

Communities, Equality and Local Government Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date:

Thursday, 5 June 2014

Meeting time:

10.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

Private pre-meeting (10.00 – 10.15)

1 Introductions, apologies and substitutions

2 Holiday Caravan Sites (Wales) Bill: Stage 1 – Evidence session 2 (10.15 – 11.30) (Pages 1 – 33)

Welsh Local Government Association

Simon Wilkinson, Regulatory Services Policy Officer

Conwy County Borough Council

Councillor Philip Evans

Nick Jones, Environmental and Housing Enforcement Manager

Gwynedd Council

Gareth Jones, Senior Manager of the Planning and Environment Service

Pembrokeshire County Council

Samantha Hancock, Senior Environmental Health Officer

3 Papers to note (Pages 34 – 41)

4 Motion under Standing Order 17.42 (ix) to resolve to exclude the public from the meeting for the following business: items 5 and 6

5 Holiday Caravan Sites (Wales) Bill: Stage 1 – discussion of evidence session 2 (11.30 – 11.45)

6 Discussion of the Committee's forward work programme (11.45 – 12.00) (Pages 42 – 46)

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INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. We are pleased to provide evidence to the Committee on the proposed Bill. The modernisation of the legislation surrounding holiday caravans is well overdue, and local government welcomes the opportunity to assist the ongoing work to finalise the framework.
4. We broadly welcome the content of the Bill, and its intentions. One of the fundamental concerns of local government is however, that new duties placed upon local authorities are supported properly by Government in terms of financial arrangements and a robust cost recovery framework.
5. Local authorities recognise the fact that the vast majority of caravan site owners wish to comply with legal requirements. It is in that spirit, that local authority officers approach their work – primarily to assist and advise businesses on how to achieve compliance. Local authorities also recognise the significant importance of the positive impact that the industry has on the Welsh economy.
6. The use of the Mobile Homes (Wales) Act 2013 as the starting point for the drafting of this new bill is a sensible approach and will assist local authorities in applying the legislation consistently and effectively and will also be of benefit to those park owners with dual use sites.
7. The numbers of holiday sites across Wales is significantly greater than residential park home sites. A realistic timescale for the introduction of any new legislation in this area will therefore be required in order to allow local authorities and park owners' time to implement the legislation alongside other priorities.

Fees

8. It is noted that there is a provision within the Bill to “passport” existing holiday sites licensed under the Caravan Sites and Control of Development Act 1960 into the new regime without need for application or fee payment to the local authority (Section 9).
9. Effectively, this will place significant burden on local authorities to undertake checks on managers, review licences and inspect sites with no up front income to recover costs. We have real concerns on this point.
10. The Regulatory Impact Assessment states that the costs the local authority will be diminished as a result of this “passporting” provision however the assumptions used should be challenged.
11. If sites have permitted residency over the years, it is feasible that they will be able to demonstrate this to planning authorities and obtain a certificate of lawful use, permitting individual vans to be occupied as residential units while the surrounding vans remain restricted for holiday use. As we understand matters this would mean that individual vans would need to be regulated under the Mobile Homes (Wales) Act 2013 and others under the proposed holiday parks provisions. This would need to be considered in any final proposals.
12. This requirement places a significant burden on local authorities to undertake checks on managers within 12 months of the Act coming into force with no income with which to offset the additional costs. Thereafter the costs of reviewing licences, checking residence tests and responding to failure reports and the inspection of sites will need to be met by local authorities that are already stretched.
13. The power of local authorities to charge an annual fee is welcomed. The concerns expressed above however in relation to income from existing sites remain as an annual fee that is set in accordance with Bill, will not cover all local authority costs. Clear guidance on the fee calculation and fee setting policy to be adopted would be required.

Licence duration and guidance

14. To ensure local authorities are able to properly enforce the provisions (ie by securing fee income), it would be beneficial to set a maximum of five years duration for a site licence. It would appear sensible to mirror the Mobile Homes (Wales) Act 2013 in this regard.
15. We would also welcome a revision of the current “model conditions” at the same time as the introduction of the Bill. This should negate the need for regular review and amendment of conditions, and would ensure the model conditions are updated to take account of other legislative changes which have already occurred – and that the model conditions are enforceable.
16. The renewal rather than review of the site licence and conditions could generate cost recovery income for local authorities in Wales and ensure consistent application of caravan and mobile home legislation to all parks across Wales. All licences should be renewed every 5 years as with residential sites. Unless the model standards are to be reviewed every 5 years, it is unclear what the benefit of this formal review stage would be given the need for regular inspection and enforcement of standards. As stated in the Regulatory Impact Assessment, the power to review, revoke and amend existing licences exists under the 1960 Act so the purpose of this additional requirement on local authorities is unclear.

Site inspection and risk assessment

17. The proposal to give local authorities greater flexibility in determining the inspection frequency of sites is welcomed. However, the detail of the proposal does give rise to some concern. Local Authority enforcement officers operate well established risk assessment programmes which control the frequency of inspections of businesses – based on the risk posed. Currently the large majority of sites would be classed as low risk, and in line with the “better regulation and enforcement” regime, would currently not be subject to routine inspection. It is likely that local authorities would not be in a position to achieve the number of physical visits, or paperwork checks based upon current and dwindling numbers of officers.
18. We would consider a risk based approach to inspection as being a necessary product of the legislation, where site size and conditions, confidence in management, and previous history are taken into account when determining inspection frequencies.

19. The potential of “no inspectable risk” sites, and a reduction in annual fees would reflect local authority costs and act as a driver to improve compliance and standards for site owners.
20. The ability of local authorities to use fixed penalty notices and or compliance notices to secure improvements on sites is welcomed as these are often more appropriate enforcement tools than prosecution alone as in the 1960 Act.
21. The ability for local authorities to recover the cost of issuing legal documents and taking enforcement action is also welcomed.
22. There appears to be a contradiction between the Power of Entry provisions in Section 37 and the enforcement options available to local authorities in emergency situations. Unlike the Mobile Homes Act where the site is the sole residence of dwellers and therefore their home, the need to provide 24 hours notice to site owners of holiday parks is unnecessary. Local authorities already have extensive powers of immediate access to deal with health and safety laws and food hygiene laws on these sites and the onerous power of entry requirements set out in the Bill are disproportionate. The Power of Entry to sites should be available at all reasonable times to authorised officers.

Fit and proper test

23. The ability of local authorities to determine the fitness of a person is welcome. We would seek clarity on a number of issues though in this regard. Are local authorities required to used a standard or enhanced disclosure check?
24. The term “trading standards law” requires some more thought – the scope of TS law is very wide, from weights and measures, sale of goods, estate agency, to cosmetic product and toy safety legislation. If it is to be included, tighter definition will be required to ensure consistent application.

Residence test

25. In general terms, the power to control the use of holiday sites as residential sites exists within planning legislation and this should remain the primary legislation for controlling site use. Additional measures should not be required, rather additional

guidance for local planning authorities in respect of residency tests etc should be considered. Local authorities would wish that this issue be clarified before the Bill progresses further.

