of our industry.

It must be noted, however, that many prospective purchasers pull out of a purchase when they are given copies of the site license, site rules and occupation agreement. This is equally true for sales of new homes by site owners as it is with pre-owned sales by occupiers of sites.

This can be for a variety of reasons including conditions in the occupation agreement which do not suit the purchaser, such as the requirement to pay a commission when they sell, conditions of the site license such as not being able to place certain structures in certain area within the plot, or site rules which may not suit them such as age restrictions, commercial vehicle restrictions, pet restrictions and the like. I have had many sales on new homes fall through when prospective purchasers have viewed these documents as the regime on sites does not suit everyone. Giving prospective purchasers this information is not sale blocking, even though I have heard of instances where site owners have been accused of this when providing this information. Customers often pull out of the purchase of a house once they have all of the information. Likewise, customers often pull out of the purchase of a mobile home for a variety of reason, but it seems to be in fashion to blame a site owner/manager whatever the circumstances.

We believe that to simply allow the occupier of a plot to sell to anyone, apparently without the requirement to even inform the site owner or other park residents that they are selling is dangerous. During the Communities, Equality and Local Government Committee meeting of 14th November Peter Black Said that the responsibility for informing any purchaser of a mobile home of the site license, site rules and agreement would be down to the seller, yet there is absolutely no mechanism in the Bill for insuring that they do so.

From our own experiences at [REDACTED], as described in our introduction, if purchasers had been made aware of the site license conditions, and breaches, it is more likely than not that many of the residents who purchased homes, and then invested money in improvements, many of which exacerbated the problems, would not have done so. It is alleged that most sellers of the homes on [REDACTED] did not mention the license even though they quite clearly should have. If, on the other hand, the site owner had made the incoming purchaser aware of the licensing problems he would most probably have been accused of trying to block sales.

We had one situation at [REDACTED] where a seller introduced a potential customer and asked to be present when we met them. We allowed this and at the meeting we asked the purchaser if they were aware of the site license conditions, a copy of which was on the notice board. He glanced at the license and said he was. I asked him if he was aware that by purchasing the caravan he became liable for any existing problems. He told me that the seller had "told him all about it". He subsequently purchased the caravan and later, after finding out the reality of the licensing problems at the site, sold it to the site owners, loosing £13,000 in the process. He told us that he felt that he had been conned by the seller. We would have dearly liked to explain the effects of the license breaches to the purchaser prior to his purchase but felt that to do so would leave us liable to a claim of sale blocking.

It is a very fine line between sale blocking and making incoming occupiers aware of their obligations and any licensing or other problems which may affect the home which they are proposing to purchase.

We have never blocked a sale, but we have always made incoming residents aware of the terms of the agreement which they are going to be bound by, the site rules and any breaches of the site license which affects the property which they are proposing to purchase. This can include such things as an extension being fitted to the home which is not mobile. I do not believe that this is

wrong. Moreover, we believe that this is entirely ethical as you are making the incoming resident aware of their obligations. This is something that the Assembly need to think long and hard about as the present wording that allows a sale with absolutely no input from anyone but the seller, without the requirement of legal advice or contact with the site owner or local authority could have far reaching effects for the incoming occupier and other site residents..

It is not good enough to trust a seller in circumstances where they could scare off a buyer by making them aware of potential problems, or rules which might not suit them, contained in the agreement, rules or license. It is likely that there will be cases where a site owner/manager turns up on site to be greeted by a new resident, potentially ignorant of any of the incumbencies placed on them by the above documents.

Are the Assembly really suggesting that the site owner then tries to find the outgoing resident, who, in the vast majority of cases I have been involved in, do not give any forwarding address, in order to start a prosecution against them for miss selling? It is far more likely that the site owner will have to take court action against the new occupier, quite possibly for termination of the agreement.

We firmly believe that there needs to be a sensible mechanism put in place to insure re-sales are carried out without undue site owner interference, but with the incoming resident made aware of their obligations and the contents of the agreement, site rules and site license.

