

# **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**