26. The remedy for unauthorised residential occupation of holiday sites may exist through the prevention of local housing allowance claims, bus pass applications and GP registrations for persons with a holiday park address rather than the measures contained in this Bill. These and other potential measures should be fully explored as alternatives to the tests proposed in this Bill.

27. The requirement for site owners to undertake the residence test annually is an onerous requirement and will be challenging for local authorities to regulate. In the absence of the detailed guidance on the residence test proposed, it is difficult to comment on this aspect of the Bill. In general terms, it is accepted that owners of sites should be aware of and accountable for the occupiers of their site, however local authorities already have examples of situations where this type of test will be very difficult for an owner to apply.

28. Where confidence in the management of sites is high, with robust systems in place for monitoring for potential residential use (e.g. using the methods advocated by the BHHPA and evidence listed in Schedule 2 to the Bill) we would question the necessity for the proposed requirement for an annual inspection of the evidence of residency checks. We consider that these checks could reasonably be made as part of the routine risk-based inspections, reducing the projected costs to the Authority and in turn to the industry.

29. Details of how the residence test should be applied are required as there are opportunities for abuse of this requirement depending on when in the year site owners undertake the test. Given that many caravan owners have agreements over many years to remain on site, the requirement for an annual test may be burdensome. What evidence will be required by the residence test? Will a residence test be robust enough to ensure that an 'occupier' has a home address elsewhere?

30. There are flaws with requiring an 'occupier' to provide documentation detailing a permanent home address, as they could use relatives or a friend's address. The extent of expectations on local authorities when making enquiries in such matters will need to be clarified by the proposed guidance. It would be burdensome on both a site owner and a local authority to prove that the information provided is false.

31. If owners make reasonable enquiries with regard to the residence test but it is held that there is a breach, is it reasonable that they are penalised for abuses of the legislation by third parties? What steps should be taken and against whom where a residency test is applied by the site owner and upon completion of the pitch agreement, the caravan owner subsequently sells their permanent home?
32. If an occupier fails the residence test, the owner must notify the local authority of the failure as soon as possible. It is unclear how a local authority would regulate this requirement and it is unlikely that a caravan site owner would notify the local authority of a failure of a residence test especially as this could result in a compliance notice being served on them.
33. The restriction on occupation of a holiday caravan on the site in excess of 6 weeks should be amended to include "any holiday caravan on the same site" to control for moves between caravans within the same site/ ownership e.g. by migrant workers. Some holiday sites comprise of a number of older and smaller caravan sites that have amalgamated over the years, which may still have separate licences and be called different names. An 'occupier' could potentially stay in a holiday caravan on one section of the site, with a different licence, then move to another caravan on a different section of the site etc.
34. A local authority must give a compliance notice if there appears to be a breach of the condition prohibiting occupation of a holiday caravan as a person's only or main residence. It is also noted that this power already exists in Planning Legislation enforcement and has been used by some local authorities to remove occupiers of caravans with holiday use planning condition. Is this additional power necessary therefore or should local planning authorities be provided with strengthened guidance on the use of existing powers?
35. Caravan occupiers that are held to be using the caravan as their main residence should be afforded the same protection in terms of minimum notice periods as occupiers of residential sites. Vulnerable occupiers in particular may enter into agreements with third parties to hold a shorthold tenancy of a caravan only to find that the agreement is invalid. Local authorities as Statutory Housing Authorities wish to ensure that appropriate protection is afforded to all such individuals to enable them to make alternative housing provision when facing eviction. In addition, where the local authority require the eviction of such occupiers, it has been held that the persons are not intentionally homeless therefore presenting a potential homelessness duty to

the local authority. This needs to be appropriately managed by local authorities and a minimum notice period will enable housing advice services to work with affected individuals in a timely manner.

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CONSULTATION ON THE HOLIDAY CARAVAN SITES (WALES) BILL

1. INTRODUCTION

- 1.1. This submission is being sent on behalf of Conwy County Borough Council.
- 1.2. A local authority has the responsibility to licence caravan sites.

2. GENERAL PRINCIPLES OF THE HOLIDAY CARAVAN SITES (WALES) BILL

- 2.1. Conwy County Borough Council supports the laudable intentions of the proposed legislation.
- 2.2. The manner in which sites are occupied in the present day compared with the 1960's when the current legislation came into force is very different.
- 2.3. There are a number of reasons for this including; improvements in the structure of caravans allowing more use during cold weather, greater leisure time being available and better transport and infrastructure allowing quicker access to sites.
- 2.4. This has made it more difficult to ensure that caravans on holiday sites are used for that sole purpose and not as residential caravans.

3. PARTS OF THE BILL

3.1. Licensing (Part 2)

- 3.1.1. The Bill proposes that a site must be inspected once every 3 years and a review of the licence conditions every 5 years. However, it also proposes that once a licence is issued it lasts indefinitely.
- 3.1.2. Conwy CBC welcomes the requirement to inspect once every 3 years rather than annually.
- 3.1.3. It is understood that the industry would like to have the security that a licence would be renewed to have the confidence to reinvest in the site. Conwy CBC acknowledges that this is a reasonable consideration and also welcomes the opportunity to charge for the inspection and review of the sites.

YMGYNGHORIAD AR Y BIL MEYSYDD CARAFANNAU GWYLIAU (CYMRU)

1. CYFLWYNIAD

- 1.1. Mae'r cyflwyniad hwn yn cael ei anfon ar ran Cyngor Bwrdeistref Sirol Conwy.
- 1.2. Mae awdurdod lleol yn gyfrifol am drwyddedu meysydd carafannau.

2. EGWYDDORION CYFFREDINOL Y BIL MEYSYDD CARAFANNAU GWYLIAU (CYMRU)

- 2.1. Mae Cyngor Bwrdeistref Sirol Conwy yn cefnogi bwriadau canmoladwy'r ddeddfwriaeth arfaethedig.
- 2.2. Mae'r modd mae safleoedd yn cael eu meddiannu heddiw o'i gymharu â'r 1960au pan ddaeth y ddeddfwriaeth bresennol i rym yn wahanol iawn.
- 2.3. Mae nifer o resymau dros hyn, gan gynnwys; gwelliannau yn strwythur carafannau sy'n caniatáu mwy o ddefnydd yn ystod tywydd oer, mwy o amser hamdden ar gael a gwell trafnidiaeth a seilwaith sy'n caniatáu mynediad cyflymach i safleoedd.
- 2.4. Mae hyn wedi ei gwneud yn anoddach i sicrhau bod y carafannau ar safleoedd gwyliau yn cael eu defnyddio ar gyfer y diben hwnnw yn unig ac nid fel carafannau preswyl.

3. RHANNAU O'R BIL

3.1. Trwyddedu (Rhan 2)

- 3.1.1. Mae'r Bil yn cynnig bod yn rhaid i safle gael ei archwilio unwaith bob 3 blynedd ac adolygiad o amodau'r drwydded bob 5 mlynedd. Fodd bynnag, mae hefyd yn cynnig unwaith mae trwydded yn cael ei chyflwyno y bydd yn parhau am gyfnod amhenodol.
- 3.1.2. Mae Cyngor Bwrdeistref Sirol

3.2. Residence test (Part 3)

3.2.1. The intention of this test is to be welcomed. However, it is difficult to see how it will work in practice. The owners of caravans may let their caravan without notifying the site licence holder on very large sites it could be very difficult for licence holders to keep track.