It appears likely that the local authority are now being required to keep copies of the Written Statement under the Mobile Homes Act 1983 (the agreement) along with site rules relevant to each park in its area, it would be easy to require that a potential buyer had to contact the local authority prior to purchase and to view, whether by e-mail, letter or by appointment at the local authority offices, the license, agreement and rules.

We can also see unintended consequences for residents of parks if this regime is brought in as many of the people on the parks buy them for the simple fact that there are age limits with no children allowed on most parks. If there is no safeguard put in place it will be almost impossible for park owners or managers to police this, and the other rules, such as no commercial vehicles allowed on sites, no working from sites, etc. which insure the other residents peaceful enjoyment of the parks.

(3) Where the occupier sells the mobile home, and assigns the agreement, as mentioned in sub-paragraph (2)—

(a) the owner shall be entitled to receive a commission on the sale at a rate not exceeding such rate as may be specified by an order made by the Welsh Ministers, and

(b) neither the sale nor the assignment are to have any effect until the owner has received the commission referred to in subparagraph (3).

(3) There is no provision for the recovery, or liability for outstanding fees owed to the site owner for pitch fees or periodic service charges by a seller. If the Bill proceeds as drafted there is not even the necessity for the seller to notify the site owner of an intended sale. The seller could simply vanish owing substantial amounts. Is the new owner to be liable for any debts the outgoing occupier leaves or should there not be a mechanism for the seller to pay any debts owed to the site owner prior to the buyer having any legal right to occupy the pitch.

Section 3 could include a new subsection **(c) neither the sale nor the assignment are to have any effect until the owner has received any unpaid pitch fees or service charges owed by the seller.**

(2) After paragraph 20(1) insert—

“(1A) In the case of a protected site in Wales, there is a presumption that the pitch fee shall increase or decrease by a percentage which is no more

than any percentage increase or decrease in the consumer prices index since the last review date, unless this would be unreasonable having regard to paragraph 18(1) above.

20 (1A) The move from RPI to CPI also has direct consequences for residents in that it will restrict the amount of money available for improvements to sites. It also means that rents on parks in England would increase at a higher rate than those in Wales, effectively devaluing parks in Wales. During the committee meeting of 14th November Peter Black said that the park home industry was a multi-million pound industry several times. This is a little irrelevant as there can be few entire industries that would not be classed as multi-million pound industries. This is no excuse for bringing in a regime which financially punishes the many good operators within the industry. Peter Black's assertion in the debate that there would be benefits to site owners from the bill due to more people wanting to live in park homes and extra pitch fees and commissions does not make sense. There will only be the same number of pitches in Wales whether or not the Bill is adopted in its current form. The pitch fees can't be raised even now without regard to the inflation rate and this will not change even if the management of poor sites improves. The same applies to commissions as there will be no extra homes sold because of the Bill. We are not aware of any new sites being granted planning consent in the last 10 years. Where is this supposed extra income going to come from? We can assure you, there will not be any.

(2) After paragraph 23 insert—

“23A(1) In the case of a mobile home stationed on a protected site in Wales, the owner shall not do or cause to be done anything—

(a) which may adversely affect the ability of the occupier to perform the obligation under paragraph 21(c) above or which may deter the occupier from making internal improvements to the mobile home or interfere with the occupier's ability to do so, or

(b) which may adversely affect the ability of the occupier to perform the obligation under paragraph 21(d) above or which may deter the occupier from making external improvements to the mobile home or interfere with the occupier's ability to do so.

(2) Sub-paragraph (1) does not authorise an occupier to carry out works to the mobile home which are prohibited by the terms of the agreement or by or under any enactment. Where the terms of the agreement permit works to the mobile home to be carried out only with the permission of the owner, that permission may not be withheld unreasonably.”

