

National Assembly for Wales
Communities, Equality and
Local Government Committee

Holiday Caravan Sites (Wales) Bill Stage 1 Committee Report

October 2014



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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Communities, Equality and Local Government Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: Wales's culture; languages; communities and heritage, including sport and the arts; local government in Wales, including all housing matters; and equality of opportunity for all.

Current Committee membership



Christine Chapman (Chair)
Welsh Labour
Cynon Valley



Peter Black
Welsh Liberal Democrats
South Wales West



Alun Davies
Welsh Labour
Blaenau Gwent



Jocelyn Davies
Plaid Cymru
South Wales East



Janet Finch-Saunders
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Mark Isherwood
Welsh Conservatives
North Wales



Gwyn R Price
Welsh Labour
Islwyn



Gwenda Thomas
Welsh Labour
Neath



Rhodri Glyn Thomas
Plaid Cymru
Carmarthen East and Dinefwr

The following Members were also members of the Committee during this inquiry:



Leighton Andrews
Welsh Labour
Rhondda



Jenny Rathbone
Welsh Labour
Cardiff Central

Contents

The Committee’s Recommendations	5
1. Introduction	7
Terms of scrutiny	7
The Committee’s approach	8
2. General principles and need for legislation	9
Modernisation of existing legislation	10
Residential misuse of holiday caravans.....	13
Effectiveness of existing legislation in controlling the use of holiday caravans	15
3. Part 1 – Introduction	20
4. Part 2 - Licencing	22
Continuation of 1960 Act licences	22
Duration of site licences	23
Flood risk management	25
Site inspections and licence reviews	27
Fit and proper person	30
Interim managers	33
Power to charge fees	35
5. Part 3 – Residence test	38
6. Part 4 – Holiday Caravan Agreements	43
Requirement to give a written statement no later than 28 days before making a holiday caravan agreement	45
Requirement to consult on site matters.....	47
7. Part 5 – Protection from Harassment	50
8. Part 6 – Supplemental and General	53
9. Unintended consequences	54
Homelessness	54
Impact on tourism	56

10. Financial considerations.....	59
Overall cost of the Bill.....	59
Annexe A - Witnesses	61
Annexe B - List of written evidence	62

The Committee's Recommendations

The Committee's recommendations are listed below in the order that they appear in this report.

Recommendation 1. We recommend that the Assembly does not support the general principles of the Bill. (Page 18)

Recommendation 2. We recommend that the Minister considers reviewing the Model Standards 1989 for holiday caravan sites, with a view to issuing revised standards that include reference to flood risk management. (Page 19)

Recommendation 3. We recommend that the Minister identifies an appropriate legislative vehicle through which mandatory holiday caravan agreements can be introduced, and that he should do this before the end of this Assembly. (Page 19)

Recommendation 4. We recommend that the Member in charge brings forward amendments at Stage 2 to remove the requirement on local authorities to inspect holiday caravan sites at least once every three years. (Page 29)

Recommendation 5. We recommend that the Minister works with the Welsh Local Government Association to develop a national risk rating scheme for holiday sites. (Page 29)

Recommendation 6. We recommend that the Member in charge brings forward amendments at Stage 2 to remove the requirement for the manager of a site to be a fit and proper person and related provisions. (Page 33)

Recommendation 7. We recommend that provision in relation to the appointment of interim managers is removed from the Bill and that the Member in charge brings forward the necessary amendments at Stage 2 to give effect to this. (Page 35)

Recommendation 8. We recommend that the Minister should exercise his power under section 65 to issue guidance to local authorities on charging fees in relation to the licensing of holiday caravan sites. (Page 37)

Recommendation 9. We recommend that the Member in charge brings forward amendments at Stage 2 to remove the mandatory residence test as a condition of site licence and all associated provisions. We further recommend that the Member in charge provides further detail as part of the Stage 1 debate on how he intends to amend Part 3 of the Bill to address the concerns raised in evidence.

(Page 41)

Recommendation 10. We recommend that the Member in charge brings forward an amendment at Stage 2 to enable the 28 day period before which a holiday caravan agreement can be made to be reduced in all circumstances, including where the site owner proposes to sell the caravan to the proposed occupier.

(Page 47)

Recommendation 11. We recommend that the requirement on site owners to consult occupiers on matters relating to the site should be removed, and that the Member in charge brings forward an amendment at Stage 2 to give effect to this.

(Page 49)

1. Introduction

1. On 17 March 2014, Darren Millar AM ('the Member in charge') introduced the Holiday Caravan Sites (Wales) Bill¹ ('the Bill') and accompanying Explanatory Memorandum.² The Member in charge made a statement on the Bill in Plenary on 19 March 2014.³

2. At its meeting on 18 February 2014, the National Assembly's Business Committee agreed to refer the Bill to the Communities, Equality and Local Government Committee ('the Committee') for consideration of the general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report to the Assembly by 24 October 2014.

Terms of scrutiny

3. The Committee agreed the following framework within which to scrutinise the general principles of the Bill:

To consider—

- (i) the 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,
- (ii) the Parts of the Bill, namely:
 - Licensing (Part 2);
 - Residence test (Part 3);
 - Holiday caravan agreements (Part 4);
 - Protection from harassment (Part 5);
 - Supplemental and General (Part 6),
- (iii) any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,
- (iv) whether there are any unintended consequences arising from the Bill,
- (v) the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the 'Regulatory Impact Assessment', which estimates the costs and benefits of implementation of the Bill), and

¹ [Holiday Caravan Sites \(Wales\) Bill](#)

² [Holiday Caravan Sites \(Wales\) Bill, Explanatory Memorandum](#)

³ [Record of Proceedings \(RoP\), 19 March 2014](#)

(vi) the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

The Committee's approach

4. The Committee issued a consultation and invited key stakeholders to submit written evidence to inform its work. A list of the consultation responses is attached at Annexe 1.
5. The Committee took oral evidence from a number of witnesses. The schedule of oral evidence sessions is attached at Annexe 2.
6. The following report represents the conclusions and recommendations that the Committee has reached based on the evidence received during the course of its work.
7. The Committee would like to thank all those who have contributed to its work.

2. General principles and need for legislation

Overview

8. There were varying levels of support in evidence for the general principles of the Bill and need for legislation to modernise the regulatory framework for holiday caravan sites, prohibit the permanent residential use of holiday caravans, and provide additional rights and safeguards for caravan owners and occupiers. Much of the evidence focused on the issue of permanent residential use of holiday caravans.

9. Those representing local authorities were generally supportive of the Bill and viewed it as an opportunity to modernise existing legislation in relation to the control and management of holiday caravan sites. Notwithstanding this, authorities raised concern about specific elements within the Bill, in particular site inspections, the appointment of interim managers and the residence test. Other concerns centred on the financial implications for authorities of meeting the proposed requirements and the potential impact of the Bill on homelessness.

10. The National Association of Caravan Owners (NACO) was, in general, “very supportive” of the Bill and its objectives. It specifically welcomed the introduction of statutory holiday caravan agreements (Part 4) and additional protection of holiday caravan owners from harassment (Part 5).⁴

11. The British Holiday & Home Parks Association (BH&HPA) stated that the holiday caravan park industry had given “qualified support” to the Bill. While it acknowledged that the Bill seeks to place elements of industry best practice on a statutory footing, it raised serious concern about its proportionality.⁵ Ultimately, it believed that the Bill would put holiday and touring parks in Wales at a “competitive disadvantage, risking the jobs they sustain”.⁶ This view was echoed in evidence received from individual site owners and operators.

12. Some respondents questioned the extent to which it was appropriate to apply provisions designed to address issues within the

⁴ Written evidence, HCS92

⁵ Written evidence, HCS13

⁶ Ibid

residential park and wider housing sector to regulate the holiday caravan industry.

13. The Minister for Housing and Regeneration and the Minister for Economy, Science and Transport were clear that they did not support the Bill.⁷ The Minister for Housing and Regeneration explained that, initially, he had been “broadly supportive” of the aims that the Member in charge was seeking to achieve. However, having considered the Bill as introduced, and taking account of the evidence provided by the tourist industry, he was “not persuaded that the Bill is either appropriate or proportionate.”⁸

14. In considering the general principles of the Bill and the need for legislation to modernise the regulatory framework for holiday caravan sites in Wales, we focused on the following key themes:

- whether the Caravan Sites and Control of Development Act 1960 (the 1960 Act) in relation to the control and management of holiday caravan sites in Wales is in need of modernisation;
- the extent of residential misuse of holiday caravan sites; and
- the effectiveness of existing legislation in controlling the use of holiday caravans.

Modernisation of existing legislation

Evidence from respondents

15. There was broad support from those representing local authorities for the Bill’s intention to modernise the regulatory regime in relation to holiday caravan sites. They reported that the 1960 Act was no longer fit for purpose and believed that the Bill provided an opportunity to address this.

16. Pembrokeshire County Council suggested that, under the 1960 Act, local authorities are required to grant site licences in all cases where the appropriate planning permission is in place. However, the Bill provides authorities with the power not to issue site licences. It stated it was “in firm support of modernising the regulatory framework for the licensing of caravan sites” in order to provide “a more consistent basis and effective tools for ensuring compliance with

⁷ Written evidence, HCS108

⁸ Written evidence, HCS109

conditions aimed at protecting public safety and consumer rights, and for preventing the potential uncontrolled drift towards residential use”.

17. Similarly, Conwy County Council stated:

“There is certainly a view that the 1960 legislation is well out of date by contemporary standards, both for planning reasons and, indeed, the general regulatory regime of ensuring that the sites are run properly [...] It is important that the legislation is updated.”

18. The BH&HPA recognised the need to modernise the 1960 Act, but raised serious concern that the Bill went beyond this and “proposes radical reform”. It explained that, while the industry broadly shared the objectives of the Bill, there were “deep concerns” that it was “disproportionate given the anecdotal evidence base and the issues to be addressed”.⁹ Similar views were expressed by individual site owners and operators.