3.2.2. Section 9 (3) places the onus of undertaking the residency test on the 'owner'. We assume this is the owner of the caravan site and not the owner of the caravan but this needs clarifying. It would be preferable to place the onus on the site licence holder as this may be different to the site owner.

3.2.3. The residency test needs only be applied to an occupier of a caravan the definition of which is someone who occupies a caravan on the same site for more than 28 days in any consecutive 3 month period. To keep a check on this could be burdensome on the site licence holder/owner.

3.3. Holiday Caravan Agreements (Part 4)

3.3.1. Agree with the contents of this part.

3.4. Protection from harassment (Part 5)

3.4.1. Agree with the contents of this part

3.5. Supplement and general (Part 6)

3.5.1. Agree with the contents of this part.

4. POTENTIAL BARRIERS

4.1. Any concerns with regard to the Bill have been raised above

5. UNINTENDED CONSEQUENCES

5.1. There is a concern that an assumption is made that occupiers of holiday caravans would have sufficient resources to fund alternative accommodation. That is unlikely to be the case the occupiers assets are likely to have been consumed in purchasing the caravan which would have devalued very quickly. These occupiers will be likely to present

Conwy yn croesawu'r gofyniad i archwilio unwaith bob 3 blynedd yn hytrach na phob blwyddyn.

3.1.3. Deallir y byddai'r diwydiant yn dymuno cael y sicrwydd y byddai trwydded yn cael ei hadnewyddu i gael yr hyder i ail-fuddsoddi yn y safle. Mae Cyngor Bwrdeistref Sirol Conwy yn cydnabod bod hyn yn ystyriaeth resymol a hefyd yn croesawu'r cyfle i godi tâl am yr archwiliad hwn ac adolygu'r safleoedd.

3.2. Prawf preswyllo (Rhan 3)

3.2.1. Mae bwriad y prawf hwn yn cael ei groesawu. Fodd bynnag, mae'n anodd gweld sut y bydd yn gweithio'n ymarferol. Efallai y bydd perchnogion carafannau'n gosod eu carafán heb hysbysu deiliad y drwydded safle ar safleoedd mawr iawn a allai fod yn anodd iawn i ddeiliaid trwydded gadw trac.

3.2.2. Mae adran 9 (3) yn rhoi'r cyfrifoldeb o gynnal y prawf preswyllo ar y 'perchennog'. Rydym yn cymryd yn ganiataol mai perchennog y maes carafannau yw hwn ac nid perchennog y garafán ond mae angen egluro hyn. Byddai'n well gosod y cyfrifoldeb ar ddeiliad y drwydded safle gan y gall hwn fod yn wahanol i berchennog y safle.

3.2.3. Mae'r prawf preswyl ond angen bod yn berthnasol i feddiannydd carafán y diffiniad ohonynt yw rhywun sy'n meddiannu carafán ar yr un safle am fwy na 28 diwrnod mewn unrhyw gyfnod o 3 mis yn olynol. Gallai cadw llygad ar hyn fod yn faich ar ddeiliad/perchennog y drwydded

<p>themselves as homeless to the local authority that will have legal obligations towards them. It is accepted however, that this would not be an ongoing issue if the proposed legislation meets its objectives.</p> <p>6. FINANCIAL IMPLICATIONS</p> <p>6.1. The proposals set out are based on sound reasoning and assumptions.</p> <p>7. POWERS TO MAKE SUBORDINATE LEGISLATION</p> <p>7.1. No comments</p>	<p>safle.</p> <p>3.3. Cytundebau Carafan Gwyliau (Rhan 4)</p> <p>3.3.1. Cytuno gyda chynnwys y rhan hon.</p> <p>3.4. Diogelu rhag aflonyddwch (Rhan 5)</p> <p>3.4.1. Cytuno gyda chynnwys y rhan hon</p> <p>3.5. Atodiad a chyffredinol (Rhan 6)</p> <p>3.5.1. Cytuno gyda chynnwys y rhan hon.</p> <p>4. RHWYSTRAU POSIBL</p> <p>4.1. Mae unrhyw bryderon o ran y Bil wedi cael eu codi uchod.</p> <p>5. CANLYNIADAU ANFWRIADOL</p> <p>5.1. Mae yna bryder bod rhagdybiaeth yn cael ei wneud y byddai gan ddeiliaid carafannau gwyliau ddigon o adnoddau i ariannu llety arall. Mae hynny'n annhebygol o fod yn wir, mae asedau deiliaid yn debygol o fod wedi cael eu defnyddio i brynu'r garafán a fyddai wedi dibrisio'n gyflym iawn. Bydd y deiliaid hyn yn debygol o gyflwyno eu hunain fel pobl ddigartref i'r awdurdod lleol a fydd â rhwymedigaethau cyfreithiol tuag atynt. Derbynnir, fodd bynnag, na fyddai hyn yn broblem barhaus os yw'r ddeddfwriaeth arfaethedig yn cyflawni ei hamcanion.</p> <p>6. GOBLYGIADAU ARIANNOL</p> <p>6.1. Mae'r cynigion a nodir yn seiliedig ar ragdybiaethau a rhesymu cadarn.</p> <p>7. PWERAU I WNEUD IS-DEDDFWRIAETH</p> <p>7.1. Dim sylwadau.</p>
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COMMITTEE:	RESPONSIBLE COMMITTEE – WALES NATIONAL ASSEMBLY
DATE:	5 JUNE 2014
TITLE:	RESPONSE OF THE REGULATORY DEPARTMENT, GWYNEDD COUNCIL TO THE CONSULTATION ON THE DRAFT MEASURE – HOLIDAY CARAVAN SITES (WALES) BILL
PURPOSE:	To submit evidence
AUTHOR:	HEAD OF REGULATORY DEPARTMENT, GWYNEDD COUNCIL

1. Introduction

- 1.1 Gwynedd Council welcomes the opportunity to submit evidence to this Committee on the proposed changes to legislation relating to licensing and managing the use of holiday caravan sites in Wales. As a Council, we have already responded to two previous consultations on the Measure, and it is heartening that observations made on specific aspects have been addressed in the latest version of the Measure.
- 1.2 There are around 380 holiday caravan sites in Gwynedd. In 2006, a desktop exercise was undertaken using Gwynedd Council’s Geographical Information System (GIS) to find out approximately how many static caravans were in the area of the Gwynedd and Anglesey Joint Local Development Plan. The findings revealed there were 9442 units in Gwynedd with 8678 (91.9%) of them located within 2km of the coast.
- 1.3 An Economic Impact Assessment of the Holiday Park Industry in Wales (September 2011) was commissioned jointly by the British Holiday and Home Parks Association and Visit Wales. The main findings of the Economic Impact Assessment were that the total turnover and visitor expenditure as a result of the holiday park industry in Wales is £727 million per annum. Its total economic impact has been calculated as a Gross Value Added (GVA) contribution of £317 million per annum supporting a total of 10,645 direct and indirect jobs in Wales.
- 1.4 The Wales Coastal Tourism Strategy (Welsh Government, 2008) states that caravans and camping, particularly static caravans were the

preferred accommodation for tourists staying at coastal locations, accounting for 44% of all trips in 2006.