Para 23 Whilst we have no wish to block works to the interior or exterior of the mobile homes there needs to be safeguards to insure that denial for permission to carry out major changes to the mobile home, which may well affect its mobility, and thereby the site owners ability to exercise his rights under **Para 10** to be able to move the mobile home, are not deemed to be unreasonable. There also needs to be consideration given to the consequences of works carried out to a mobile home by its occupier which may affect its mobility or lifespan. Occupiers should be made liable for the consequences of any works carried out by them and it should not be the case that the site owner is liable in any way for these consequences, however far in the future that may be. It has been argued that a site owner gives implied consent for works which he may or may not have known were carried out by an occupier. It should be the case that if an Occupier does not obtain the necessary

written consent of the site owner for works, which is often the case, then no liability whatsoever should be placed on the site owner.

Recommendations.

- There is no mechanism in the Bill for a site owner to be paid any debts owed for pitch fees and/or charges for services from any outgoing seller of a mobile home.
Section 3 could include a new subsection (c) neither the sale nor the assignment are to have any effect until the owner has received any unpaid pitch fees or service charges.
- There needs to be a mechanism put in place to insure that any prospective purchaser must view the site license, site rules, and occupation agreement before purchase. This could be by making it a duty of the seller to direct the purchaser to the local authority who will be holding copies of the documents. The local authority can then let the purchaser view them in the council offices, by post or on-line. They could also give the prospective purchaser practical advice such as site license conditions which affect the home they propose to purchase, consulting a solicitor or Citizens Advice Bureau, etc.
- The site owner's right to meet prospective occupants of their land should not be taken away. There is already legislation in place in the Mobile Homes Act 1983 (as amended) to deal with sale blocking. It is simply not being enforced properly.
It could be a condition that any meeting between the seller, buyer and site owner is conducted before independent witnesses, possibly an officer of the local authority, a solicitor, Citizens Advice Bureau, etc.
- There should be no move from the RPI to the CPI to set pitch fees in Wales. This will affect the site owner's ability to fund improvements and cause a long term lowering of the value of parks in Wales to those in the rest of the UK due to the difference in rental income which this will cause. Maintenance costs on sites increase annually and usually by more than the CPI rate meaning that the income on sites will fall in real terms.
- There should be no liability whatsoever on site owners for the consequences of works carried out on a mobile home by its owner/occupier. Works of any kind should be at the liability of the occupier or their successors in title.
- Whilst sale blocking should be stopped the Bill does not safeguard the interests of the purchaser or other residents of a site. There needs to be a mechanism to insure that a purchaser is made fully aware of the obligations which come with the purchase of a mobile home on a protected residential site.

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

Site owners will be required to apply for a second license and at this point in time there is no certainty as to what the license details will be. It is hard to know what impact there will be as the Bill seems to be disjointed at present.

There will inevitably be a loss of income through the proposed change to CPI.

The Bill takes no account of how a sale of a pre-owned home by the seller is to be conducted and is seriously lacking in all kinds of detail. If more serious thought is not given to how sales are to be conducted there is absolutely no way that a site owner can be sure of such basic things as being told the correct sale price of a home so as to calculate commissions due. We have been involved in one

case where it was proved that the seller lied about the amount paid for a home they sold in order to pay less commission.

There will inevitably be extra expense to site owners by way of fees for licenses, cost of supplying information/references/business plans for fit and proper person tests which will squeeze the margins also.

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?

We have not been before a Tribunal and are not best placed to comment other than to say that it is hard to see how they would have the legal knowledge to deal with termination cases. In our own experience, there was only one judge in the Cardiff County Court who was senior enough to handle cases brought for termination.

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

We have pointed out barriers above but would add that if any move were made to alter the terms of existing agreements or change existing site rules legal challenges would certainly arise.

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)?

We do not believe that the Welsh Ministers should have any power to alter the commission rate on sales. The commission rate should stay the same across the UK so as not to make Welsh mobile home businesses the poor relation to English ones.

10. In your view, what are the financial implications of the bill? Please consider the scale and distribution of the financial implications.

