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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