2. **Occupation season of holiday caravan sites**

2.1 Current local policy promotes the use of static holiday caravan sites for a period of up to 10 and a half months (the Gwynedd Planning Authority area). As the standards of the holiday units and facilities on sites improve, and as the demand in the holiday industry changes, there is pressure to extend the holiday occupation period. From the perspective of local planning policy, the aim is to manage developments in the countryside carefully, avoid random residential developments that are contrary to the settlement strategy, and ensure that the caravan parks add as much as possible to the local economy. It is believed that promoting regular turnover in the use of the caravans promotes the last objective. National planning policy promotes proposals to extend the occupancy period of holiday units subject to some conditions. These include:

- That it can be shown that the accommodation is used for holiday purposes only and not as the occupier's main or sole residence,
- That extending the occupancy period will not have an adverse effect on local amenities and/or the local environment.
- That the accommodation and the site are considered acceptable for occupation during the low season (especially during the winter months).

2.2 Generally, the concern of some Members with planning applications for extending the holiday season to 12 months is how can this be appropriately monitored and enforced. In conjunction with this concern is the possibility that caravans will be used as permanent living accommodation and the resulting community and linguistic side effects.

2.3 Snowdonia National Park Authority operates as the Planning Authority for vast areas of Gwynedd. The Authority does not have a specific policy in the Local Development Plan in relation to extending the season on static sites, but the Park does not permit static sites to extend the season from eight or ten months to 12 months. Permission is granted to extend the season on some sites from eight months to ten and a half months subject to restricting the use to short-term self-catering holiday accommodation only (no more than 28 days at a time).

3. **Holiday caravan sites (Wales) bill**

3.1 Currently, holiday caravan sites are licensed under the provisions of the Caravans and Development Control Act 1960. The general opinion is that the legislation no longer enables sufficiently effective management of these standards for licensed sites. At present, prosecution is the

only option in terms of enforcement, in relation to a breach of licence conditions under the Act. Introducing other enforcement options; such as the use of Enforcement Notices / a Licence Review Procedure which is similar to the procedure permitted under the Licensing Act 2003, would enable better control in order to maintain a high and safe standard on caravan sites.

- 3.2 In the last consultation on the measure, additional enforcement sanctions were restricted to controlling the occupancy of holiday caravans as a main residence. By now, there is greater clarity in the measure and the intention is made clear of extending the enforcement sanctions to the entire range of conditions within caravan site licences. It is noted that the recommended enforcement powers are robust and address the need to be able to enforce improvements through a system of Compliance Notices or Fixed Penalty Notices on all site licence conditions.
- 3.3 Concern it expressed that the range and nature of the proposed licensing system and the additional enforcement duties place a substantial burden on resources; and it is not clear whether it will be possible to recover additional costs through the fee levels that will be set.
- 3.4 A new duty is introduced to ensure that every site receives an inspection in accordance with risk assessment, at least once every three years. Additionally, all licences will be reviewed every five years. The reasoning behind such a review is not clear, given that there will be a comprehensive inspection programme in place.
- 3.5 The main fundamental purpose of imposing conditions on a site licence is to ensure the health and safety of the public. Following the Löfstedt Review in 2013, there is a presumption against undertaking proactive health and safety inspections on businesses if there is no evidence that the inspection is proportionate to the risks relating to the management of health and safety. Consideration should therefore be given to whether or not there is justification for introducing a duty to undertake proactive inspections in this broader context.
- 3.6 The measure introduces the power to act in an emergency situation where there is risk to health on a site. This duplicates adequate enforcement powers that already exist under the provisions of the Health and Safety at Work Act 1974.
4. **Managing residential use on holiday caravan sites**

- 4.1 Generally, the powers to manage the use of holiday sites as residential sites already exist in planning legislation; and planning legislation should remain as the main enforcement tool in this context. Attempting to manage the use of caravans for holiday use only is a land use planning matter. The only time there would be justification for enforcing a residential condition on a licence is if the period of caravan use affected health and safety aspects.

It is of crucial importance that licensing legislation and planning legislation intertwine and facilitate the management of caravan sites rather than duplicating it thus complicating the situation for the Council / Authority and caravan site operators.

- 4.2 The Measure refers to the need to include a condition that places requirements on site owners to conduct tests to establish whether the occupiers of caravans on the site comply with the "Residence test". This condition places considerable pressure on site owners, and is very difficult for Local Authorities to enforce. There will be a need to ensure that adequate support is offered to site owners and managers to ensure they are able to comply.

- 4.3 Additional responsibilities have been introduced for site owners to undertake a 'residence test' on specific residents who have agreements to occupy holiday caravans for more than six weeks. The site owners will be required to maintain records and evidence of these tests in order for Local Authority officers to inspect them. The fact that the responsibility for gathering the 'residence test' evidence falls on the site owner is welcomed; however in practice, it is anticipated that the site owners will find it difficult to comply without support and clear guidance.

5. Conclusions

- 5.1 The fact that the Measure is a full and comprehensive review of the Legislation relating to controlling the use of holiday caravan sites is welcomed. Current legislation is no longer fit for purpose; and the proposed legislation offers much more effective enforcement options to address non-compliance.

- 5.2 It is important that the Measure does not lead to legislation which is too complex and difficult to enforce, and does not impose an unjustified burden on local government resources; and impractical expectations for business owners. There is also a need to address the fact that the Measure duplicates enforcement powers relating to Planning and Health and Safety legislation. It should be ensured that the measure does not seek control over land use planning matters, and that it

endorses and facilitates the control that exists through the Planning system.

Pembrokeshire County Council : Response to CELG Committee Consultation on the Holiday Caravan Sites (Wales) Bill (as introduced) – dated 20 May 2014

(Contributors: S Hancock, Senior Environmental Health Officer; J Beynon, Food, Safety & Port Health Manager; S McSparron, Senior Trading Standards Officer; D Popplewell, Development Manager (Planning))

Context: Holiday caravan parks in Pembrokeshire

1. There are currently 152 holiday caravan parks licensed in Pembrokeshire. In addition, a large number of caravan sites exist that are operated by exempt organisations (inc. the Caravan Club and Camping & Caravanning Club). These do not require a site licence, nor do they receive any intervention by the Authority.
2. The sites are inspected in accordance with a locally devised risk rating scheme that bands sites into 4 risk categories A to D. Sites in Categories A to C are inspected at 1, 2 and 3 year intervals respectively. Sites in Category D (approximately two-thirds of the total) are not subject to routine programmed inspection, but may be inspected in response to a service request (e.g. complaint), or otherwise subject to alternative intervention (e.g. newsletters and self assessment forms). This scheme was developed having regard to measures introduced in other regulatory areas (e.g. food safety and health and safety), to ensure a risk-based approach to intervention and the careful and proportionate management of the Authority's finite resources. This approach was also consistent with the Government's agenda on deregulation and lifting the red tape on business. Approximately 21 sites are currently subject to proactive inspection annually. In addition, the Authority processes approximately 10 licence transfers annually.
3. Limited formal enforcement action has been taken in response to identified non-compliance, with matters tending to be resolved informally or in rare circumstances through the application of wider health and safety powers. This approach has been influenced by a number of factors:
 - Blurring of the boundaries and hence responsibilities under planning legislation and caravan site licensing provisions.
 - Model conditions being ambiguous and therefore difficult to enforce.
 - Absence of any national policy steer or guidance on the application of the Act and associated conditions.