There will inevitably be a loss of income through the proposed change to CPI.

The Bill takes no account of how a sale of a pre-owned home by the seller is to be conducted and is seriously lacking in all kinds of detail. If more serious thought is not given to how sales are to be conducted there is absolutely no way that a site owner can be sure of such basic things as being told the correct sale price of a home so as to calculate commissions due. We have been involved in one case where it was proved that the seller lied about the amount paid for a home they sold in order to pay less commission.

There will inevitably be extra expense to site owners by way of fees for licenses, cost of supplying information/references/business plans for fit and proper person tests which will squeeze the margins also.

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

Occupiers only or main residence.

As a final point, we believe there is a point which is not covered in this Bill. That is the obligation upon a mobile home owner on a protected site to use it as their only or main residence. This is to stop homes on residential sites being used as holiday homes and to safeguard other residents of sites.

There were several instances on [REDACTED] where the owners of caravans were not living in them, but living elsewhere. Some of these cases involved serious benefit fraud.

We spoke with our solicitors who advised us that to try to remove a caravan due to its owner not living there, and in these cases the owners had been away for very long periods of time, in one case over 4 years, was not even worth contemplating.

There was a high court ruling which concluded that it was a defence to move back to the caravan on the day of the hearing, or to say that you were going to move back in the future.

It may be worth considering legislation in this bill to regulate for this.



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7th December 2012

Helen Finlayson
Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Helen

RE: Regulated Mobile Home Sites (Wales) Bill

The Federation of Small Businesses Wales welcomes the opportunity to present its views to the National Assembly for Wales on the proposed Regulated Mobile Homes Site (Wales) Bill. FSB Wales is the authoritative voice of small businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with small businesses at a grassroots level. It undertakes a monthly online survey of its members as well as an annual membership survey on a wide range of issues and concerns facing small business.

Regulation

FSB Wales takes a keen interest in regulatory changes that affect small businesses in Wales. According to our *Voice of Small Business* survey, 34 per cent of micro, small and medium-sized enterprises in Wales point to the regulatory burden as a barrier to growth for their business. As such, FSB Wales would caution the National Assembly for Wales against introducing undue regulation that is not proportionate to the problem seeking to be addressed. Taking this into account, FSB Wales hopes the National Assembly for Wales approaches this issue in a way that seeks to promote good practice amongst site operators in Wales without punishing those who already provide high standards of management by ensuring the regulatory burden is proportionate.

Furthermore, FSB Wales believes the National Assembly should ensure the impact of Welsh Government decisions arising from the legislation are subject to detailed regulatory impact assessments. As a matter of good practice, the National Assembly for Wales should seek to legislate in an informed way in order to create regulation that works for businesses and solves the problems the regulation is tasked with addressing.

FSB Wales agrees with the general principles of the Bill and recognises that the current licensing regime has not been successful in encouraging good practice. However, there are a number of issues that should be addressed in the scrutiny process. Increasing the regulatory burden will serve only to make it more difficult and expensive to obtain a licence and may not prevent malpractice taking place, while causing disruption to genuine operators. Therefore, the wider issues must be considered in the round to ensure regulation is not seen as the only means of dealing with problems of bad practice.

The Bill as currently drafted

FSB Wales welcomes the fact that the Bill as currently drafted does not include holiday and touring caravan sites and is limited to park homes.

However, as currently drafted it does not provide clarity on the nature of the regulatory regime. A number of the regulations emanating from the legislation are left to the decisions of Welsh Government Ministers. FSB Wales believes that it would be more appropriate for the legislation to specify the nature of the regulatory regime on the face of the Bill in order to provide clarity to local authorities and businesses on how the regime should be implemented. In particular, FSB Wales would welcome further clarity on the likely costs of applying for a licence to ensure that any fees are proportionate and uniform to businesses across Wales' 22 local authorities.