19. Although the Minister for Housing and Regeneration was not supportive of the Bill, he stated:

“There are good reasons to suggest that the 1960 Act is in need of modernising, not least to provide local authorities with the ability to better respond to licensing issues and to give them the powers to recover costs of enforcing the legislation. In modernising this Act we could also address the needs of caravan owners to provide them with greater security and clarity. Other factors that need to be addressed are the level of fines that can be enforced [...] and the steps needed to revoke a licence.”¹⁰

20. However, the Minister made clear that he would only support changes to existing legislation “subject to further detailed research on the nature of problems and possible solutions being undertaken”.¹¹ He did not believe that it was his place to commission such research and he reported it was not his intention to do so, particularly given that the modernisation of the 1960 Act was “not a priority” for him.¹²

⁹ Written evidence, HCS13

¹⁰ Written evidence, HCS109

¹¹ Ibid

¹² RoP, para 37, 11 June 2014

Evidence from the Member in charge

21. The Member in charge explained why he believed the existing legislation in relation to holiday caravan sites was in need of modernising. He stated:

“My Bill is about a thorough modernisation of a piece of existing legislation that is over 50 years old, which was designed for a very different holiday caravan industry. The purpose of my Bill is to support the industry going forward to address problems that exist within the industry at present, to ensure that it continues to be a very important part of our tourism offer in Wales.”¹³

22. The Member in charge believed that the only way to achieve the aims of the Bill was through changes to legislation.¹⁴ In response to the suggestion that the Model Standards issued by the Welsh Minister under the 1960 Act could be revised to meet some of the aims of the Bill, he stated:

“[...] the model standards cannot make any provision in relation to residency, nor can they require written agreements between site owners and caravan owners [...] there does not seem to be any obvious and clear ministerial power that would allow the Ministers to direct local authorities to enforce the law more rigorously in this area.”¹⁵

23. Advice from the Assembly’s Legal Services confirmed that Model Standards could not be used for the purpose of prohibiting residential misuse or for introducing holiday caravan agreements.

24. The Member in charge also stated that Ministerial guidance to local authorities “cannot address the need for additional resources via the introduction of a fee regime for site inspections or place duties on local authorities regarding inspection and enforcement.”¹⁶

¹³ RoP, para 61, 25 June 2014

¹⁴ RoP, para 76, 25 June 2014

¹⁵ RoP, para 7, 25 June 2014

¹⁶ RoP, para 9, 25 June 2014

Residential misuse of holiday caravans

Evidence from respondents

25. The majority of respondents questioned the extent to which residential misuse of holiday caravans was an issue in need of addressing.

26. Professor Fothergill, Sheffield Hallam University, estimated that there may be around 7,500 people living in holiday caravan sites in Wales. This was based on the finding of his research into the use of holiday caravans for residential purposes along the Lincolnshire coast. He went on to estimate a revenue loss for local authorities in Wales of £3-4 million as a result of caravan households failing to pay Council Tax, which rises to around £16 million a year including government grants.¹⁷

27. Professor Fothergill firmly opposed the Bill's aim to prohibit the occupation of holiday caravans as an only or main residence. He suggested that a more appropriate approach would be to "regularise" the long-term occupation of holiday caravans, either "by allowing all-year-round residency on a larger number of sites" or "where site closure still applies for some months of the year, by dropping the present ineffective residency test and thereby clarifying that caravan living is acceptable".¹⁸

28. While some local authorities reported that residential misuse was a problem within their area, there was little evidence to support this assertion. Evidence subsequently provided by the WLGA, based on responses from 14 local authorities, showed that there had been 57 complaints about residential misuse of holiday caravans in the past three years.¹⁹ The Member in charge subsequently confirmed that he had been responsible for lodging 27 of those complaints in relation to his constituency work covering Conwy and Denbighshire local authority areas.²⁰

29. Conwy County Borough Council explained that a joint study with Denbighshire County Council of the transient population, undertaken in 2007, had highlighted evidence of residential misuse of holiday

¹⁷ Written evidence, HCS1

¹⁸ Ibid

¹⁹ Written evidence, HCS105A

²⁰ RoP, para 42, 25 June 2014

caravans.²¹ This evidence was based on concessionary bus passes being issued to, and welfare benefits being claimed at, caravan addresses. Conwy County Borough Council went on to explain that this issue had been addressed “as soon as it was discovered” and that processes had since been put in place to safeguard against future occurrence.²²

30. The BH&HPA pointed out that “there is no authoritative research as to the extent of residential misuse of holiday parks across Wales”.²³ However, it was clear that representatives of the holiday caravan park industry did not believe that residential misuse was a problem.

Evidence from the Member in charge

31. According to the Member in charge, the use of holiday caravans as permanent residences has a negative impact on the tourism industry and local communities, and can result in the underfunding of public services as much of this population is hidden from official statistics.²⁴

32. He stated that the Bill will “bring benefits to the holiday caravan industry by ensuring future profitability is not impaired by reputational impact on the holiday caravan industry through falling standards on a minority of sites where residential use is a growing problem”.²⁵

33. The Explanatory Memorandum states that “in some parts of Wales, as is the case elsewhere in the UK, there is evidence of a growing use of holiday caravans as permanent residences”.²⁶ However, it goes on to acknowledge that official data on holiday caravan parks is scarce and that it is “very difficult to accurately identify the number of people that are currently living in holiday caravans” in Wales.²⁷

34. The Member in charge provided some data, in relation to council tax, housing benefit claims, GP registrations, and crime data, which he believed gave an indication of the scale of permanent residential use of holiday caravans in Wales.²⁸ He stated that the 2011 census

²¹ RoP, para 22, 11 June 2014

²² RoP, para 41-49, 11 June 2014

²³ Written evidence, HCS13

²⁴ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 13

²⁵ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 231

²⁶ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 13

²⁷ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 233

²⁸ RoP, para 38, 7 May 2014

suggested that “around 6,000 households were in caravans or mobile structures—with around 3,400 households on park home sites that leaves 2,600 that were on holiday caravan park sites”.²⁹

35. The Member in charge reported that, during the course of the development of the Bill, he had received complaints about residential misuse of holiday caravans from “all parts of Wales [...] where there are significant clusters of holiday caravan parks”.³⁰ He asserted that residential misuse was “not just confined to [...] the north Wales coast”.³¹

36. The Member in charge subsequently stated:

“[...] 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.”³²

Effectiveness of existing legislation in controlling the use of holiday caravans

Evidence from respondents

37. A number of respondents, including Hobourne Ltd and the Caravan Club suggested that the Bill was unnecessary and that local authorities could make better use of existing powers available to them to control the use of holiday caravans.³³ On this issue, the BH&HPA suggested that, where breaches of planning or site licence conditions restricting the use of caravans for holiday purposes are identified,

²⁹ Plenary, RoP, 19 March 2014

³⁰ RoP, para 34, 7 May 2014

³¹ RoP, para 35, 7 May 2014

³² Letter from Darren Millar AM, 29 May 2014

³³ Written evidence, HCS3

local authorities “should employ the enforcement tools already available to them”.³⁴

38. Those representing local authorities suggested that the lack of reported enforcement action under existing legislation was partly due to a lack of resources. They suggested that the Bill’s proposals to enable local authorities to charge for licensing would help address this issue.

39. Some local authorities welcomed the proposed introduction of additional enforcement tools, including fixed penalty and compliance notices, which they suggested were more appropriate to address breaches of site conditions than prosecution under the 1960 Act.

40. In commenting on its approach to enforcement under existing legislation, Pembrokeshire County Council stated:

“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 the planning legislation and caravan site licensing provisions.
- Model conditions being ambiguous and therefore difficult to enforce.
- Absence of any national policy steer or guidance in the application of the (Caravan Sites and Control of Development) Act and associated conditions.”³⁵

41. Other authorities, including Conwy County Borough Council and Gwynedd Council referred to the relationship between planning legislation and the existing site licencing regime. They explained that site licence conditions must reflect planning conditions that have been attached to planning permission and that, in practice, this can limit their ability to impose restrictions on the use of caravans for holiday purposes only.³⁶

³⁴ Written evidence, HCS13

³⁵ Written evidence, HCS88

³⁶ RoP, para 149, 5 June 2014

42. Advice from the Assembly’s Legal Services confirmed that site licence conditions must complement planning permission and cannot go beyond it.

Evidence from the Member in charge

43. In seeking to demonstrate why local authorities need further powers to control the use of holiday caravans the Member in charge explained:

“[...] you cannot revisit a planning permission, but my Bill will give the opportunity to revisit and review holiday park licences in the future to ensure that they keep up-to-date and are refreshed in line with the modern industry practice and standards.”³⁷

44. In commenting on the effectiveness of local authorities in investigating and subsequently addressing reports of residential misuse, the Member in charge stated:

“[...] in some cases, it is difficult for [local authorities] to enforce against residential misuse, because of the planning permissions in relation to the site.”³⁸

45. He added the requirements of the Bill “would make it absolutely clear [...] that holiday caravans should not be used as people’s main residences”.³⁹

Our view

46. We acknowledge the varying levels of support in evidence for the Bill. We also acknowledge that most respondents were supportive of the modernisation of the Caravan Sites and Control of Development Act 1960. While we recognise that there may be a case for modernisation, we are concerned about the approach taken in the Bill. Like representatives of the holiday caravan park industry, we believe that the Bill goes beyond modernisation to introduce changes that are unnecessary. We acknowledge that the Member in charge has given a commitment to amend the Bill in a number of areas in the event that it progresses beyond Stage 1. Despite this, we are concerned there is a

³⁷ Rop, para 124, 25 June 2014

³⁸ RoP, para 116, 25 June 2014

³⁹ Ibid

risk that the changes to the existing regulatory regime proposed by the Bill could, albeit unintentionally, damage the industry in Wales.

47. In relation to residential misuse of holiday caravans, we do not believe that there is sufficient evidence of misuse to warrant the introduction of further legislative measures. We acknowledge the suggestion in evidence that the power to control the use of holiday caravan sites is contained within planning legislation. It is possible that the introduction of additional measures aimed at prohibiting residential misuse through changes to the site licensing regime could add to the complexity of existing arrangements.

48. Notwithstanding the above, we are concerned about reports from the Member in charge and others that welfare benefits and local services not meant for tourists are being provided to holiday caravan park addresses. While we acknowledge that these could be being provided to employees legitimately residing on sites, we believe that relevant authorities should have procedures in place to ensure that this is the case. As such, we are pleased that the Minister is considering issuing guidance to local authorities on this matter.

49. While there are elements of the Bill that we do support and believe merit further consideration, namely the introduction of holiday caravan agreements and the increased focus on flood risk management in the determination of site licence conditions, we are not convinced that these justify the need for a dedicated Bill. On the basis of this, we are unable to support the general principles of the Bill.

We recommend that the Assembly does not support the general principles of the Bill.

50. A minority of Members did not share the above view and were content for the Bill to progress further, subject to various amendments.

51. In reaching our conclusion on the general principles of the Bill, we considered whether existing Model Standards for holiday caravan sites issued by the Welsh Ministers under the 1960 Act could be used for the purpose of prohibiting residential use, introducing holiday caravan agreements, and ensuring that flood risk management is considered as part of the site licensing process.