General Principles of the Holiday Caravan Sites (Wales) Bill and the need for legislation to modernise the regulatory framework for holiday caravan sites in Wales.

4. The Authority is in firm support of modernising the regulatory framework for the licensing of caravan sites, providing a more consistent basis and effective tools for ensuring compliance with conditions aimed at protecting public safety and consumer rights, and for preventing the potential uncontrolled drift towards residential use - though we have little evidence of this locally. However, it is appropriate that any new provisions are evidence based and proportionate, and that any increased burden is adequately resourced. The following comments are provided with these objectives in mind.

Licensing – Part 2

Proposed fit and proper person test

5. While the Authority fully appreciates the relevance of introducing a 'fit and proper person' test for 'residential caravan parks (under the Mobile Homes (Wales) Act 2013), having regard to vulnerable nature of many residential occupants, we are not convinced

that a similar test is needed for owners/managers of holiday parks, where caravans will generally be privately owned holiday units or otherwise let for short vacations. In the absence of a clear need, the introduction of such a test might be seen to impose an unnecessary burden and cost on the industry.

Site fees

6. The Authority fully supports the introduction of appropriate licence fees and system of annual charges. This charging mechanism will ensure that the cost of re-issuing site licences and of subsequently monitoring compliance at an enhanced level will be appropriately resourced, which is critical at a time when local authority budgets are under immense pressure. These charges should be tiered appropriately, so that smaller sites are not subject to a disproportionate cost burden.

Power to attach conditions to site licence

7. In seeking to modernise the primary legislation for the licensing of holiday sites we consider it essential that the model conditions are similarly revised, at the same time, to bring them up to date, to account for the impact of other regulatory changes (in particular the Fire Safety Regulatory Reform Order) and to ensure that they are clear and enforceable. This would in our view be preferable to merely tagging on new conditions relating to residency, preparing for flood risks and the need for public liability insurance, with the 'possibility' of reviewing and updating new conditions at a later date. We consider that the updated conditions relating to park home (residential) sites offer a useful starting point and should enable this work to be completed within a relatively short timeframe. This would avoid the need for a further round of licence revisions at a later date, which would have implications from a resource and cost perspective. In addition, retaining existing conditions that are out of date, no longer relevant and/or ambiguous would not facilitate effective enforcement, which is one of the objectives of the Bill in introducing a range of new enforcement tools.

Site inspections and licence reviews

8. We welcome that the proposal does not require the annual inspection of all sites, as was originally intended, and support the proposal of allowing scope for a risk-based approach. We understand that this proposal has been made recognising the disparity in approaches taken by local authorities in the absence of any national guidance and the desire to increase the level of inspection and enforcement in certain cases. However, the proposed requirement for all sites to be inspected at intervals of not less than 3 years still provides considerable scope for significant variation. This could have a direct bearing on local authority costs and in turn licence and/or annual fees, creating an uneven playing field. It might also give rise to ongoing concerns regarding the comparable levels of compliance. We would therefore support the introduction of a nationally agreed risk-rating scheme with corresponding inspection frequencies.
9. However, we would question whether all sites would warrant a routine programmed inspection and whether there might be scope for establishing a 'non-inspectable' risk category, having regard to the principle of earned recognition which is increasingly becoming a common feature across other regulatory areas (e.g. health and safety, and to a lesser extent food safety), and ties in with the Government agenda of minimising burdens on generally compliant businesses. This might be relevant for those with a strong track record of compliance and robust management systems in place for ensuring compliance with site licence conditions.

Fixed penalty notices and compliance notices

10. We welcome the opportunity to recover, separately, costs associated with any formal enforcement necessary. This will again help resource necessary intervention while ensuring that only those poorest performing sites, responsible for the more serious and/or persistent breaches are affected by this cost element.
11. One of the issues encountered is the numbers of units on site exceeding those permitted on the licence. This can result in site conditions being compromised and provide operators a commercial advantage over those sites that are run vigilantly. Fixed penalty notices, with an appropriate penalty, might deter such breaches.
12. The majority of breaches encountered can take time to resolve and require consultation with occupiers, e.g. the siting of wooden verandas/sheds/hedges within the separation distance between units, and issues with the separation distance between caravans and between caravans and the boundary. The introduction of compliance notices would seem to offer a far more effective tool in such instances, allowing for improvements to be secured over time, hopefully without recourse to the court system.

Residency test – Part 3

13. Historically, holiday static caravan sites in the County were given planning consent with a condition requiring a 6 week closed period during January and February. The purpose of this requirement was to prevent residency in accommodation that was not suitable for winter occupation. However under these terms occupiers could potentially live in their caravans throughout the open period and seek alternative accommodation for the 6 weeks that the site is closed. Such use would conflict with the proposed residency test designed to ensure holiday use only. More recently other forms of occupancy restriction have been imposed through planning permissions. These conditions clearly state that units must be used for holiday purposes only and that the length of any holiday is restricted to 8 weeks, with no return in 4 weeks and that site registers are maintained. More recently, 12 month planning consents have been issued to increase the tourism offer and it is foreseeable that residential misuse might arise as an unintended consequence.
14. Due to limited resources the Authority's Planning Division have not proactively monitored compliance with these residency conditions, though do respond to complaints. This situation might enable sites to set on a path to a 10 year breach that would allow them to provide evidence of lawful use. This can lead to residential development in the countryside and other areas, where it would not otherwise have been approved, can affect the appearance of the locality, put pressure on local services and change the dynamics of the community.
15. Enforcement options available to planning officers are very time consuming, having regard to the difficulties that can be involved in gathering evidence in relation to whether or not a breach has occurred. Any opportunity to deal with these matters more expediently would therefore be welcome.
16. The justification for making LAs responsible for taking direct action against an occupier who fails the residency test is unclear. As site owners will be responsible for obtaining evidence to ensure against residential occupation, it would seem reasonable to expect them to tackle breaches by the occupier, as they would for other conditions (e.g. those prohibiting the erection of verandas and wooden sheds that breach required separation distances). However, we can appreciate that the use of the proposed 'residence test failure notice' might be more expedient and that the option of issuing a fixed penalty notice on the occupant might also act as a further deterrent. Based on the limited evidence of residential occupancy on the holiday sites within the County we do not anticipate this being a significant issue for site owners, and the new condition, better awareness of the restrictions and enhanced monitoring should serve as an adequate deterrent in most cases. The advantages and disadvantages of each approach should be identified and subject to careful consideration in arriving at a final proposal.