Moreover, FSB Wales is concerned that there is not sufficient clarity around whether the new licensing system is designed to improve the quality of standards at sites or to enforce lawful behaviour. By coupling the licence fee with a fit and proper persons test, the Bill will introduce unnecessary uncertainty for tenants and business owners. If the licensing system is to increase the standards of park home sites, then the licence should be attached to the site and not the business owner. By linking the licence to the fit and proper person test, there is potential for malpractice of site management to place the viability of the business in jeopardy, at the expense of the tenants' rights.

Licensing regime

Whilst agreeing that a fit and proper persons test is necessary, FSB Wales would like to see the burden of proof for the test placed on the local authority rather than the business owner. This would entail the business owner being assumed a fit and proper person until reasonable cause to suggest otherwise can be given. By approaching the regulation this way, the impact on businesses who are already managing sites appropriately will be diluted. The alignment of the fit and proper persons test and the site licence should be examined closely, with the potential for separation explored.

Furthermore, the introduction of a time limited licence would lead to significant compliance costs for operators, including potential licence renewal costs. FSB Wales believes a more reasonable and targeted approach would be to deal with breaches in the licence conditions as they arise. This could be as a result of malpractice or a failure to maintain the required standards.

Enforcement

Whilst the Bill recognises the need for greater capacity within the licensing system to allow local authorities to act in cases of malpractice, it does not deal adequately with the performance of local authorities in terms of enforcement. FSB Wales would like to see local authorities in Wales enforcing the regulatory regime in a proportionate way that encourages good practice from the site owners.

Local authorities must be encouraged to collaborate where possible in order to consistently apply the licensing system in Wales. This would help provide clarity for site owners. Furthermore, licences should only be revoked following reasonable compliance requests from local authorities.

Implementation

Given the significance of such a change in the regulatory system for mobile home site owners, FSB Wales believes the National Assembly for Wales should ensure a reasonable timetable is put in place for the implementation of the proposals in the Bill. This would allow site owners time to comply with a more stringent regulatory burden and would also mitigate some of the cost implications involved in the new legislation.

I hope you find the comments of FSB Wales of interest.

Yours sincerely



Janet Jones
Wales Policy Chair
Federation of Small Businesses Wales

My name is Tim Jebbett
I am a resident on a park home site in Mid Wales.
Hereafter is my submission to the
Regulated Mobile Home Sites (Wales) Bill 2013

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?

Most certainly there is a need for this Bill. Presently, many sites are beset by poor management with potentially catastrophic collapse of infrastructure. Better licensing provision will empower local authorities to inspect and report on sites and then issue advice and instruction to an owner to bring the site up to standard, with financial penalties for non compliance with orders. Besides the obvious upgrade to the site itself, there would be spin-off improvements to the safety and security of residents.

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

Broadly speaking yes is the answer to this question but with the proviso that my responses to question 11 should be considered as part of this answer.

The Bill should remove the issue of sale blocking by eliminating the owner's veto. It will also clarify the issue of succession though not inheritance. What it will not address immediately is the scenario of bullying and intimidation which will be allowed to continue until the fit and proper person test is applied.

Also, there does not seem to be any measures to improve the "sanctity" of pitches, that is to prevent a site owner from entering a pitch at will with the expression "this is my land, I'll do what I want and go where I please". We pay a substantial amount for our pitch and it is our responsibility to maintain it and yet unlike conventional property law we do not gain title to the land while we pay for it; we have no right of "acquired ground".

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

The licensing regime seems to me to be suitable. The Bill will enable a licence for the **site** (which will remain in perpetuity) under the 1960 Caravan Sites Act, and a separate, new licence for the operator in which the **vital Fit and Proper Person clause** will be a part. The enforcement powers seem to be adequate on paper though the local authorities will need to adjust their staff responsibilities to cope. An example would be if there was a requirement to inspect an infrastructure facility such as electrics, sewers or a concrete base for a home, they would have to use their staff who are so qualified. Local authorities will already have experienced staff to undertake such roles. I am happy to see that local authorities will now have a DUTY to enforce their licence conditions and their ability to issue fixed penalty notices and to undertake themselves any works not carried out by recalcitrant owners at the owner's expense is definitely a step in the right direction.