52. We received advice from the Assembly's Legal Services that Model Standards would not be an appropriate mechanism for prohibiting residential misuse or for introducing holiday caravan agreements. However, these standards could include certain aspects of flooding risks and procedures, in line with the Model Standards 2008 for residential caravan sites. Given that the Model Standards for holiday caravan sites were last issued in 1989, and in view of the evidence received, we believe there would be merit in reviewing these standards.

We recommend that the Minister considers reviewing the Model Standards 1989 for holiday caravan sites, with a view to issuing revised standards that include reference to flood risk management.

53. We acknowledge that the only way to introduce mandatory holiday caravan agreements is through legislation. We support the principle of the introduction of these agreements, which we believe will benefit both site and caravan owners.

We recommend that the Minister identifies an appropriate legislative vehicle through which mandatory holiday caravan agreements can be introduced, and that he should do this before the end of this Assembly.

54. While we are unable to support the general principles of the Bill, we recognise that the decision on whether the Bill proceeds further rests with the Assembly. In the event that the Assembly does agree the general principles, the remainder of this report sets out our conclusions and recommendations on specific provisions, which we would expect the Member in charge to take into account during the amending stages.

3. Part 1 – Introduction

Background

55. Part 1 provides an overview of the Bill. It also sets out the meanings of key terms used throughout the Bill, including “holiday caravan”, “holiday caravan site”, “owner” and “occupier”.

56. Section 3 provides that, for the purpose of the Bill, “holiday caravan site” means any land on which caravans are stationed where planning permission has been granted for holiday use only, or where the land is offered or designed to be offered for use as holiday accommodation. Schedule 1 provides for sites that are not to be considered holiday caravan sites. These sites would be exempt from the requirements of the Bill.

Evidence from respondents

57. The only respondents to comment on Part 1 were the Caravan Club and the Wales Tourism Alliance, whose written evidence was, for the most part, identical. They explained that the terminology used in Schedule 1 of the Bill differs from that within the equivalent Schedule to the 1960 Act. In particular, paragraph 4 of Schedule 1 of the Bill refers to holiday caravan sites “owned” by an organisation which holds a certificate of exemption, whereas the equivalent part of the Schedule to the 1960 Act refers to sites “occupied” by organisations with exemption certificates. As such, the Caravan Club and the Wales Tourism Alliance raised concern that this change could affect the status of exempted organisations, albeit unintentionally.⁴⁰

58. The Caravan Club specifically called for Schedule 1 of the Bill to be the same as the 1960 Act, which has “served exempted organisations well for 54 years”. It went on to state that, “at the very least, we would wish to see a reversion to the word ‘occupied’”.⁴¹

Evidence from the Member in charge

59. The Member in charge explained that Schedule 1 of the Bill “maintains all of the exemptions previously contained in the Caravan Sites and Control of Development Act 1960”. He stated:

⁴⁰ Written evidence, HCS28, HCS46

⁴¹ Written evidence, HCS28

“The use of ‘owner’ does not make any substantive change to the position as set out in the 1960 Act. This is because the Bill (Section 5) defines the meaning of ‘owner’ in the same substantive way that ‘occupier’ is defined in the 1960 Act. The change in terminology is simply for consistency with that used in the Mobile Homes (Wales) Act 2013 and to reflect modern legislative drafting conventions.”⁴²

60. The Assembly’s Legal Services confirmed that the change in terminology with regards to the meaning of “owner” is purely presentational.

Our view

61. We acknowledge the concern raised in evidence that the terminology used in the Bill in relation to sites owned and supervised by exempted organisations differs from that in the Caravan Sites and Control of Development Act 1960. We welcome the clarification from the Member in charge that the Bill maintains all of the exemptions currently set out in the 1960 Act. In view of this, and of the advice received from the Assembly’s Legal Services, we are content with the meaning of “owner” provided in section 5 and of other terms defined in Part 1.

⁴² Letter from Darren Millar AM, 9 July 2014

4. Part 2 - Licencing

Continuation of 1960 Act licences

Background

62. Section 9 provides that licences granted under the 1960 Act will continue to be valid for the purposes of the Bill, but will only remain valid if the local authority is satisfied that the manager is a fit and proper person. The local authority must modify existing licences so that they satisfy the requirements of the Bill within 12 months of section 9 coming into force.

Evidence from respondents

63. The WLGA raised concern about the proposal for the continuation of site licences issued under the 1960 Act, which it believed would “place significant burden on local authorities to undertake checks on managers, review licences and inspect sites with no up-front income to recover costs”.⁴³

64. It welcomed the proposed introduction of fees in respect of site licencing but stated that the concerns in relation to income from existing sites remain as “an annual fee that is set in accordance with [the] Bill will not cover all local authority costs”.⁴⁴

65. In commenting on the proposed continuation of existing site licences, the Minister for Housing and Regeneration stated:

“The proposal to continue existing site licences has the potential to create confusion. It has previously been suggested that, in some areas, the local authorities themselves are not clear what sites are licensed in their areas and which are not – particularly where the site was established prior to the 1960 Act.”⁴⁵

Evidence from the Member in charge

66. The Explanatory Memorandum states that sites already licenced under the 1960 Act “will be treated as holding a licence under this Bill”

⁴³ Written evidence, HCS105

⁴⁴ Ibid

⁴⁵ Written evidence, HCS109

and that this would “reduce the administrative burden for both site owners and local authorities”.⁴⁶

67. According to the Member in charge, the combined cost to local authorities of processing the existing 1,500 site licences, including carrying out the fit and proper person assessments, is estimated at £762,000. In commenting on this cost estimate, he stated:

“[...] 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 a case, therefore, that licences will need to be developed from scratch.”⁴⁷

Our view

68. We note the concerns raised by local authorities about the cost implications for authorities associated with the continuation of site licences issued under the 1960 Act. We understand there is scope for these costs to be recovered as part of any annual fee charges set by authorities using the powers provided in section 39 of the Bill.

69. In addition, later in this report we recommend that the requirement for site managers to be deemed fit and proper to manage a site is removed from the Bill (see recommendation 6). If this is the case, the cost to authorities associated with the continuation of site licences issued under the 1960 Act will be reduced. Subject to the removal of the fit and proper person requirement, we are content with the provisions in relation to the continuation of 1960 Act licences.

Duration of site licences

Background

70. Section 11 provides that site licences continue indefinitely unless terminated. However, the Bill does include a requirement for local authorities to review site licence conditions at least once every five years, to ensure that they remain appropriate.

Evidence from respondents

71. There were varying levels of support in evidence for the proposal for site licences issued under the Bill to continue indefinitely.

⁴⁶ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 52

⁴⁷ Letter from Darren Millar AM, 29 May 2014

72. Those representing the holiday caravan industry were firmly in favour of the proposal. As such, the BH&HPA stated:

“We are greatly relieved that the Bill does *not* propose time-limited site licences as this would severely undermine lenders’ confidence and therefore jeopardise industry investment, as well as remove customers’ access to credit.”⁴⁸

73. There was some divergence of opinion across local authorities on the proposed duration of site licences. The WLGA suggested that licences should be renewed periodically and favoured renewal over the requirement to review licence conditions currently provided for in the Bill. It went on to suggest “a maximum of five years duration for a site licence”, in order to generate sufficient revenue through site licence fees to “ensure local authorities are able to properly enforce provisions”.⁴⁹ This view was shared by the City and County of Swansea, Denbighshire County Council and the Vale of Glamorgan Council.⁵⁰

74. In contrast, Pembrokeshire County Council stated:

“[...] because an annual fee has been introduced into the legislation, the review of conditions at five years, we think, would be sufficient to deal with the ongoing income-related matters, and to ensure that the site licence conditions were fit for purpose. So, they would not need to renew every five years.”⁵¹

75. On a related issue, Conwy County Borough Council acknowledged the call by the industry for site licences that are not time-limited in order to provide the necessary confidence to reinvest in sites as “a reasonable consideration”.⁵²

Evidence from the Member in charge

76. In commenting on the proposal for site licences to continue indefinitely, the Member in charge stated:

“This continues the current arrangements under the 1960 Act and reflects concerns from the industry about the impact on

⁴⁸ Written evidence, HCS13

⁴⁹ Written evidence, HCS105

⁵⁰ Written evidence, HSC107, HCS106

⁵¹ RoP, para 178, 11 June 2014

⁵² Written evidence, HCS68

their businesses of time-limited licences, particularly in terms of accessing finances for business development.”⁵³

Our view

77. We note the concern raised by local authorities about the effect that indefinite site licences could have on the ability of authorities to generate revenue to meet the cost of enforcing the proposed licensing regime. However, we also note that the Bill provides for the regular review of site licence conditions, which we believe is an acceptable alternative to the provision of time-limited licences and licence renewal. Given that there is scope for costs associated with the review process to be recovered as part of any annual fee charge set by authorities, we do not believe that the proposed indefinite site licences will put authorities at a financial disadvantage. In view of this, and of the concern from the industry that time-limited licences may restrict future investment, we are content with the section 11 provision.

Flood risk management

Background

78. Section 15 requires local authorities, in considering what conditions to impose in a site licence, to consult any public body in Wales with general responsibility for flood risk management (currently Natural Resources Wales).

Evidence from respondents

79. Few respondents commented on the requirement in section 15. Of those who did, the BH&HPA implied that the requirement was unnecessary, not least because local authorities would be unlikely to grant planning permission for a holiday caravan site in an area at risk of flooding. It explained that authorities could attach the development of a flood risk plan as a condition of licence under existing licensing arrangements. It also explained that Natural Resources Wales had published guidance to all park owners on the development of flood-risk management, on evacuation plans, and on informing the consumers.⁵⁴

80. In contrast, Natural Resources Wales stated:

⁵³ Letter from Darren Millar AM, 29 May 2014

⁵⁴ RoP, para 328, 11 June 2014

“We would support a requirement for caravan sites located in flood risk areas to produce and implement a flood management/evacuation plan as well as associated warning notices and agree this should be secured as a condition on their licence in line with the advice set out in TAN15.

“This should be the case for all sites applying for an initial licence and those that require a renewal of their licence. In the cases of renewal, a caveat to re-visit any flood management plans/site notices might be useful to ensure they are up to date.”⁵⁵

Evidence from the Member in charge

81. The Member in charge asserted that “the flooding over the winter shows how important it is to have adequate flood risk plans in place for Holiday Caravan Sites located on flood risk areas”.⁵⁶

82. He stated that the implications of the Bill for Natural Resources Wales “are neither onerous nor unreasonable” and went on to state:

“[...] the availability of online resources, such as the TAN15 Development and Flood Risk advice maps, provides an instant view on whether a site may be located in an area of flood risk.”⁵⁷

Our view

83. We welcome the arrangements that have been put in place by Natural Resources Wales and the holiday caravan industry to minimise the risks of flooding on existing holiday caravan sites. While it is clear that there is already positive work being undertaken in this area, we believe that current arrangements would be strengthened by placing them on a statutory footing. As such, we support the requirement in the Bill for local authorities to consult Natural Resources Wales in relation to flood risk management when considering the conditions to impose in a site licence. We believe that this is a useful addition to the existing requirement under the 1960 Act to consult the fire and rescue service about fire precautions. We hope it will help provide further confidence to consumers.