17. Where confidence in the management of sites is high, with robust systems in place for monitoring for potential residential use (e.g. using the methods advocated by the BHHPA and evidence listed in Schedule 2 to the Bill) we would question the necessity for the proposed requirement for an annual inspection of the evidence of residency checks. We consider that these checks could reasonably be made as part of the routine risk-based inspections, reducing the projected costs to the Authority and in turn to the industry.
18. If sites have permitted residency over the years, it is feasible that they will be able to demonstrate this to planning authorities and obtain a certificate of lawful use, permitting individual vans to be occupied as residential units while the surrounding vans remain restricted for holiday use. As we understand matters this would mean that individual vans would need to be regulated under the Mobile Homes (Wales) Act 2013 and others under the proposed holiday parks provisions. This would need to be considered in any final proposals.

Holiday caravan agreements – Part 4

19. The proposals for holiday caravan agreements are welcomed. Numerous sites in Pembrokeshire do not have written agreements, as while this is best practice there is no legal requirement for them to do so. A statutory obligation will ensure consistency across the sector, make enforcement easier and ensure protection for consumers.

Financial implications - Regulatory Impact Assessment (RIA)

20. We have a number of concerns regarding the RIA, for Option 2, in so far as it relates to the anticipated costs to local authorities should the Bill become law, which will in turn have a bearing on the licence and annual fees. It is recognised, however, that the costs are based on the current proposals, and presumptions made in support of these, and that actual cost would be heavily influenced by any final decisions regarding the frequency of inspections, necessity for residency checks by local authorities etc.

Presumptions regarding officer grades

21. The RIA presumes that following initial work to re-issue modified licences, which it anticipates will be undertaken by Environmental Health Officers (EHOs), that the subsequent inspection of sites and work to verify that residency checks are being undertaken will be undertaken by 'technical officers' (TOs) on a lower grade.
22. In Pembrokeshire, caravan site licensing is undertaken by the Health and Safety Regulatory Team, who are generally responsible for advising on and enforcing these provisions, in conjunction with other relevant health and safety arrangements. The team is staffed by EHOs, with no staff employed at a lower technical grade. While the proposals would increase the demands on the service, this would not be to the extent where it would be necessary/appropriate to employ additional staff (other than on a temporary basis to resource work to re-issue modified licences to the 152 holiday sites in the County), and so we anticipate that this work will continue to be undertaken by EHOs and salary costs would need to be reflected accordingly. This situation is likely to be relevant to other, though perhaps not all local authorities.

Estimated employment costs

23. In estimating employment costs, the RIA has used a typical salary for specified officer grades (EHOs and TOs), inclusive of salary on-costs (to cover National Insurance costs and employer pension contributions). Other corporate on-costs have not been included, yet would be relevant in calculating the full employment costs and be reflected in the calculation of the relevant fees. This will have a significant bearing on the local authority

costs that would inevitably need to be passed on. For example the RIA indicates the cost of employing an EHO to be in the order of £38,100, which is consistent with the rates for Pembrokeshire if corporate on-costs are excluded. However, with the inclusion of corporate on-costs this figure rises by a further 34.6% to £51,270.

Proposed requirement for the proactive inspection of all sites

24. Under the new proposals local authorities would be expected to inspect all licensed holiday caravan parks at intervals of not less than 3 years, with the expectation that actual intervals be determined through a process of risk assessment. As indicated under point 2 above the Authority currently implements a risk assessment scheme with 3 inspectable risk bands (A-C) and a further category (D) where alternative interventions are generally employed. The introduction of a requirement that all sites be subject to proactive inspection will increase the demands on the service significantly. In the absence of a nationally agreed risk rating scheme, the number of inspections that might be required each year remains unclear. Based on the Authority's current rating criteria and banding, we would class the majority (>90%) of our 152 sites as relatively low risk, and as such they would be inspected at the maximum interval of once every 3 years. However, the RIA anticipates an average inspection interval of every 2 years, suggesting that a more intensive programme of inspections might be expected.
25. The following table compares the cost to the Authority of monitoring compliance with the licensing requirements under the existing regime; the expected cost under the proposed regime using the assumptions in the RIA (i.e. regarding officer grade, discounted corporate on-costs and typical 2 year inspection interval); and, our predicted costs (i.e. where EHOs are employed, corporate on-costs included and a 2 year inspection interval becomes the norm). The table also indicates the average costs to be passed on to each site over the initial 5 year period, though we recognise in practice that this should be tiered appropriately.

	Current costs	Estimated costs based on assumptions in RIA	Predicted costs based on LA calculations
Over 5 years	£19,430	£97,865	£150,676
Annual costs for first 5 years	£3,886	£19,573	£30,135
Average cost per site over 5 years	Not applicable	£644	£991

26. The above costs reflect the costs in Year 1 of issuing modified licences (spread over 5 years), the cost of conducting annual risk-based inspections as required, and the cost of undertaking residency checks for sites not inspected in a given year.
27. Indirect costs associated service management and administration are not reflected in these calculations (e.g. policy and procedure development, training, monitoring, planning and co-ordination meetings, etc.), but would need to be determined and reflected in due course. Similarly, time spent dealing with associated service requests (e.g. requests for advice from site owners) has not been included, though would be expected to be fairly minor at the outset, due to the level of planned activity to be undertaken in support of re-issuing licences.
28. Enforcement costs have been specifically excluded as these would not be relevant to the setting of licence and annual fees, being recoverable directly from offending sites.

Agenda Item 3

5 June 2014 – Papers to Note

Paper No:	Issue and Date of meeting	From	Action Point
5	Holiday Caravan Sites (Wales) Bill, 7 May 2014	Darren Millar AM, Member in Charge	The Chair of the Committee wrote to Darren Millar AM following the evidence session on 7 May 2014, to address any outstanding questions that the Committee did not get an opportunity to ask within the time available.

Darren Millar AM / AC

Ref: CA/SG/CC

29th May 2014

Christine Chapman AM
Chair
Communities, Equality and Local Government Committee
National Assembly for Wales
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Cardiff Bay
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Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Dear Christine

Holiday Caravan Sites (Wales) Bill

Thank you for your letter of 9 May following my session with the Committee on 7 May to give evidence on the Holiday Caravan Sites (Wales) Bill.

Current Legislative Position

Before I address your specific questions, it may be helpful if I make some more general points about the current legislative position. My Bill does not seek to introduce regulation into a currently unregulated area. It extends only to Holiday Caravan Sites which are already subject to licensing and planning regulation under the Caravan Sites and Control of Development Act 1960, the Caravan Sites Act 1968 and under other relevant planning law.

As I have explained in the Explanatory Memorandum, holiday caravans are not intended, or in many cases designed, for permanent occupation. More to the point, current legislation was not designed to allow or facilitate holiday caravan sites for use as permanent residential accommodation.