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

I believe these proposals to be entirely appropriate and **very necessary given the apparent numbers of site owners/operators who are known to be neither fit, nor proper** to operate within the housing sector involving elderly and vulnerable people.

In addition to using the criteria for HMOs, an Enhanced CRB check would be desirable on paper but given that such checks may be legislated out of existence, their use may not be appropriate.

Possible implications of this legislation might be that an owner's licence is revoked, so that his/her local authority may be forced to appoint an interim manager as proposed. The site owner would possibly be obliged then to sell the site to a more suitable individual.

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?

A possible consequence of the removal of the owner's right to approve a buyer, might be a situation where unsuitable people are introduced onto the site. I am not convinced that a site owner is any more qualified than a resident to assess the suitability of a buyer particularly as the Bill provides for specific site rules (concerning age limitations, contractual responsibilities and whether pets are allowed for example) to be presented to a buyer by the seller prior to sale. In the event of say, persons who behave badly being brought onto a site unintentionally, there is an existing housing mechanism in place through the courts for a site owner to have them removed.

Re-siting is to be left to the RPT, this is appropriate (with the obvious exceptions for emergencies).

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

It is hoped that the Bill will eliminate the cult of the avaricious, absent and uninterested site owner whose only concern is for the monthly bills to be paid. The Bill should achieve a situation where sites are managed to an acceptable standard and are a safe place and a pleasure to live on. This will mean expense for owners to achieve this, but the relatively small additional cost of the new site licence should inflict little financial burden.

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.

Assuming that the owners' veto is removed there should be little for the Tribunals to do on behalf of residents. It will probably fall to Tribunals to decide on issues on behalf of site owners e.g. pitch fee disputes and re-siting issues. The RPT should **never** be given the right to evict a resident by termination of the Written Agreement, this must remain the province of the courts.

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

The barriers I can foresee are the reluctance of owners to implement the legislation provisions and a similar attitude in the corridors of the local authorities.

However, the powers for Welsh Ministers to make subordinate legislation, e.g.: directives and guidance, should eliminate most of the problems.

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)?*

The table given in the Explanatory Memorandum sets out the powers for subordinate legislation and this seems to interface satisfactorily with the provisions of the bill as presented.

10. *In your view, what are the financial implications of the Bill? Please consider the scale and distribution of the financial implications.*

It is stated (correctly) that no costs incurred by this bill should be passed on to residents. Any costs should be borne by owners out of turnover.

Take an example of a site with 90 units paying a pitch fee of say, average £100 per month, gives a turnover of £108,000 (£900 x 12) per annum. The cost of a licence fee will be proportional to the number of units on the park so as not to unfairly penalize small sites.

There will be costs incurred by the Welsh Government, however, response to that issue is beyond the scope of my understanding.

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

With regard to the following sections of the Bill:

Succession

Section 3 of the 1983 Act (**successors in title**) is amended

After subsection (4) insert—

“(5) In the case of a mobile home stationed on a protected site in Wales, subsection (3) applies with the following modifications—

(a) the words “at a time when he is occupying the mobile home as his only or main residence” are omitted, and

(b) the words “with that person (“the deceased”)” are omitted and the words “in the mobile home as that person’s only or main residence” are substituted.”

This clarifies the law on SUCCESSION but does nothing to improve the issue of INHERITANCE where presently, the only choice of anyone inheriting from a deceased person is to sell the home, it cannot become the inheritor’s residence and unbelievably he/she cannot even spend a night in the home since this presumably would be deemed to be “residing”. This bizarre situation arises from the fact that the site owner would not receive commission if the home and Agreement passed directly to the inheritor since there would be no sale. Whether an inheritor could “sell” the home to him/herself thus agreeing a commission based on market value might have been included in this part of the bill.