⁵⁵ CELG(04)-20-14 Paper 3, Letter from Natural Resources Wales

⁵⁶ Letter from Darren Millar AM, 29 May 2014

⁵⁷ Ibid

In the event that the Bill does not proceed, we refer the Minister to recommendation 2.

Site inspections and licence reviews

Background

84. Section 16 introduces a new requirement for local authorities to inspect holiday caravan sites at least once every three years to monitor compliance with site licence conditions. It also requires authorities to review site licence conditions at intervals of not more than five years.

Evidence from stakeholders

85. Those representing local authorities raised concern about the requirement on authorities to inspect sites and the proposed frequency of inspections. It was clear that they favoured the continuation of a risk based approach to inspection.

86. In commenting on the general approach to inspection of businesses, Gwynedd County Council explained:

“[...] 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.”⁵⁸

87. The WLGA reported that local authorities already “operate well established risk assessment programmes which control the frequency of inspections of businesses – based on risk posed”. It explained that these programmes had classed the majority of holiday caravan sites as “low risk” and, under current arrangements, would not be subject to routine inspection.⁵⁹

88. Similar points were raised by the Vale of Glamorgan Council, City and County of Swansea and Denbighshire County Council.⁶⁰

⁵⁸ Written evidence, HCS91

⁵⁹ Written evidence, HCS105

⁶⁰ Written evidence HCS106, HCS107, HCS84

89. Pembrokeshire County Council explained that it inspected sites “in accordance with a locally devised risk rating scheme” and to ensure “the careful and proportionate management of the authority’s finite resources”.⁶¹ It suggested that, in order to “decrease the burden [of inspection]” on authorities, consideration should be given to the development of a “national risk rating scheme” with a “no inspectable risk” category, or that the frequency of inspections could be reduced to at least once every five years.⁶²

90. On the issue of resources, the WLGA and Denbighshire County Council raised concern that, given existing financial constraints and the reduction in enforcement officers, it would be difficult for local authorities to meet the proposed requirement to inspect sites and review licence conditions.⁶³

Evidence from the Member in charge

91. According to the Explanatory Memorandum:

“[...] it is clear that different local authorities take different approaches to site inspection and that authorities generally take into account risk when deciding how often to inspect each site. Inspection frequency ranges from only carrying out inspection in response to complaints to annual or more frequent inspection.”⁶⁴

92. It states that the requirement on local authorities to inspect sites “will ensure that regular inspections are carried out more consistently across Wales”.⁶⁵ It also suggests that, in the absence of this requirement “there is a risk that in some areas there will be few, if any, inspections” and that, as such “the trend for holiday sites being used for residential purposes will continue”.⁶⁶

93. In acknowledging the concerns raised in evidence about the proposed frequency of site inspections, the Member in charge gave a commitment to bring forward an amendment at Stage 2 “to increase the maximum period between inspections from three to five years”. He also stated:

⁶¹ Written evidence, HCS88

⁶² RoP, para 195, 5 June 2014

⁶³ Written evidence, HCS105, HCS84

⁶⁴ Holiday Caravan Sites (Wales), Explanatory Memorandum, para 171

⁶⁵ Holiday Caravan Sites (Wales), Explanatory Memorandum, para 172

⁶⁶ Holiday Caravan Sites (Wales), Explanatory Memorandum, para 174

“The provisions already in the Bill that require the Welsh Government to consult industry bodies, and others, before commencing the duty to inspect will, of course, also help to ensure that a new inspection regime can be introduced sensitively and over an appropriate timescale.”⁶⁷

Our view

94. Overall, we received little evidence to suggest that there is a systematic problem within the holiday caravan industry in relation to residential misuse or breaches of site licences more generally that would warrant the proposed inspection requirement.

95. Further to this, we acknowledge the concerns raised by local authorities about the practical and financial implications for them of meeting the requirement to inspect sites at least once every three years. We acknowledge the intention of the Member in charge to bring forward an amendment to reduce the frequency between site inspections from once every three years to five years. While we believe that this would go some way in satisfying the concerns raised in evidence, we remain unconvinced of the need for a requirement on local authorities to inspect sites. Instead, we believe that the current risk-based approach to inspection is sufficient and will enable authorities to target their efforts and resources more effectively.

We recommend that the Member in charge brings forward amendments at Stage 2 to remove the requirement on local authorities to inspect holiday caravan sites at least once every three years.

96. Notwithstanding the above, we welcome the suggestion in evidence of the development of a national risk rating scheme for holiday caravan sites, which we believe would achieve a more consistent approach to inspection of sites across local authorities.

We recommend that the Minister works with the Welsh Local Government Association to develop a national risk rating scheme for holiday sites.

⁶⁷ Letter from Darren Millar AM, 9 July 2014

Fit and proper person

Background

97. Section 33 sets out the requirement for site managers to be fit and proper persons. Section 34 requires local authorities to have regard to all matters it considers appropriate when determining whether or not a person is fit and proper.

Evidence from respondents

98. There were varying levels of support among respondents for the proposed fit and proper person assessment for site managers.

99. Tai Pawb, the Chartered Institute of Housing Cymru and the WLGA supported the introduction of a fit and proper person assessment in principle.⁶⁸

100. Notwithstanding its support, the WLGA questioned why contraventions of Trading Standards law were specifically included in the matters that an authority must take into account when carrying out an assessment.⁶⁹ This issue was also raised by individual local authorities, including the City and Council of Swansea. It stated that it was “unclear [...] how this requirement will be defined to ensure consistent application across Wales”.⁷⁰

101. Unlike the WLGA, Pembrokeshire County Council did not believe that a fit and proper person assessment was necessary. It stated:

“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 the vulnerable nature of many residential occupations, 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.”⁷¹

⁶⁸ Written evidence, HCS56, HCS64, HCS105

⁶⁹ Written evidence, HCS105

⁷⁰ Written evidence, HCS107

⁷¹ Written evidence, HCS88

102. While the NACO was “not necessarily in full support” of the fit and proper person assessment,⁷² it raised concern that, in the absence of the assessment, residential park managers who fail the equivalent assessment “would seek to pursue parks operating in the holiday sector to the detriment of holiday caravan owners”.⁷³

103. There was strong opposition from the holiday caravan park industry and the wider tourist industry to the introduction of a fit and proper person assessment.

104. The BH&HPA argued that, in the case of small, family run businesses, “there is no evidence to justify” the introduction of the assessment. It stated:

“[...] staff changes within corporate businesses would necessitate frequent re-testing of the fitness of park managers, creating cost, unnecessary work for local authorities and reducing the flexibility of corporate groups to deploy their management staff across parks within their groups.”⁷⁴

105. The NCC explained that holiday caravan park owners and operators were already the subject of a number of mandatory tests and that these, along with its Approved Holiday Park Holiday Home Ownership Regime, which was designed to set industry standards, “should be accepted by local authorities without the need for additional testing”.⁷⁵

106. A number of individual site owners and operators, including Tree Tops Caravan Park, Pant Gwyn Farm Caravan Park and Hoburne Limited, questioned the need for the proposed fit and proper person assessment and the extent to which it was appropriate to apply it to holiday caravan parks above other businesses.⁷⁶

107. While the Minister for Housing and Regeneration did not oppose the introduction of a fit and proper person assessment in principle, he questioned whether the assessment provided in the Bill was appropriate for the holiday caravan park industry. He stated:

⁷² RoP, para 191, 11 June 2014

⁷³ Written evidence, HCS92

⁷⁴ Written evidence, HCS13

⁷⁵ Written evidence, HCS98

⁷⁶ Written evidence, HCS35, HCS87, HCS3

“The suggestion is that the same test and criteria that will apply which is being used for residential home sites. Holiday sites are tourism businesses and a different test and criteria that is more appropriate for that industry would need to be developed”.⁷⁷

Evidence from the Member in charge

108. In commenting on the requirement for a site manager to be a “fit and proper person”, the Member in charge stated:

“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.”⁷⁸

109. However, he acknowledged the concern raised by respondents that the inclusion of breaches of housing law in the assessment is overly prescriptive and not appropriate for the purpose of the holiday caravan park industry. As such, he stated he intended to amend the Bill “to remove reference to housing law” and “to ensure that the test is focused on the key issues of fraud, dishonesty and equality, which I think are the essential protections appropriate to this sector”.⁷⁹

Our view

110. We share the concerns raised by respondents about the introduction of a fit and proper person assessment for those involved in the management of holiday caravan sites. We acknowledge that similar provision is contained within existing housing legislation and that the basis for that provision is to help tackle rogue operators and improve standards within the sector. However, we have received no

⁷⁷ Written evidence, HCS109

⁷⁸ Letter from Darren Millar AM, 29 May 2014

⁷⁹ Letter from Darren Millar AM, 9 July 2014

firm evidence to suggest that the same basis applies in the case of the holiday caravan park industry.

111. We note the intention of the Member in charge to amend the Bill to tailor the assessment for the purpose of the holiday caravan park industry. However, we remain unconvinced that an assessment of this type is appropriate or necessary within this context.

We recommend that the Member in charge brings forward amendments at Stage 2 to remove the requirement for the manager of a site to be a fit and proper person and related provisions.

Interim managers

Background

112. Section 35 of the Bill gives local authorities the power to appoint an interim manager of a holiday caravan site in certain circumstances, including situations where licence conditions are not being adhered to and there is not a fit and proper person managing the site.

Evidence from respondents

113. Few respondents commented on the proposal to enable local authorities to appoint interim managers. Those who did comment raised concern about, or directly opposed the proposal.

114. A number of respondents from the holiday caravan industry strongly opposed the proposal, which they believed was inappropriate, unfair and could put the industry at a disadvantage in comparison with other types of tourist accommodation.

