Communities, Equality and Local Government Committee
Regulated Mobile Homes Sites (Wales) Bill
RMHS 27 Maguire Holdings Limited

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.

Recomendations.

- **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 <u>all sites</u> 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,

<u>Part 2</u>

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 will 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 ██████, 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 ██████ 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 ██████ 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 Blacks 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 <u>must</u> 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 usualy 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 succesors 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.

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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 there 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 it's 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.