Unfortunately, current legislation and action by the holiday caravan industry has proved ineffective in preventing the use of holiday caravan sites for residential purposes. The purpose of my Bill is to give local authorities the tools they need to regulate holiday caravan sites effectively and to support holiday caravan site owners to ensure that caravans on their sites are used for holiday-making rather than as permanent residences, which as I am sure everyone would agree is not their purpose.

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At the session on 7 May, Members of the Committee expressed some concern that there might be insufficient evidence to justify legislation. Members will appreciate that given the timescale and resources provided by the National Assembly to support 'backbenchers' seeking to introduce legislation, further research has not been possible. However, whilst I accept that the evidence available may not be able to demonstrate precisely the scale of the problem of residential misuse, the evidence which does exist clearly points to a problem in Wales and a lack of enforcement to address it.

Given that the evidence set out in the Explanatory Memorandum more than adequately makes the case that there are a considerable number of holiday caravans in Wales being misused as permanent residential accommodation, and that it is beyond dispute that the current legislation was not designed to permit such occupation, I believe that there is now a strong case to modernise the licensing regime, which is over 50 years old, and make it fit to tackle this issue.

I turn now to your specific questions.

Part 2 - Licensing

- *Is the estimation in the Explanatory Memorandum of the local authority resources involved in renewing the 1,500 existing site licences in the first year robust, given it is based on discussions with two local authorities?*

I believe the estimate is robust. All 22 local authorities in Wales were contacted as part of the development of the Bill and 18 of them provided responses. The 4 that did not respond have relatively few holiday caravan sites in their areas. Further detailed discussions were held with two local authorities that have considerable experience in this area.

In addition, it should be noted that all sites will have existing licenses under current legislation and that most of the provisions of these will roll forward. It is not the case, therefore, that licences will need to be developed from scratch.

- *Why does the Bill provide for a holiday caravan site licence to continue indefinitely (until specifically terminated), unlike the Mobile Homes (Wales) Act 2013, which provides for a licence to be issued for a maximum of 5 years?*

Sites already licensed under the 1960 Act will be treated as holding a licence under this Bill. This will reduce the administrative burden for both site owners and local authorities. This continues the current arrangements under the 1960 Act and reflects concerns from the industry about the impact on their businesses of time-limited licences, particularly in terms of accessing finances for business development. However, site licences will be subject to review every five years.

It is anticipated that the review will be straightforward for most sites and licence conditions would not be expected to change without justifiable reason. As local authorities already have powers to vary licence conditions or apply to the magistrates' court to revoke licences under the 1960 Act, the new duty is merely intended to introduce consistency to the informal 'review' arrangements that already happen on an ad-hoc basis.

- *What is the intended purpose of requiring local authorities to review site licence conditions at intervals of not more than five years?*

See answer to previous question.

- *What is the basis for requiring local authorities to inspect sites at least once every three years and whether the approach to inspection is reasonable and proportionate?*

My initial inclination was to have more regular annual inspections. However, consultation responses and discussions with industry representatives convinced me that a longer period would be better.

It is important that all sites are subject to inspection in order that concerns regarding some sites escaping inspection and the need for a level playing field can be addressed.

By requiring inspections at least every three years local authorities can adopt a risk-based approach and conduct tests earlier or more often if they believe this is necessary.

The maximum period of three years is both reasonable and proportionate. A shorter period might have been criticised for being too resource intensive for all concerned while a longer period would have allowed drift and poor standards to creep in.

- *Have I had any discussions with*
 - *Natural Resources Wales about the practical and financial implications of section 15;*
 - *the Fire and Rescue Service and Natural Resources Wales about the practical and financial implications of providing advice as part of the renewal of existing site licences (of which there are an estimated 1,500) within the first year of commencement of the legislation?*

I have not had any discussions with the Fire and Rescue Service. However, I can confirm that there are no additional implications for Fire Authorities. Fire risk management is already part of current legislation through section 5 of the 1960 Act. These requirements are retained as part of my Bill but there are no additional requirements.

I have discussed the Bill with Natural Resources Wales, which has expressed support in principle for my proposals. The implications of the Bill are neither onerous nor unreasonable and the availability of online resources, such as the TAN15 Development and Flood Risk advice maps, provide an instant view on whether a site may be located in an area of flood risk.

The flooding over the winter shows how important it is to have adequate flood risk plans in place for Holiday Caravan Sites located in flood risk areas and, given the key responsibilities of Natural Resources Wales in relation to flood risk management in Wales, I hope Members of the Committee will welcome the additional safeguards that the Bill proposes.

- *Will I outline the evidence base for the need to introduce a fit and proper person test for managers of a holiday caravan site?*

Holiday Caravan Sites are an important part of the tourism economy. It is my belief that they are run in the main by honest and capable people. Good operators have nothing to fear from these provisions.

However, it is important to ensure that this continues to be the case and that the highest of standards are maintained. Holiday caravan sites should continue to be places of enjoyment and safety for the many families and children who use them. The introduction of a robust Fit and Proper Person Test will ensure that high standards continue and any rogue operators are rooted out.

- *Why the fit and proper person test provided in section 33 of the Bill has been drafted so as to apply more widely than the test in the Mobile Homes (Wales) Act?*

The Business model and scale of the Holiday Caravan Site industry is different to the park homes sector. Holiday Caravan Sites are often owned and operated by large companies and rather different arrangements (to those for Park Homes) are needed to ensure that the test applies to the right people within a company's management structure.

The test proposed in the Bill will ensure that all persons responsible for the day-to-day management of the Holiday Caravan Site (i.e. the managers on the ground) are subject to it.

This will prevent the situation where there is a fit and proper person on the ground receiving instructions about the management of the site from a senior person within the organisation who is not fit and proper. Therefore, the test applies to all persons who have a role in the management of the site and persons who give instructions about the management of the site.

There are of course also robust appeal arrangements in the Bill should anyone wish to challenge a local authority decision that someone is not a fit and proper person.

- *The practical and financial implications for local authorities of the requirement to undertake a fit and proper person test on existing site managers within 12 months of commencement of section 9?*

Estimates of costs and related implications for site owners are set out in paragraph 203 of the Explanatory Memorandum. In summary, these are estimated at £95,000 in the first year following commencement and £9,500 in subsequent years.

Costs to local authorities of reviewing licences, including ensuring they have provided sufficient evidence to satisfy criteria relating to fit and proper persons managing the site are set out in Paragraph 191 of the Explanatory Memorandum.

- *What is the reason for requiring local authorities to consider, as part of the test, evidence that shows the manager has contravened trading standards law?*

Holiday Caravan Sites need to be places of safety and enjoyment for families and their children. The test will help ensure that appropriate people are in charge of sites to ensure that this is the case. Many holiday sites will, of course include retail and entertainment outlets where being beyond reproach on Trading Standards issues is very important.

In addition, residential misuse of holiday caravans sometimes arises as a result of misinformation by Holiday Caravan Site operators when a holiday caravan is being purchased by a customer. Consideration of any contraventions in relation to holiday caravan sales, or sales in a similar industry, should therefore be an important factor in determining whether someone is a fit and proper person for the purposes of the test.