115. Haulfryn Group emphasised that poor performance of management would be identified and addressed during the normal course of business. It felt strongly that decisions about who should manage holiday caravan parks should be taken by site operators. It stated:

“Removal of the ability to decide who runs our business removes the ability for us to run the business. Whilst the local

authority should be able to inform us of any concerns they may have we feel that this power is a step too far.”⁸⁰

116. On the basis of informal discussions with its bank, Parkdean Holidays raised concern that the proposal could jeopardise investment as the potential to replace a site manager with an interim manager “who is not accountable” would be considered a “huge risk” in business terms.⁸¹

117. Local authority representatives, including the WLGA and Conwy County Borough Council, reported that it would be difficult for authorities to appoint sufficiently skilled and experienced interim managers.⁸²

118. On this issue, Denbighshire County Council stated:

“Unlike residential caravan sites that local authorities and social landlords may have relevant experience of managing, there is no precedent for the appointment of interim managers for holiday sites therefore further information and guidance on the practical use of such powers would be required for local authorities.”⁸³

Evidence from the Member in charge

119. The Member in charge believed that the provisions in relation to interim managers would “be welcomed by consumers”.⁸⁴

120. Although we did not raise the issue directly with the Member in charge, we understand that these provisions largely replicate those contained within the Mobile Homes (Wales) Act 2013 and that similar provisions are contained in housing legislation in respect of Houses of Multiple Occupation, selective licensing schemes and registered social landlords.

Our view

121. It is clear from the evidence we received that there is no support for the proposal to enable local authorities to appoint interim

⁸⁰ Written evidence, HCS94

⁸¹ RoP, para 299, 11 June 2014

⁸² RoP, para 241-243, 5 June 2014

⁸³ Written evidence, HCS84

⁸⁴ Letter from Darren Millar AM, 29 May 2014

managers. We acknowledge that similar provision is contained within housing legislation. However, the primary purpose of that provision is to protect the interests of residents and tenants who, in the absence of an interim manager, could be at risk of losing their home. We do not believe that this level of intervention is either appropriate or necessary in the context of holiday caravan sites. In addition, and in view of the evidence about the potential difficulty in appointing interim site managers, we believe that the provision will be unworkable in practice.

We recommend that provision in relation to the appointment of interim managers is removed from the Bill and that the Member in charge brings forward the necessary amendments at Stage 2 to give effect to this.

Power to charge fees

Background

122. Under the 1960 Act, local authorities are not able to charge fees in relation to holiday caravan site licences. The Bill introduces new powers for authorities to charge fees, which mirror those provided in the Mobile Homes (Wales) Act 2013.

Evidence from respondents

123. Those representing local authorities welcomed the powers to charge fees, which they believed would assist them in meeting the administrative and monitoring costs of the new licencing regime.

124. Pembrokeshire County Council explained that, as local authorities are currently unable to charge licensing fees, the cost of monitoring and inspecting sites and of taking enforcement action was “at the expense of the public purse”.⁸⁵

125. Linked to the above, Conwy County Borough Council stated:

“I think that [a holiday caravan site licence] is the only licence that the local authority issues to which there is no fee attached, and a fee would assist with the resource implications of monitoring the sites.”⁸⁶

⁸⁵ RoP, para 144, 5 June 2014

⁸⁶ RoP, para 167, 5 June 2014

126. While the NACO seemed to accept the rationale for the introduction of fees, it expressed concern that these would ultimately be passed on to consumers.⁸⁷

127. The BH&HPA pointed out that although local authorities are unable to charge fees for site licences they do receive revenue from business rates that holiday caravan parks are required to pay.⁸⁸ It estimated that the business rate contribution from holiday and touring parks in Wales was between £17 million and £24 million for the 2013-14 financial year.⁸⁹

128. The BH&HPA stated there should be “very careful controls on the fees”. It emphasised the need to ensure that “good park owners” do not fund enforcement action against “bad park owners” and that fees should be fair and take account of the size and type of park.⁹⁰

Evidence from the Member in charge

129. The Explanatory Memorandum states that “[local authorities] receive no direct contribution from site operators towards the costs associated in dealing with their duties under the 1960 Act”.⁹¹

130. It goes on to state:

“If this Bill does not become law, these costs will continue to fall upon council tax payers and the local authority’s funding from the Welsh Government. The inability of local authorities to charge may deter some authorities from intervening where breaches of licences are identified, or indeed from undertaking regular monitoring.”⁹²

131. In responding to the suggestion that business rates collected by local authorities from site owners could be used to meet the cost of monitoring compliance, the Member in charge stated:

“[...] the same argument could be put in respect of licensed premises, gaming licences and other parts of the licensing regime—all of which charge a fee in relation to the inspection

⁸⁷ Written evidence, HCS92

⁸⁸ RoP, para 311, 11 June 2014

⁸⁹ CELG(4)-20-14 Paper 4 Letter from the BH&HPA

⁹⁰ RoP, para 338, 11 June 2014

⁹¹ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 173

⁹² Ibid

and enforcement regimes that they fund. I do not see why there should be an exception for this particular industry.”⁹³

Our view

132. We acknowledge the support from local authorities for the power to charge fees in relation to licensing. We recognise that the licensing of holiday caravan parks is the only licensing scheme administered by authorities for which they are unable to charge fees, and we believe that this anomaly should be addressed. We acknowledge that revenue generated from licensing fees will assist authorities in meeting the implementation costs and the on-going costs of monitoring site licence compliance.

133. We believe it is inevitable that the holiday caravan park industry will seek to recoup the cost associated with licensing from caravan owners in the form of increased fees. As such, it will be important to ensure that fees policies are reasonable and transparent. Moreover, fees policies should not be used to generate revenue over and above that which is required by an authority to meet the costs of administering and monitoring the licensing scheme.

134. Given the wide variation in the number and size of sites both across and within local authority areas, we acknowledge that authorities will be best placed to set their own fee policy, and we are content with this proposal. Notwithstanding this, we believe that authorities would benefit from guidance on fee charging to ensure the appropriate and effective use of the proposed power.

We recommend that the Minister should exercise his power under section 65 to issue guidance to local authorities on charging fees in relation to the licensing of holiday caravan sites.

⁹³ RoP, para 81, 25 June 2014

5. Part 3 – Residence test

Background

135. Part 3 introduces new requirements which seek to ensure that no person occupies a holiday caravan as their permanent or main residence. Those occupying a holiday caravan for six consecutive weeks or more will have to prove that they are not using the holiday caravan as their only or main residence by providing at least two documents from those listed in Schedule 2. Further residence tests must be carried out by site owners at least once a year.

136. Site owners must notify the local authority of any residence test failure as soon as possible and keep the evidence provided in relation to the test and make it available to the local authority at all reasonable times. The Bill requires local authorities to inspect that evidence at least once a year.

Evidence from respondents

137. There was little support in evidence for the introduction of mandatory residence tests and associated provisions. Many respondents did not believe that such tests were necessary, or appropriate for the purpose of addressing residential misuse of holiday caravans.

138. There was concern from representatives of local authorities and the holiday caravan industry that the requirement to carry out residence tests and to re-test annually would be onerous and costly. Representatives of the industry were also concerned that the introduction of the test could potentially damage the relationship between site and caravan owners.

139. There was a general consensus that the residence test provided in Schedule 2 would be ineffective.

140. The WLGA stated:

“[...] 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.”⁹⁴

141. It suggested that residential misuse could be addressed “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 the Bill”. It stated that “these and other potential measures should be fully explored as alternatives” to the residence test.⁹⁵

142. In commenting on the above, the Minister reported that he was considering issuing guidance to local authorities on restricting access to local services and welfare benefits to those who are unlawfully residing in holiday caravans.⁹⁶

143. Several local authorities, including Pembrokeshire County Council and the Vale of Glamorgan Council questioned the need for annual inspections of evidence held by site owners on residence tests. They suggested that, on well-managed sites with robust systems in place to monitor residential misuse, checks could be made as part of routine risk-based inspections. This could reduce costs for both authorities and the industry.⁹⁷

144. While the Minister acknowledged the intention behind the introduction of the residence test, he questioned whether “the Bill is the best mechanism for achieving this goal”. He suggested that the requirement to conduct residence tests would place “an additional burden on business” and questioned “how this test would help address [the Member in charge’s] concern [about the residential misuse of holiday caravan sites]”.⁹⁸

145. Representatives of the industry raised serious concern about the practical and financial implications for site owners and operators of the requirement to carry out residence tests.

146. The BH&HPA raised concern about the veracity of the estimated cost to site owners of carrying out residence tests set out in the

⁹⁴ Written evidence, HCS105

⁹⁵ Ibid

⁹⁶ RoP, para 88, 11 June 2014

⁹⁷ Written evidence, HCS88, HCS106

⁹⁸ Written evidence, HCS109

Explanatory Memorandum.⁹⁹ This was based on an alternative estimate provided by Park Dean Holiday Parks was significantly greater than the figure in the Explanatory Memorandum.¹⁰⁰

147. In contrast to the above views, Whitehouse Leisure Park and the Royal Town Planning Institute Cymru were supportive of the residence test.¹⁰¹

Evidence from the Member in charge

148. The Member in charge asserted that the residence test “is not an onerous test”. He explained that evidence provided for the purpose of meeting the test, set out in Schedule 2, was based on that required by Her Majesty’s Revenue and Customs for the purpose of demonstrating residential occupancy.¹⁰²

149. The Member in charge suggested that the annual re-testing of occupiers and inspection by local authorities of documentation provided would enable authorities to carry out checks to validate documents where necessary, which would help ensure that the test was effective.¹⁰³

150. In later evidence, the Member in charge acknowledged the concerns raised in evidence about the residence test. He explained that he intended to bring forward amendments at Stage 2 “to remove the compulsory residence test and, instead, to replace it with the discretionary power for local authorities to conduct residence tests where they have a suspicion that residential misuse is a factor on the site”. He stated:

“[this] will be in keeping with the risk-based approach to inspection elsewhere in the Bill and ensure that particularly local and regional problems can be dealt with effectively while not requiring an intrusive approach in areas where permanent occupation has not been identified as a problem.”¹⁰⁴

⁹⁹ Written evidence, HCS13

¹⁰⁰ Written evidence, HCS92

¹⁰¹ Written evidence, HCS38, HCS79

¹⁰² RoP, para 151-152, 7 May 2014

¹⁰³ RoP, para 154, 7 May 2014

¹⁰⁴ RoP, para 9, 25 June 2014

Our view

151. We share the concerns raised in evidence about Part 3 of the Bill, in particular the introduction of mandatory residence tests as a condition of site licence, the annual re-testing of caravan occupiers and the annual inspection by local authorities of evidence relating to residence tests.

152. We believe that mandatory residence tests will place an unnecessary burden on the holiday caravan industry and that the regular re-testing of caravan occupiers by site owners has the potential to cause mistrust between both parties and ultimately damage this relationship.