Qualifying Residents’ Associations:

In paragraph 28 insert:

(b) after paragraph (1)(e)—

“(ea) In the case of a protected site in Wales, its rules and constitution are open to public inspection and it maintains a list of members, an up to date copy of which has been lodged with the authority which is the site licensing authority for the purpose of Part 2 of the Mobile Home Regulated Sites (Wales) Act 2013.”

Whilst this section eases the problematic issue of providing the site owner with a list of members which is fraught with difficulties since an unscrupulous owner would pick on those he thought most vulnerable to pressure and “persuade” them to resign thus reducing numbers to the required 50 percent for qualifying status. However, the thorny question of “one vote per home” is considered to be undemocratic and discriminatory and should have been changed. Imagine the effect of this ruling on a General Election!

Fit and Proper Person Test And Removal of Owner’s Veto:

Section 7 (3)(b) “that the licence holder is a fit and proper person to be the owner of a mobile home site”

Amendment to the Mobile Home Act: Part 1, Chapter 2 of Schedule 1

para 8A(2) “the occupier shall be entitled to sell the mobile home, and to assign the agreement”.

The “fit and proper person” test for a SITE OWNER and the REMOVAL OF THE OWNER’S VETO are the two most significant aims of this Bill. If, for whatever reason, they are omitted prior to enactment, then the Bill becomes almost a worthless document and would be a complete waste of time, money and effort in its formulation.

Ann Jones AC / AM
Cadeirydd / Chair

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

7 December 2012

Dear Ann,

Thank you for your recent enquiry with respect to the Regulated Mobile Home Sites (Wales) Bill. The BBA have carefully considered your letter and have consulted with our members on the concerns you have expressed to us.

We note the suggested licensing changes seek to protect the mobile home occupants and facilitate straightforward transfers when the homes need to be sold, in addition to setting some minimum standards around inspections, all of which we welcome. We further advise that a number of bank lenders are able to provide finance for mobile homes and most commonly seek to do so over a 10 to 15 year period, though due to the nature and term of the site licence agreements and difficulties establishing ownership of the mobile home there are existing challenges associated with lending in this sector.

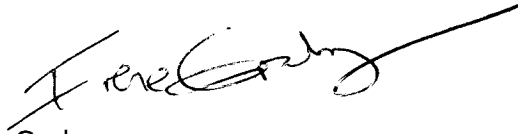
We are concerned that placing a 5 year licence restriction under the proposal could, negatively impact the ability of the industry to provide finance to the sector. Whilst each case would, of course be treated on its merits, the terms and conditions of any license will have a bearing on the risk of lending to the business in question. A change in the licensing arrangement that reduced the period over which repayment of finance would occur may result in concerns over affordability of the repayments. Given the obligation that banks have to lend responsibly, this may ultimately impact upon the availability of finance to the sector.

Furthermore, we do not believe that the impact is likely to be mitigated by a dual licensing regime under which an indefinite license was granted to a site, and a time limited personal license was granted to the owner and / or operator. With the site value alone providing limited security to a finance provider and when faced with a greater degree of uncertainty, we believe that such an arrangement would create further challenges to lending in the sector.

In summary, a number of bank lenders provide finance for mobile homes under existing licensing agreements. We are concerned that the proposals under the

Regulated Mobile Home Sites (Wales) Bill may have the unintended impact of making the provision of finance to the mobile home site sector more challenging, however would be pleased to discuss in more detail should you have further queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Irene Graham', with a long, sweeping horizontal line extending to the right.

Irene Graham
Managing Director, Business Finance

Direct line: +44 (0) 20 7216 8874



My Ref: CM23565

Date: 17th December 2012

Ann Jones AM
Welsh Assembly Government
Cardiff Bay
Cardiff
CF99 1NA

Dear Ann

Regulated Mobile Home Sites (Wales) Bill

Thank you for the opportunity to contribute to the scrutiny of the above Bill. As you have correctly indicated in your letter of the 10th of December Cardiff does not have a Mobile Homes site within its boundary. However I have replied to the questions you have posed, drawing mainly from our experience of other licensing regimes operated by the Council.

