

Communities, Equality and Local Government Committee
CELG(4)-18-14 Paper 4



Holiday Caravan Sites (Wales) Bill: consultation

**Response from the National Caravan Council (The NCC) to the Communities, Equality and Local Government Committee inquiry
23 May 2014**

Introduction:

1. The NCC (National Caravan Council) is the UK trade body for the touring, motorhome, holiday caravan and residential park home industries. Formed in 1939, the NCC represents a membership in excess of 550 companies engaged in the industry throughout the entire supply chain; manufacturers, retailers, suppliers and service providers, and operators of both holiday and residential parks.
2. The industry employs in excess of 90,000 people and services 1 million caravanners and over 330,000 holiday caravan owners across the UK. According to the Welsh Government Bedstock data, as at March 2013, in excess of 70 percent of tourism bedstock in Wales is provided by camping/caravanning (touring and static caravan) establishments; 399,124 tourist beds in 1,322 establishments.
3. According to a research study carried out by VisitWales on the holiday park industry in Wales in 2011, the economic impact of the holiday caravan and touring park industry in Wales has been calculated as a GVA contribution of £317m per annum, supporting 10,645 direct and indirect jobs in Wales and further employment sustained in other areas in the UK.

This response focuses on the six terms of reference outlined by the Committee:

General Principles and the need for legislation to modernize the regulatory framework for holiday caravan sites in Wales:

4. The NCC recognises and supports measures to modernise and streamline the holiday caravan sector which are relevant, proportionate and achievable. We have worked closely with Mr Millar and his team on the development of this Bill since May 2013 and welcome recent amendments, particularly in acknowledging our representations to present the proposed reforms in this Bill in

a sector-specific 'stand-alone' Bill.

5. Whilst there have been significant, pragmatic changes to the original Bill since its introduction, many serious concerns remain. We maintain it is essential that any regulation of the holiday caravan park sector that may follow:
 - does not attempt to apply to a vibrant and dynamic tourism business sector an inappropriate regulatory burden which has at its core a regime written specifically to address significant concerns in the residential mobile home sector
 - addresses proven evidence of abuse in the sector
 - allows the holiday parks industry to compete effectively and fairly
 - does not create a competitive disadvantage for holiday caravan parks in Wales
6. The NCC recognises the need for modernisation in the licensing regime and the application of existing industry best practice through clear and unambiguous written agreements and standards. The latter reflects the NCC's approach to raising standards and levels of customer satisfaction through its independently assessed *NCC Approved Holiday Park Holiday Home Ownership Scheme*, which has at its core a Code of Practice and clear, concise written agreements.

The parts of the Bill –

Licensing (Part 2)

7. It is recognized that the licensing regime in place for the sector would benefit from some modernization and streamlining to align it with a modern, dynamic tourism proposition. However, some of the measures proposed would, in the absence of an evidence base to justify the stringency of the measures, simply add a level of cost and bureaucracy and uncertainty to those investing and operating in the sector. In particular, the proposed level of fixed penalty notice (£500) for a breach – however minor – of site licence conditions is grossly disproportionate and has the potential to damage the important relationship between operators and local authorities.

Fit and Proper Person Test

8. The NCC strives to raise standards of professionalism and customer care within the industry, and many business operating in the holiday park sector are already subjected to a number of 'tests' imposed by regulatory bodies (FSA) and others to enable them to conduct business. Whilst there is no evidence of the abuses recorded in the residential sector to justify the imposition of a 'fit and proper person' test regime in the holiday sector, recognition of existing mandatory 'tests' together with the NCC Approved Holiday Park Holiday Home Ownership Regime (designed to set standards amongst holiday caravan parks) should be accepted by local authorities without the need for additional testing. This would remove the extra punitive cost to businesses (fees and management time which would far exceed the suggested cost of £100 per park) of applying for approval and re-testing of multiple park managers (particularly in the larger park group businesses), as they are deployed across parks, and as they move and progress within the individual business and group structures.

Residence Test (Part 3)

9. The proposed Residence Test reflects existing best practice in requesting, checking and recording holiday home owners' permanent home addresses. However, as drafted, it also presents a number of additional issues which in the round would not achieve the stated objective of '*addressing unlawful occupation of caravans*'. Insisting that it is performed every year adds unnecessary cost and administrative burden to park operations; requiring parks to report changes in use immediately without the flexibility to take account of extenuating circumstances (divorce or family bereavement) and to act sensitively and effectively through prescribed internal processes risks damaging the relationship between owner occupiers and the business.
10. Crucially the application of the Test to essential specialist and creative team-staff members employed on short-term fixed contracts will impact significantly on a park's ability to compete with other leisure/tourism businesses who already offer accommodation without such restrictions (hotels, cruise ships), and place holiday parks at a serious commercial disadvantage.
11. Such staff teams (comprised of up to 150 seasonal employees at any point in the year) are recruited nationally, and to retain their services and to accommodate the necessary shift patterns required by the business, accommodation on park is key. Employment contracts and HR files invariably carry personal details, including home addresses, so carrying out additional test appears duplicitous and invasive. Furthermore, to expect such staff to find accommodation locally, even if were available, would impose a drain on accommodation resources available to the local community which is both unnecessary and unacceptable.
12. Frequent and invasive testing would also challenge the relationship between holiday park business and their existing holiday home owners and may, in turn, prompt prospective holiday caravan owners to reconsider their options for investing their new-found leisure pound in tourism businesses outside the holiday caravan sector in Wales.