153. We question whether the residence test provided in Schedule 2 is sufficiently robust to meet the aim of identifying caravan occupiers who use their holiday caravans as an only or main residence. We believe that the documentation required to meet the proposed test could be acquired without an individual having a main residence elsewhere, and that this would undermine the effectiveness of the test.

154. Most significantly and as previously mentioned, there was a lack of evidence to support the assertion of increasing use of holiday caravans as permanent residences. In the absence of such evidence, we see no reason to introduce mandatory residence tests. We believe it would be unwise to introduce additional legislative measures in the absence of any firm evidence that they are needed.

155. We believe that the introduction of holiday caravan agreements, with implied terms that holiday caravans should not be used as a main or sole residence, is a more appropriate way of addressing potential residential misuse.

156. We acknowledge the intention of the Member in charge to amend the Bill to remove the mandatory residence test and replace it with an enabling power for local authorities to require tests in cases where they suspect residential misuse of holiday caravans. While we support this in principle, we would welcome further detail on this issue.

We recommend that the Member in charge brings forward amendments at Stage 2 to remove the mandatory residence test as a condition of site licence and all associated provisions. We further recommend that the Member in charge provides further detail as

part of the Stage 1 debate on how he intends to amend Part 3 of the Bill to address the concerns raised in evidence.

6. Part 4 – Holiday Caravan Agreements

Background

157. Part 4 provides for mandatory holiday caravan agreements. These are intended to provide additional protection to occupiers and owners of holiday caravans and site owners by setting out particulars and implied terms of agreements, which would apply to all agreements regardless of any express terms. The implied terms are set out in section 56 and include a requirement on site owners:

- to consult caravan owners about site matters that are likely to affect occupiers significantly; and
- to provide occupiers with copies of utility bills and the non-domestic rating bill, when reasonably requested by occupiers.

158. Before making a holiday caravan agreement, the owner of the site must provide the proposed occupier with a written statement that provides basic information about the proposed agreement. The written statement must be given no later than 28 days before the date on which the agreement is to be made, unless a shorter period is agreed in writing. The period cannot be shortened where a holiday caravan is being sold by the site owner to the proposed occupier.

Evidence from stakeholders

159. There was broad support in evidence for the introduction of mandatory holiday caravan agreements. A number of respondents, including the BH&HPA and the NCC, explained that the requirement for written agreements between site and caravan owners reflects the industry model licence agreement. This model was developed and adopted by the industry following the publication of guidance by the Office of Fair Trading on unfair terms in holiday caravan agreements.

160. In welcoming the proposals for mandatory agreements, Pembrokeshire County Council explained that “numerous” sites within its area had not adopted industry best practice on the provision of written agreements and that “a statutory obligation will ensure consistency across the sector, make enforcement easier and ensure protection for consumers”.¹⁰⁵

¹⁰⁵ Written evidence, HCS88

161. The NACO reported that the majority of the complaints received from caravan owners “tend to be problems based on the lack of a written agreement”¹⁰⁶ and that, in the absence of such an agreement, they “may be placed in a vulnerable position”.¹⁰⁷

162. While the NACO acknowledged that major holiday caravan site operators have adopted the industry model licence agreement, “most parks in the UK [including in Wales] are smaller, family-run sites with “legacy terms and conditions” where, “in some cases sales and obligations are dealt with either verbally or by annual agreements”.¹⁰⁸

163. The Minister for Housing and Regeneration was supportive of holiday caravan agreements. He acknowledged that the provision of written agreements is “already seen as best practice in the industry”, which he believed “should become the norm”.¹⁰⁹

164. Although the vast majority of respondents were in favour of putting written agreements on a statutory footing, a minority of site owners and/or operators believed it was unnecessary.

Evidence from the Member in charge

165. The Explanatory Memorandum states that “although it is industry best practice, there is no legal requirement for a written agreement between the owner of a holiday caravan and a holiday caravan site owner”.¹¹⁰

166. According to the Explanatory Memorandum, the industry model licence agreement explicitly states that the caravan must not be used as a permanent residence and that the site owner will be able to take steps to end the agreement if this condition is breached. However, adoption of the model agreement is voluntary and as a result its adoption by the industry is “inconsistent, and sites are not required to use the agreement, even where the site owners are members of the industry bodies who developed it”.¹¹¹

¹⁰⁶ RoP, para 167, 11 June 2014

¹⁰⁷ RoP, para 139, 11 June 2014

¹⁰⁸ Written evidence, HCS92

¹⁰⁹ Written evidence, HCS109

¹¹⁰ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 29

¹¹¹ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 31

Our view

167. We recognise the benefits of written agreements to both site and caravan owners. We heard evidence from caravan owners and their representatives to suggest that, in the absence of written agreements, they have limited protection and are therefore in a vulnerable position. It follows that owners with no written agreement are at an increased risk of exposure to poor practice and are likely to have limited avenues of redress available to them.

168. We acknowledge that the model licence agreement developed by the British Holiday and Home Parks Association is being used in some parts of the holiday caravan industry. We also acknowledge that adoption of this agreement is a prerequisite for membership to the BH&HPA. However, given that a significant proportion of the industry operates outside of the trade association, this cannot be relied upon to ensure the consistent use of agreements across the industry. We believe that the introduction of statutory holiday caravan agreements is the most effective way to achieve this consistency.

Requirement to give a written statement no later than 28 days before making a holiday caravan agreement

Evidence from respondents

169. There was strong opposition from the industry for the requirement for site owners to give written statements to proposed occupiers within 28 days of the holiday caravan agreement being signed.

170. The NCC recognised the need to ensure that consumers “have sufficient time to consider their potential investment and the rights and responsibilities of holiday home ownership”.¹¹² However, it raised concern that the requirement “will have a devastating impact on holiday parks and their ability to compete effectively”.¹¹³

171. The NCC stated that “many [customers] want to complete the purchase at the earliest opportunity” and, as such, the mandatory 28

¹¹² Written evidence, HCS98

¹¹³ Ibid

day period “will serve to frustrate and risk the failure of the transaction completely”.¹¹⁴

172. Linked to the above, Whitehouse Leisure Park explained that, when purchasing a holiday caravan, “often customers will visit the park, buy a caravan and expect to be using it within days”.¹¹⁵

173. Parkdean pointed out that the requirement “is more onerous than the equivalent provision in [the Mobile Homes (Wales) Act 2013]”,¹¹⁶ which provided for the 28 day period to be shortened by agreement.

Evidence from the Member in charge

174. Responding to the industry’s concerns the Member in charge stated:

“I believe that the requirement for a written statement of particulars, provided in advance, remains an important safeguard for caravan occupiers. However, it was not part of my intention that this should become a way of frustrating site owners and occupiers from reaching earlier agreement where they wished.”¹¹⁷

175. He went on to state:

“[...] should the Bill proceed to Stage 2, I intend to bring forward an amendment to delete the final part of S55(3) so that the 28 day period can be reduced by agreement in all circumstances.”¹¹⁸

Our view

176. We share the concerns raised by the industry about the potential effect on the sale of holiday caravans of the requirement for a 28 day period between giving a statement and making a holiday caravan agreement. We acknowledge that the Bill provides for the 28 day period to be reduced by written consent of the proposed occupier, but that this does not apply in cases where the holiday caravan is being sold by the site owner. We believe that this could lead to undesirable

¹¹⁴ Written evidence, HCS98

¹¹⁵ Written evidence, HCS38

¹¹⁶ Written evidence, HCS99

¹¹⁷ Letter from Darren Millar AM, 9 July 2014

¹¹⁸ Ibid

delays in the purchasing process, deter prospective buyers and put site owners in Wales at a disadvantage.

177. We note that the Mobile Homes (Wales) Act 2013 includes provision for the 28 day period to be reduced by written consent of the proposed occupier regardless from whom they are making their purchase. We believe that this approach would help address the concerns of the industry while continuing to provide a necessary safeguard for consumers.

178. We welcome the Member in charge's commitment to amend section 55(3) of the Bill.

We recommend that the Member in charge brings forward an amendment at Stage 2 to enable the 28 day period before which a holiday caravan agreement can be made to be reduced in all circumstances, including where the site owner proposes to sell the caravan to the proposed occupier.

Requirement to consult on site matters

Evidence from stakeholders

179. Notwithstanding their overall support for written agreements, concern was raised by the holiday park industry about the requirement on site owners to consult caravan owners on matters relating to the site. On this issue, the NCC stated:

“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.”¹¹⁹

180. It raised concern that having to consult caravan owners on proposed changes to sites, particularly in the early stages of the development of proposals, could raise expectations that may not later be met.

181. Conversely, the BH&HPA suggested that, where caravan owners responded negatively to proposed changes, it “must not then be a

¹¹⁹ Written evidence, HCS98

damper on investment or the flexibility needed for tourism businesses in what is a fast-moving tourism economy”.¹²⁰

182. The NCC raised concern that the drafting of the requirement, which it believed was too broad, could encourage litigation, particularly as the terms used were largely undefined and therefore open to interpretation by both site and caravan owners.

183. Finally, the NCC emphasised that it was a “consumer-facing organisation” and that “responsible park owners” already engage with their customers when making decisions relating to sites.

184. Similarly, Whitehouse Leisure Park stated:

“It is not in the interest of any park owner to make changes to their business that would be unattractive to their customers and customer expectations are the driver for nearly all park developments, both physically and operationally. Some credit should be given to our industry in this regard and to our ability to respond to customer needs without such formal processes.”¹²¹

Evidence from the Member in charge

185. The Member in charge explained that the requirement on site owners to consult was included “as a direct result”¹²² of responses to his consultation on proposals for the Bill. He added that the Bill “is not prescriptive”¹²³ about how consultation should be conducted.

Our view

186. We share the concerns raised by the holiday caravan park industry about the practical and financial implications for site owners of meeting the requirements to consult occupiers on matters relating to the site. We acknowledge that the industry is largely consumer driven and that it is in the interest of site owners to engage with their customers over changes that may affect them. We also acknowledge the suggestion that the requirement could, albeit inadvertently, stifle development. Taking account of these factors, we do not believe that a

¹²⁰ RoP, para 394, 11 June 2014

¹²¹ Written evidence, HCS38

¹²² RoP, para 142, 25 June 2014

¹²³ RoP, para 148, 25 June 2014

statutory consultation requirement is necessary or desirable in this context.

We recommend that the requirement on site owners to consult occupiers on matters relating to the site should be removed, and that the Member in charge brings forward an amendment at Stage 2 to give effect to this.

7. Part 5 – Protection from Harassment

Background

187 Part 5 of the Bill provides protection from harassment for all occupiers of holiday caravans, regardless of how long they station or occupy a holiday caravan on a site. There are similar provisions in the Mobile Homes (Wales) Act 2013 in respect of protection from eviction and harassment for residential park occupiers.