However, it is important to be clear that although local authorities must have regard to the matters set out Section 34 of the Bill, none of these matters are in themselves bars on being considered a fit and proper person. Similarly, local authorities will also be under a duty to have regard to any other matters, which they consider appropriate.

Possible Unintended consequences

- *What is the evidence base for the assertion in the Explanatory Memorandum that 'significant numbers of people should not become homeless purely as a result of this Bill' and how this can be reconciled with the absence of robust data as noted in paragraph 144 of the Explanatory Memorandum?*
- *How this assertion fits with the fact that some of the people who will be affected by the Bill are claiming housing benefit and it could be presumed that they are likely to present themselves as homeless to local authorities?*

Current legislation was not designed or intended to facilitate the use of holiday caravans as permanent accommodation. The Bill seeks to ensure that in future holiday caravans are used for holiday purposes rather than as permanent residences. This will mean that some people currently living in holiday caravans will need to find alternative accommodation, but there will be sufficient time for those residing in holiday caravans to prepare and make alternative accommodation arrangements prior to the provisions in the legislation coming into force.

In addition, the timing of the commencement of the legislation, should it be enacted, is almost wholly at the discretion of the Welsh Ministers. I would expect them to consult widely before commencing key provisions. In some instances, there are further requirements on the face of the Bill for consultation prior to powers being used.

Even after commencement, and any necessary consultation, site owners will have a further three months to undertake the residence test and occupiers will then have rights of appeal.

There will therefore be significant time for holiday caravan occupiers to make alternative accommodation arrangements, bearing in mind that many of those living on holiday caravan sites often have significant resources and would not therefore, present as homeless.

Data was collected from local authorities in developing the Bill. This showed that significant, though not large, numbers of people claiming Housing Benefit were living in holiday caravans. Some of these claimants may seek the assistance of the local authority under homelessness legislation but the numbers are unlikely to be large, particularly as many of them will make alternative arrangements well before they are legally required to leave their accommodation.

Of course, local authorities should take steps to assist vulnerable people living in unsuitable accommodation and I am encouraged by the increased emphasis on homelessness prevention by local authorities and I am confident that they will be pro-active in this respect. I note that the Housing (Wales) Bill will put homelessness prevention work on a statutory footing and I welcome this development.

Whilst I note wider concerns regarding the need for a greater supply of affordable housing across Wales I am sure that Members will agree that the use of holiday caravans as cheap permanent housing is undesirable.

Finally, even if there are some unintended consequences these should not be recurring as the Bill will prevent any permanent significant residential occupation of holiday caravans in future.

- *Whether any assessment has been made of the potential for the fees paid by holiday caravan owners to rise as a consequence of this Bill, given that the Bill does not specifically prevent site owners from passing on the costs of complying with the Bill?*

It is not possible to rule out completely that site owners will pass on additional costs to caravan owners. However, it is a competitive market and this is likely to mitigate the risk to some extent. More than that, the costs involved are relatively small. The estimates in the Explanatory Memorandum at paragraph 199 indicate a total cost per unit of only £3.43 per annum over the first 5 years following commencement. I have also set out estimated costs for site owners in paragraph 225 of the Explanatory Memorandum, which are further summarised in the table on page 65.

In addition, the written statements required under Section 55 of the Bill will help ensure that occupiers have greater clarity around fees before they enter into agreements.

- *Is there a danger that, if the Bill is passed, holiday caravan site owners may apply to become licensed as residential sites to avoid the new regulatory regime?*
- *If so, what impact could this have on the holiday caravan industry in Wales?*

I see no reason why significant numbers of holiday caravan sites would choose to change their business model and apply to be regulated under a more restrictive regulatory framework than proposed in my Bill. However, there may be a limited number of cases where this might happen. If site owners choose to do this, then they will be regulated under the Mobile Homes (Wales) Act 2013, which would be the appropriate regulatory framework for residential sites.

The Committee also asked for further clarification on the following points that were raised during the meeting.

- *whether the provisions in section 61 apply only in cases where a site owner is taking action in accordance with instructions given by a local authority under section 53;*

No. The defence applies in the circumstances set out in section 61, and needs to be considered in all the circumstances that might prevail, although this could include circumstances brought about by instructions under section 53. The defence is based on reasonableness, which would need to be determined by a court. Where the interference is unreasonable, the defence will not be available.

The wording has been taken from the 2013 Act and provides sensible defences for persons who inadvertently interfere with an occupier's enjoyment of a holiday caravan.

For instance, there may be lack of clarity as to when a holiday caravan agreement ends, e.g. a site manager may have a reasonable belief that a holiday caravan agreement has ended, when in fact the agreement is still in force. (Although it should be noted that the Bill makes specific provision to prevent such confusion arising, as there is a specific requirement for clarity around the start and end dates of holiday caravan agreements.)

It should also be noted that the defence in Section 61 does not affect other criminal law that deals with harassment.

- *Could pension records be used as evidence for the purpose of the residence test; exemptions from the requirements of the Bill for touring caravan sites and land owners who allow touring caravans to stay on their land from time to time?*

Evidence for the purpose of the residence test includes the occupier's address for correspondence with a financial institution. I see no reason why this should not include a pension provider.

- *What is the basis for the figures provided in the Explanatory Memorandum, which estimate the administrative costs to site owners of meeting all the requirements in relation to the Bill to be £100 per site in the first year and, specifically in relation to the residence test, to be £75 per year from years 2 onwards.*

The assumptions behind the estimate are set out in paragraph 205 of the Explanatory Memorandum. It is based on administrative time of around a day every two years plus annual updating and providing local authorities with information in terms of caravan owners primary addresses and any visitors staying over 6 weeks. Costs will be somewhat higher in the first year so we have assumed a figure of £100 for that year.

In addition, we have estimated the total annual cost of monitoring sites by Local Authorities to be £110,000 a year, which is based on discussions with local authorities. The assumption of a total annual cost to site owners of £150,000 in the first year and £112,500 thereafter is a reasonable one in comparison.

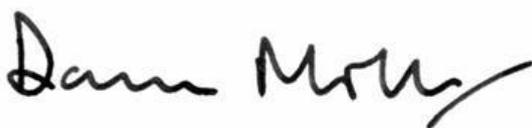
Finally you also agreed to provide a note in relation to opportunities for consumer protection that could arise from the Bill.

As I explained at the meeting, the Bill is not primarily about consumer protection, over which I understand the Assembly does not have full legislative competence. However, there are specific aspects of the Bill that I am sure will be welcomed by consumers. These include the new requirements in relation to:

- Written agreements (Section 55);
- Standard implied terms for agreements (Section 56);
- The right to be consulted on significant changes in the management and operation of sites (Section 56);
- Flood risk management (Section 12, 15, 16 and 18);
- Protection from harassment (Part 5);
- The reassurance offered by the Fit and Proper Person Test (Section 33);
- Repayment orders (section 38); and
- The use of interim managers (section 35).

I look forward to giving evidence to the Committee again once it has had an opportunity to consider the evidence from other witnesses.

Yours sincerely,



Darren Millar AM

Agenda Item 6

By virtue of paragraph(s) ix of Standing Order 17.42

Document is Restricted