Holiday Caravan Agreements (Part 4)

13. The introduction of written agreements within the sector reflects industry best practice and is a core element of the NCC 'Approved Holiday Park' code regime.
14. Whilst we recognize that potential purchasers should have sufficient time to consider their potential investment and the rights and responsibilities of holiday home ownership, the requirement in section 55(3) which denies both the potential 'occupier' and the park owner the opportunity to shorten the period of time before the sale can take place (a mandatory 28 days) will have a devastating impact on holiday parks and their ability to compete effectively.
15. The industry model purchase agreement already provides for a minimum cooling off period (which already exceeds regulatory requirements and is often extended by park operators), and whilst some customers may require a longer period to finalise their decision, many want to complete the purchase at the earliest opportunity having made an informed decision with the benefit of all the paperwork in advance. Imposing a mandatory 28 day period without the opportunity to shorten the period with the agreement of both parties removes the consumer's freedom of choice, and will serve to frustrate and risk the failure of the transaction completely.

16. We do not believe it is Mr Millar's intention to restrict consumer choice, or holiday parks to compete effectively in the tourism/leisure accommodation market. Such a draconian measure will cause irreparable damage to the sector, fails to recognize the distinction between the holiday park sector and the residential sector and imposes a more onerous and prescriptive requirement than the relevant provision enacted in the Mobile Home Act (Wales) 2013.
17. Park businesses remain deeply concerned about the requirement for consultation under Section 56(3) (e) on all 'significant' operational matters, where 'significant' remains undefined. In addition to adding further costs and administrative burden to the operation, lengthy and complex consultations would impact on their ability to evolve and develop their businesses at the speed required by modern business.

Protection from harassment (part 5)

18. Appropriate measures to afford protections against harassment for 'occupiers' are applauded and supported. They should be clear, unequivocal and proportionate, and not duplicate or contradict existing provisions in earlier legislation (Protection from Eviction Act 1977).

Potential barriers to the implementation of the Bill

19. Effective and efficient implementation of the provisions will be determined by the level and availability of resource at local authorities who will be required to both implement and enforce a challenging and comprehensive licensing regime within a relatively short period of time alongside other equally challenging legislative changes in both the mobile home sector and the housing sector.

Any unintended consequences arising from the Bill

20. If the proposals were to be enacted caravan holiday and touring parks in Wales would be the first in the UK to trade under such a complex regulatory regime. As drafted there is considerable potential for unintended consequences in applying the basis of an as yet untested legislative regime to a tourism sector which is key to the tourism economy in Wales. In addition we believe the following could follow:

21. Competitive disadvantage

Regulation and added bureaucracy could increase the price of holiday caravan ownership in Wales making it less competitive, risk reducing valuable local employment, and effectively signpost consumers towards the rest of the UK and beyond to seek alternative holiday home options. These burdens of regulation, punitive constraints (including restrictions on consumer choice), and escalating costs of implementation are specific to businesses in this sector; they are not extended to other tourism/leisure businesses across Wales (including hotels, holiday villages, B&Bs etc) which all offer similar accommodation provisions. This places holiday parks at a significant and real competitive disadvantage.

22. Potential risk of Homelessness

We have concerns that in the absence of evidence to support the proposals in relation to residential mis-use of holiday caravans, the proposed enforcement regime may raise issues with

regard to homelessness/rehousing for the consumers it targets. The potential for inadvertent mis-selling of holiday caravans through either poor staff training or consumer stealth, and which in turn may contribute to residential mis-use, appears to have been overlooked. The remedies for victims in such instances are unclear.

23. Anti-business, anti-consumer and unfair competition

The measures highlighted above are not only competitively unfair, and place holiday park businesses at a competitive disadvantage, but are also anti-business and anti-consumer. We have stressed the unintended consequence of potentially restricting a consumer's choice to secure an agreement to purchase when they are ready. Further, the creation of a prescriptive and expensive regime applied exclusively on privately owned and operated holiday parks to the exclusion of parks owned and operated by local authorities, or those listed as exempted (exempted organisations) also creates the potential for an uneven playing field with similar tourism businesses such as B&Bs, small hotels and other self-catering establishments.

Financial implications of the Bill (Part 2 of Explanatory Memorandum)

24. Residence Test

Costs related to the administration of an annual residence test for a holiday park operator will be significant. Contrary to the suggested £75 per park per year after year two of implementation, figures closer to in excess of £17,500 per year for a medium sized operator and up to £150,000 for the cost to the industry across Wales has been advised.

25. Fit and Proper Person Test

Assuming the figures for an enhanced check based on the Scottish model cited in the Explanatory Memorandum to be broadly representative, the figure of around £100 per park, which is adding to costs already incurred in meeting existing regulatory requirements (FSA) are severely underestimated, duplicitous and unnecessary.

Powers for Welsh Ministers to made subordinate legislation

26. Such powers should be retained to ensure that an appropriate level of flexibility and redress to remedy or reform unintended consequences can be applied.

Summary

In summary we reiterate our qualified support for proportionate measures that will help deliver the key objectives outlines in this proposed legislation, but stress that this can only be achieved by ensuring:

- That the key drivers to address issues of residential misuse of holiday caravans are correctly researched, evidenced and properly costed
- Appropriate levels of resource are made available to local authorities to enable them to work positively with the sector to deliver an effective and efficient licensing regime
- There is recognition of existing mandatory tests including the NCC independently assessed and monitored Approved Holiday Park Holiday Home Ownership Scheme to determine whether an owner/licence holder is fit and proper to hold a licence; and that there is a greater

understanding that if required such a test should be workable without undue burden on park operators

- There is a re-evaluation of the appropriate legislative vehicle to help secure these measures and meet stated objectives, and which does not draw on a regime with protections designed purely for housing vulnerable elderly residents rather than a vibrant, dynamic tourism business sector.