188. Section 60 provides that it is an offence to harass occupiers of holiday caravans. It provides the meaning of “harassment”, which includes depriving occupiers of occupation of a holiday caravan and interfering with the peace and comfort of occupiers with the intention that they abandon occupation of the holiday caravan.

Evidence from respondents

189. Few respondents commented on the protection from harassment provisions in detail. Those that did respond provided contrasting views on whether the provisions were necessary and appropriate.

190. The Vale of Glamorgan Council, City and Council of Swansea and Denbighshire County Council were cautious about the inclusion of the provisions. They stated:

“[...] there are fundamental differences between residential home and holiday home sites and the vast majority of occupiers of these types of sites. The application of ‘housing’ controls to the holiday industry may not be proportionate or necessary to regulate the issue of mismanagement of a small part of the holiday site industry. In local authorities’ experience, it is unclear if there is evidence for the controls outlined in Part 5.”¹²⁴

191. Likewise, Parkdean emphasised that similar provisions in the Mobile Homes (Wales) Act 2013 were “designed to protect vulnerable park home residents”¹²⁵ and were not applicable or necessary in the context of holiday caravan occupiers. In addition, it stated:

¹²⁴ Written evidence, HCS106

¹²⁵ Written evidence, HCS99

“The existing criminal and civil law provides sufficient protection to holiday home owners and holiday makers.”¹²⁶

192. Similar views were expressed by Hobourne Ltd.

193. In contrast to the above views, the NACO “applauded the inclusion” of Part 5 and believed that a “specific instrument for the protection of holiday caravan owners from harassment and aggressive eviction behaviour is overdue”.¹²⁷

194. Conwy County Borough Council, the NCC and the BH&HPA also supported the provisions, with the BH&HPA suggesting that “the industry wholeheartedly embraces protections against harassment for park customers”.¹²⁸

195. The Minister for Housing and Regeneration stated he would “support any measure that seeks to protect people from harassment”.¹²⁹ However, he was not convinced that the provisions provided additional safeguards to those contained within existing legislation.

Evidence from the Member in charge

196. The Member in charge stated that the protection against harassment provisions “will strengthen the confidence of consumers to come to Wales, knowing that they would have these additional protections in place from any potential harassment that might occur”.¹³⁰

197. He acknowledged that harassment was already a criminal offence and conceded that he was “not aware that it is a significant and widespread problem”¹³¹ on holiday caravan sites. However, in referring to the provisions on protection against harassment within the Mobile Homes (Wales) Act 2013, he stated he could “see no reason not to afford some protections from harassment on holiday parks”.¹³²

¹²⁶ Written evidence, HCS99

¹²⁷ Written evidence, HCS92

¹²⁸ Written evidence, HCS13

¹²⁹ Written evidence, HCS109

¹³⁰ RoP, para 179, 25 June 2014

¹³¹ RoP, para 183, 25 June 2014

¹³² RoP, para 179, 25 June 2014

Our view

198. We recognise that existing legislation in relation to harassment will provide holiday caravan owners with some element of protection in cases where it is needed. However, we also recognise that the proposals in Part 5 specifically provide protection for holiday caravan occupiers without having to rely on existing legislation aimed at tackling harassment in the broader sense. As such, we are content with Part 5 of the Bill.

8. Part 6 – Supplemental and General

Background

199. Part 6 of the Bill sets out a number of supplemental and general provisions, including those in relation to false or misleading information, guidance by Welsh Ministers, and orders and regulations under the Act.

Evidence from respondents

200. Few respondents provided evidence on Part 6. Those that did comment were generally content with the provisions.

Evidence from the Member in charge

201. In view of the evidence received, we did not question the Member in charge on Part 6 of the Bill.

Our view

202. We note that respondents were content with Part 6 of the Bill.

9. Unintended consequences

Homelessness

Evidence from respondents

203. There was a general consensus among respondents that the Bill could potentially make homeless a significant number of households and, as such, place additional burden on local authorities.

204. The Vale of Glamorgan Council and Swansea City Council raised concern that the potential impact of the Bill on homelessness had not been fully considered. They reported that holiday caravans were meeting a need for low cost housing options, and stated:

“Removing this option from the housing market needs to be well planned to ensure that the households made homeless are effectively managed and does not generate a problem for local authority homelessness services.”¹³³

205. Similar views were expressed by Conwy County Borough Council.

206. Professor Fothergill suggested that, applying the findings of his research on the use of holiday caravans for residential purposes to Wales, the effect of strict enforcement of the proposals in the Bill would be to:

“Make homeless the households who currently live in holiday caravans – an estimated 7,500 people in Wales.

“Victimise, in the main, an older retired group that would mostly be unable to re-access owner-occupation given their low income and the disparity between the capital value of their caravan and house prices.”¹³⁴

207. The WLGA also raised concern about the impact of the Bill on “vulnerable occupiers” and emphasised the need to ensure that “appropriate protection is afforded to all such individuals to enable them to make alternative housing provision when facing eviction”.¹³⁵ It suggested that authorities may have a statutory homeless duty to

¹³³ Written evidence, HCS106

¹³⁴ Written evidence, HCS1

¹³⁵ Written evidence, HCS105

some occupiers facing eviction, and that the introduction of a “minimum notice period will enable housing advice services to work with affected individuals in a timely manner”.¹³⁶

208. Similarly, the Minister for Housing and Regeneration stated that “every person identified as failing the residence test would need to be rehoused”¹³⁷ and that, in certain areas “this could place a significant additional burden on the authority at a time when budgets are tight”.¹³⁸

Evidence from the Member in charge

209. According to the Explanatory Memorandum, “significant numbers of people should not become homeless purely as a result of this Bill”.¹³⁹ Although it acknowledges that permanent residents of holiday caravans “will need to find alternative accommodation as a result of the Bill”,¹⁴⁰ it reports that many of these “will have financial resources and are therefore likely to be able to make alternative housing arrangements without any assistance from the local authority”.¹⁴¹

210. In commenting on the potential impact of the Bill on homelessness, the Member in charge stated:

“[...] 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.”

211. He also referred to the “increased emphasis on homelessness prevention by local authorities” and stated that the “Housing (Wales) Bill will put homelessness prevention work on a statutory footing”.

212. He believed it was unlikely that those who become homeless as a result of the Bill would be owed a statutory homelessness duty if they knowingly live on holiday caravan sites because local authorities would deem them as intentionally homeless.

213. On a related matter, advice from the Assembly’s Legal Service states that, in cases where a site becomes unlicensed, if a caravan

¹³⁶ Written evidence, HCS105

¹³⁷ Written evidence, HCS109

¹³⁸ Ibid

¹³⁹ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 235

¹⁴⁰ Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum, para 94

¹⁴¹ Ibid

owner can access the site and move the caravan to a different site, the local authority would have some justification in asserting that the individual is not homeless.

Our view

214. We acknowledge the concern raised in evidence about the potential impact of the Bill on homelessness. It is possible that further measures to prohibit the residential occupation of holiday caravans could result in some households being left without a permanent home, which is of concern to us. As previously noted, the extent of the residential misuse of holiday caravans is unknown. It follows that the potential impact of the Bill on homelessness is particularly difficult to quantify. However, we believe that any increase in homelessness as a result of the Bill is highly undesirable.

215. We recognise that the removal of the mandatory residence test is likely to reduce the immediate impact of the Bill on homelessness. The overall, longer term impact will largely depend on the extent to which local authorities seek to actively enforce site licence conditions that restrict residential occupation.

216. We hope that the increased focus on the prevention and alleviation of homelessness in the Housing (Wales) Bill will help minimise any potential impact of the Bill on homelessness.

Impact on tourism

Evidence from respondents

217. There was widespread concern raised in evidence that the Bill, taken as a whole, could have a significant detrimental impact on the holiday caravan industry in Wales given the financial and administrative burden it would place on site owners.

218. A significant number of respondents, including the Minister for Economy, Science and Transport, the BH&HPA, the NCC, the Caravan Club and the Wales Tourism Alliance raised concern that the Bill would put the holiday and touring park sector in Wales at a “competitive disadvantage”. According to the Minister for Housing and Regeneration, “the biggest unintended consequence of the Bill” was

that it “would make Wales less competitive in terms of tourism than other parts of the UK”.¹⁴²

219. A number of individual holiday caravan parks raised concern about the impact of the Bill on their businesses and reported that the proposed increased regulation in Wales was likely to influence future business decisions. By way of example, Vale Holiday Parks, which owned sites in both England and Wales, stated that it “may decide to concentrate our efforts in England if the Bill is passed and gradually downsize our operation in Wales”.¹⁴³

220. Linked to the above, Professor Fothergill stated that the Bill had the potential to “remove significant spending power from coastal economies [and] add to the seasonality of local economies where there are large numbers of holiday caravans”.¹⁴⁴

221. The NACO raised concern that any cost incurred by site owners as a result of the Bill “will ultimately be borne by holiday caravan owners”,¹⁴⁵ for example in the form of higher pitch fees.

222. In contrast to the views outlined above, Conwy County Borough Council suggested that the Bill “would bring clarity to the caravan site industry to manage its sites on a holiday basis, and therefore, enhance tourism”.¹⁴⁶ Similar views were expressed by Pembrokeshire County Council.

Evidence from the Member in charge

223. In disputing the suggestion that the Bill could have a negative impact on tourism in Wales, the Member in charge stated:

“I do not see any reason why an additional charge, which may be transferred to caravan owners themselves, of less than 1p per day [...] is going to make a significant difference in terms of the way that people approach doing business in Wales.”¹⁴⁷

224. He asserted that the Bill “will give consumers more confidence to do business in Wales, it will drive up standards in the industry, and it

¹⁴² Written evidence, HCS109

¹⁴³ Written evidence, HCS60

¹⁴⁴ Written evidence, HCS1

¹⁴⁵ Written evidence, HCS92

¹⁴⁶ RoP, para 230, 5 June 2014

¹⁴⁷ RoP, para 134, 25 June 2014

will make our holiday caravan parks more attractive places to come to".¹⁴⁸

Our view

225. We share the concerns raised in evidence about the potential impact of the Bill on the holiday caravan industry and on tourism in Wales more generally.

226. We heard evidence to suggest that any cost incurred by the industry as a result of the Bill would be passed on to caravan occupiers in the form of increased fees. While we recognise that the potential effect of increased fees on the behaviour of consumers is difficult to predict, we do not believe it should be ignored.

