

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.