1. What financial impact would the Bill, if it were to become law, have on local authorities?

The financial impact will depend on how many sites a local authority has within its boundary. However, as with any new scheme additional resource will be required to establish the new arrangements, systems, procedures, train staff, publicise the requirements etc up front. A different level of resource will be required to implement and manage the scheme on an ongoing basis. It is possible that after the initial set up costs, the scheme could be self financing using the Licence fees. There are models available for costing this type of work such as the WLGA toolkit produced in advance of the implementation of the House in Multiple Occupation (HMO) Licensing scheme.

2. The Committee has heard evidence that the provisions relating to local authority collaboration in the Bill as drafted do not go far enough, and that local authorities should be required to collaborate. Do you have any views on this?

Additional staff will inevitably be required in certain areas. The question is whether this work is better delivered by staff based very locally with a range of responsibilities or potentially more remotely but with a higher level of expertise.

PLEASE REPLY TO: Cabinet Support Office, Room 529, County Hall,
Atlantic Wharf, Cardiff CF10 4UW
Tel (029) 2087 2598 Fax (029) 2087 2599



One of the models being discussed for the Welsh National Landlord Licensing Scheme involves central administration of the applications (using an on line application process) and delivery of site inspections through the 6 region model. This potentially allows additional resources to be made available on a 6 region basis.

Certainly collaboration in some form would bring benefits as it would allow a sharing of expertise across Wales and bring benefits in terms of economies of scale, consistency of approach etc.

3. The Committee has heard evidence about who the fit and proper person test should be applied to. In your view, what would be the preferred option, and what might the unintended consequences be of applying the test to:

- **site owners;**
- **site managers; or**
- **both?**

Again the HMO Licensing scheme provides a good model. This makes clear that the owner is likely to be the most appropriate person to hold the licence. In Cardiff we rigidly apply this. Only if we have concerns about the fitness and propriety of the owner or other factors do we consider alternative applications. In considering applications from anyone other than the owner we need to be satisfied of their independence and professionalism. This system works well in this context.

4. Are local authorities adequately equipped, in terms of resources, capacity and expertise, to monitor and enforce the new licensing regime in accordance with the duties they will have under the Bill?

Our reply is the same as for No. 1 above.

5. What are your views on the power under the Bill to issue fixed penalty notices, and is £100 an appropriate level?

The sum of £100 may not be a sufficient deterrent for some site owners, it could be useful for dealing with less serious offences.

Enforcement notice / works in default and prosecution are the methods currently being used by local authorities to deal with poor housing conditions and may be more appropriate, given the scale and nature of the work that would be required in some cases.

6. In your view, is there a need under Part 4 of the Bill for Welsh Ministers to introduce a management code of practice (section 28) and management regulations (section 29)?

Either a management code or management regulations should be sufficient, as long as it is comprehensive. To have the 2 documents would lead to confusion and would inevitably cover similar matters.

7. **What, in your view, are the priorities for transitional arrangements, and should such arrangements be reflected on the face of the Bill, or contained in subordinate legislation?**

Transitional arrangements are essential to allow existing sites the opportunity to plan and implement changes which could be costly. Clearly it would also be important to work with local authorities with a significant number of sites to draw up appropriate arrangements. There are examples of effective transitional arrangements in the Housing Act 2004, which were clear and fair, these may be relevant. Whether the arrangements are in the Bill or subordinate legislation is of no significance, as long as they are sufficiently detailed to provide the required clarity.

If you require any further information please contact Mrs Bethan Jones, Operational Manager, Public Protection, on 02920 871127.

Yours sincerely

Lynda Thorne

**Councillor Lynda Thorne
Cabinet Member (Communities, Housing & Social Justice)**