227. We are concerned about the assertion made by the industry that the proposed new regulatory regime and the associated costs has the potential to drive site operators to England. We recognise the importance of the holiday caravan park industry to tourism in Wales. In broader terms, we recognise the significant contribution of the tourist industry to the Welsh economy. In view of this, and of the evidence received, we are concerned that the Bill could cause uncertainty within the holiday caravan park industry and place the industry at a competitive disadvantage, the overall effect of which could be to damage tourism in Wales.

228. We acknowledge that the commitment given by the Member in charge to amend specific provisions, including the mandatory residence test, may go some way in addressing the concerns raised by the industry about the potential impact of the Bill on tourism. However, we were not in a position to pursue this with the industry as this commitment was given at the end of our evidence gathering.

¹⁴⁸ RoP, para 134, 25 June 2014

10. Financial considerations

Overall cost of the Bill

229. According to the Explanatory Memorandum, the Bill will give rise to costs in Year 1 of £1,266,000 and annual costs of £277,000 for the subsequent four years. The total minimum cost over the first five years of the Bill is estimated to be around £2,374,000. These new costs would fall on site owners, local authorities and the Welsh Government.

230. The Explanatory Memorandum sets out the costs to site owners as the site licence fee, the fit and proper test, administrative costs associated with the licence application, maintenance of information associated with the residence test and local authority monitoring, and appeals.

231. Costs to local authorities include licensing and monitoring of sites, court costs and training and publicity costs. According to the Explanatory Memorandum, these costs will be offset to some extent by the revenue generated from licence fees.

Evidence from respondents

232. Few respondents commented on the financial implications of the Bill. Those who did comment questioned the costs set out in the Explanatory Memorandum with some suggesting that these had been underestimated.

233. As previously mentioned, representatives of the holiday caravan park industry suggested that the cost to site owners of meeting the requirements in relation to residence tests will be significantly greater than the estimate provided in the Explanatory Memorandum.

234. The National Caravan Council stated it had been advised that the estimated cost to the industry of conducting annual residence tests was up to £150,000, in comparison to £112,500 detailed in the Explanatory Memorandum.

235. In commenting generally on the financial implications of the Bill, the WLGA stated:

“One of the fundamental concerns of local government is [...] that new duties placed upon local authorities are supported

properly by Government in terms of financial arrangements and a robust cost recovery framework.”¹⁴⁹

236. Pembrokeshire County Council estimated the cost for local authorities of implementing the Bill as approximately a third higher than that detailed in the Explanatory Memorandum. It explained that this was due to the assumptions made by the Member in charge about the level of officer required to carry out the work and because “the corporate on-costs had not been included in the calculations”.¹⁵⁰

Evidence from the Member in charge

237. As previously mentioned, the Member in charge gave a commitment to amending the frequency of site inspections and the application of the residence test in the event that the Bill progresses beyond Stage 1. He stated that this would reduce the cost of licensing fees by approximately 24 per cent with an estimated average annual license fee of £122 per site, equating to £2.61 per pitch per annum. He also stated that the overall estimated cost of the Bill over five years would be reduced by 28 per cent.

Our view

238. We acknowledge the concerns in evidence about the estimated costs associated with the mandatory residence test and annual re-testing. However, given the commitment from the Member in charge to remove the mandatory element of the test, the associated costs for both the industry and local authorities will be reduced. We believe that this should go some way in satisfying their concerns.

239. Similarly, we recognise that the commitment by the Member in charge to reduce the frequency of site inspections will also reduce the cost to authorities, which is to be welcomed.

240. We draw the Member in charge’s attention to the evidence that the overall cost implications for local authorities have been significantly underestimated. However, we are content that, under the Bill’s proposals, the power to set fees for the purpose of recovering the cost of licensing, monitoring and inspection will lie with individual authorities.

¹⁴⁹ Written evidence, HCS105

¹⁵⁰ Written evidence, HCS88

Annexe A - Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at

www.senedd.assemblywales.org/ielIssueDetails.aspx?Ild=9069&Opt=3

7 May 2014

Darren Millar AM Member in charge

5 June 2014

Simon Wilkinson Welsh Local Government Association

Councillor Philip Evans Conwy County Borough Council

Nick Jones Conwy County Borough Council

Gareth Jones Gwynedd Council

Samantha Hancock Pembrokeshire County Council

11 June 2014

Carl Sargeant AM Minister for Housing and Regeneration

Alyn Williams Welsh Government

Helen Kellaway Welsh Government

Steve Munro National Association of Caravan Owners

Dan Ellacott National Association of Caravan Owners

Ros Pritchard OBE British Holiday and Home Parks Association

Huw Pendleton British Holiday and Home Parks Association
(representative)

Alicia Dunne National Caravan Council

Judith Archibold National Caravan Council (representative)

25 June 2014

Darren Millar AM Member in charge

Annexe B - List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at

www.senedd.assemblywales.org/mgConsultationDisplay.aspx?ID=123

Organisation	Reference
Professor Fothergill, Sheffield Hallam University	HCS(1)
Hywel Dda University Health Board	HCS(2)
Hoburne Ltd	HCS(3)
Edmund and Diane Cartwright	HCS(4)
Milton Bridge Caravan Park	HCS(5)
Presthaven Sands Holiday Park	HCS(6)
Golden Sands Holiday Park	HCS(7)
Carmel Caravan Park	HCS(8)
Emral Gardens Caravan Park	HCS(9)
Hungerford Farm Touring Caravan Park	HCS(10)
Barcdy Caravan Park	HCS(11)
Woodlands Caravan Park	HCS(12)
British Holiday & Home Parks Association	HCS(13)
Joint Response:	HCS(14)
Councillor R.H.Wyn Williams, Gwynedd Council;	
Councillor Angela Russell, Llanbedrog;	
Councillor Robert Wright, Pwllheli;	
Councillor Gruffydd Williams, Nefyn; Community Council	
Park Farm Holiday Park	HCS(15)
Pensieri Caravan Park	HCS(16)
Morfa Lodge holiday park	HCS(17)
Green Meadow Holiday Home Park	HCS(18)
Terfyn Pella Caravan Park	HCS(19)
Maes Dolau Farm Caravan Park	HCS(20)
Cambria Caravan Park	HCS(21)

Moorlands Caravan Parks	HCS(22)
Point of Ayr Holiday Park	HCS(23)
Tyn y Mur Touring and camping park	HCS(24)
Tandderwen Caravan Park	HCS(25)
Federation of Small Businesses Wales	HCS(26)
Bardsey View Holiday Park	HCS(27)
The Caravan Club	HCS(28)
Patch Caravan Park; Llwyngwair Manor	HCS(29)
Welsh Language Commissioner	HCS(30)
Dolhendre Caravan Park	HCS(31)
Gaingc View Holiday Park	HCS(32)
Llandanwg Holiday Home Park	HCS(33)
Maes Glas Caravan Park	HCS(34)
Maureen Walker, Tree Tops Caravan Park	HCS(35)
Andy Walker, Tree Tops Caravan Park	HCS(35A)
Fforest Fields Caravan and Camping Site	HCS(36)
Morfa Ddu Park	HCS(37)
Whitehouse Leisure Park	HCS(38)
Golden Gate Holiday Centre	HCS(39)
Morben Isaf Holiday Park	HCS(40)
Bancroft Leisure	HCS(41)
St Lawrence Caravans Ltd	HCS(42)
Pant y Saer Caravan Park	HCS(43)
Aled Evans, Llanystumdwy Ward Councillor	HCS(44)
Morgans Lodge Caravan Park	HCS(45)
Wales Tourism Alliance	HCS(46)
Broughton Farm Caravan Park	HCS(47)
Stone Pitt Caravan Park	HCS(48)
Croft Holiday Park; Celtic Holiday Parks	HCS(49)
The Pines Caravan Park	HCS(50)

The Plassey Leisure Park Ltd	HCS(51)
Matthew Baker Caravans Ltd	HCS(52)
Caerfelin Caravan Park	HCS(53)
Penyfan Caravan and Leisure Park Ltd	HCS(54)
Penrhos Park	HCS(55)
Tai Pawb	HCS(56)
Wood Park Caravans	HCS(57)
Oakfield Caravan Park	HCS(58)
Disserth Caravan and Camping Park	HCS(59)
Vale Holiday Parks	HCS(60)
Sun Valley Caravan Park	HCS(61)
Plas Caravan Park	HCS(62)
Fir Trees Caravan Park	HCS(63)
Chartered Institute of Housing Cymru	HCS(64)
Meldrum Leisure Ltd	HCS(65)
Gwynedd Rural Housing Enabler	HCS(66)
General Manager of:	HCS(67)
Brown's Holiday Park;	
Edwards Leisure Park;	
Happy Day's Caravan Park	
Conwy County Borough Council	HCS(68)
Greenacres Caravan Park	HCS(69)
Torbant Caravan Park	HCS(70)
Lloyds Caravan Sales	HCS(71)
Kingsbridge Caravan and Camping Park	HCS(72)
Lydstep Beach Village	HCS(73)
Aeron Coast Holiday Ltd	HCS(74)
Tyn Cornel Camping and Caravan Park	HCS(75)
Masterland Farm Holidays	HCS(76)
Fourways Caravan Park	HCS(77)

Riverside Touring and Holiday Home Park	HCS(78)
Royal Town Planning Institute Cymru	HCS(79)
Flintshire Tourism Association	HCS(80)
Bestparks (G&H) Ltd Country Holiday Parks	HCS(81)
Salop Leisure	HCS(82)
Henstent Park	HCS(83)
Denbighshire County Council	HCS(84)
Hampton Court Holiday Park	HCS(85)
Anchorage Caravan Park	HCS(86)
Pant Gwyn Farm Caravan Park	HCS(87)
Pembrokeshire County Council	HCS(88)
Porthclais Farm Holiday Park	HCS(89)
Trefalun Park	HCS(90)
Gwynedd Council	HCS(91)
National Association of Caravan Owners	HCS(92)
Islawrffordd Holiday Home Park	HCS(93)
Haulfryn Group	HCS(94)
Environmental Health Wales	HCS(95)
Cenarth Falls Holiday Park	HCS(96)
Hendwr Caravan Park	HCS(97)
National Caravan Council	HCS(98)
Park Dean	HCS(99)
Celtic Holiday Parks	HCS(100)
Amroth Bay Holidays	HCS(101)
Tan-y-Fron Holiday Park	HCS(102)
Llanengan Community Council	HCS(103)
North Wales Tourism	HCS(104)
Welsh Local Government Association	HCS(105)
Welsh Local Government Association – additional information	HCS(105a)

Vale of Glamorgan Council	HCS(106)
City and County of Swansea	HCS(107)
Minister for Economy, Science and Transport	HCS(108)
Minister for Housing and Regeneration	HCS(109)
R. K. Slater-Mason	HCS(110)